

## Notice of meeting of

### Cabinet

**To:** Councillors Alexander (Chair), Crisp, Fraser, Gunnell, Looker, Merrett, Simpson-Laing (Vice-Chair) and Williams

**Date:** Tuesday, 10 January 2012

**Time:** 5.30 pm

**Venue:** Burton Stone Community Centre, Evelyn Crescent, York

## AGENDA

### Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

**10:00 am on Monday 9 January 2012**, if an item is called in *before* a decision is taken, *or*

**4:00 pm on Thursday 12 January 2012**, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

#### **1. Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interest they may have in the business on this agenda.

#### **2. Minutes (Pages 3 - 18)**

To approve and sign the minutes of the last Cabinet meeting held on 6 December 2011.

**3. Public Participation**

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or a matter within the Cabinet's remit can do so. The deadline for registering is **5:00 pm on Monday 9 January 2012.**

**4. Forward Plan** (Pages 19 - 28)

To receive details of those items that are listed on the Forward Plan for the next two Cabinet meetings.

**5. Annual Audit Letter 2010/11 - Audit Commission**

(Pages 29 - 48)

This paper introduces the Annual Audit Letter 2010/11 prepared by the Audit Commission together with the council's response.

**6. Minutes of Working Groups** (Pages 49 - 66)

This report presents the draft minutes of meetings of the Equality Advisory Group and the Local Development Framework Working Group and asks Members to consider the advice given by the Groups in their capacity as advisory bodies to the Cabinet.

**7. Revision to the Council's Administrative Accommodation Strategy** (Pages 67 - 74)

This report seeks Members' approval to revise the current approved administrative accommodation strategy in the light of ongoing work for space planning in relation to the move to the new Council headquarters at West Offices.

**8. Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document**

(Pages 75 - 126)

This report seeks Members' approval for the draft Supplementary Planning Document on controlling the concentration of Houses in Multiple Occupancy to be published for consultation.

**9. Proposed Expansion of Veritau Limited** (Pages 127 - 146)

This report seeks approval for the expansion of Veritau Limited to enable the company to provide internal audit services to a number of the North Yorkshire district councils from 1 April 2012.

## **10. The Review of City of York Council's Elderly Persons Homes**

(Pages 147 - 176)

To receive a further report updating Members on progress on the consultation work and feedback on the possible closure of Fordlands and Oliver House residential care homes. Also reported are details of the consultation and further development of the overall implementation plan for the phased closure of the remaining City of York Council run care homes and the re-provision of new accommodation.

*[Please note that this report was not listed on the Forward Plan but needs to go to Cabinet on 10 January as it was specifically requested at the Cabinet meeting in November.]*

## **11. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

### Democracy Officer:

Name: Jill Pickering

Contact details:

- Telephone – (01904) 552061
- E-mail – [jill.pickering@york.gov.uk](mailto:jill.pickering@york.gov.uk)

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

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### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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## **Holding the Cabinet to Account**

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, where a final decision on the 'called-in' business will be made.

## **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

## **Who Gets Agenda and Reports for our Meetings?**

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
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City of York Council

Committee Minutes

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MEETING	CABINET
DATE	6 DECEMBER 2011
PRESENT	COUNCILLORS ALEXANDER (CHAIR), CRISP, FRASER, GUNNELL, LOOKER, MERRETT, SIMPSON-LAING (VICE-CHAIR) AND WILLIAMS
IN ATTENDANCE	COUNCILLORS SCOTT, WARTERS AND WATSON

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **66. DECLARATIONS OF INTEREST**

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

The following Members each declared a personal interest in agenda item 10 (Organisation Review 2011), insofar as it related to staffing issues:

- Cllr Alexander – as a member of the GMB union
- Cllr Crisp – as a member of the retired section of Unison
- Cllr Fraser – as a member of the retired sections of Unison and Unite (TGWU/ACTS sections)
- Cllr Simpson-Laing – as a member of Unison.

The following Members each declared a personal interest in agenda items 12 (Gym Expansion at Energise), 14 (York Museums Trust Funding 2013-2018) and 15 (2012-14 Budget Update), also insofar as they related to staffing issues:

- Cllr Fraser – as a member of the retired sections of Unison and Unite (TGWU/ACTS sections)
- Cllr Simpson-Laing – as a member of Unison.

Councillor Merrett declared a personal prejudicial interest in agenda item 12 (Gym Expansion at Energise) as his daughter was member of the junior gym club and regular user of the facilities and he left the room and took no part in the discussion or voting thereon.

Councillor Merrett declared a personal non prejudicial interest in agenda item 8 (Reference Report: Review of Council supported Community Transport Services) as a founder member of York Wheels and as a previous member of their Executive.

Councillor Merrett declared a personal prejudicial interest in agenda item 6 (Minutes of Working Groups – Local Development Framework Working Group, 7 November 2011) insofar as minute 11 referred to solar panels as he was investigating the installation solar panels on his property and he left the room during this part of the decision and took no part in the discussion or voting thereon.

Councillor Fraser declared a personal prejudicial interest in agenda item 8 (Reference Report: Review of Council supported Community Transport Services) as his partner was employed by York Wheels and he left the room and took no part in the discussion or voting thereon.

Councillors Simpson-Laing and Williams left the room and took no part in the discussion or voting in respect of agenda item 11 (Community Stadium Update) as members of the Planning Committee that would subsequently deal with the planning application in relation to the development.

**67. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the press and public be excluded from the meeting during consideration of the annex to Agenda Item 12 (Gym Expansion at Energise) on the grounds that it contains information relating to the financial and business affairs of particular persons, which is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

**68. MINUTES**

RESOLVED: That the minutes of the last Cabinet meeting held on 1 November 2011 be approved and signed by the Chair as a correct record.



**69. PUBLIC PARTICIPATION/OTHER SPEAKERS**

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme in relation to agenda item 7 (Affordable Housing Targets in Rural Areas). There had also been two requests to speak from a councillor, one in relation to agenda item 6 (Minutes of Working Groups) and one in relation to matters within the remit of the Cabinet.

A local house builder and Chartered Surveyor spoke of the adverse effects the authorities affordable housing targets were having on rural areas and the building industry in general. He pointed out that the present policy was not working and he urged members to support option 3 to increase the threshold to which the policy would apply to 8 homes.

The Chairman of the Helmsley Group reiterated the previous speakers comments and stressed that the Fordham research used by the authority had not undertaken viability testing on less than 10 units. He expressed the view that schemes would only be progressed if the Committee supported option 3.

Councillor Scott spoke as Chair of the Young People's Working Group (YPWG) in support of his attendance as Chair of the Group at future Cabinet meetings when the minutes of his group were considered. He referred to the excellent work undertaken by the YPWG and to its changing role and that of the Champion. He stressed that, if members wished the Group to continue as a conduit between young people and the Cabinet, they should support the recommendation to ensure better engagement with young people.

Councillor Warters spoke as a ward member of Osbaldwick, in respect of the resurfacing works undertaken on Tranby Avenue. He expressed concerns that the experimental road surfacing used to save money would now take considerably more to put right. He urged members to agree to commence reinstatement work immediately and undertake an investigation into the matter. Officers confirmed that investigations would be undertaken. <sup>1</sup>

Councillor Warters also spoke on the issue of verge parking, he referred to the London Boroughs default position that parking on verges was illegal. He requested further investigation of this

issue for York. The Cabinet Member for Neighbourhoods and Community Services confirmed that this matter would be further investigated.<sup>2</sup>

Action Required

- |   |    |
|---|----|
| 1. Investigate resurfacing issues.        | AB |
| 2. Investigate verge parking enforcement. | LL |

**70. FORWARD PLAN**

Members received and noted details of those items listed on the Forward Plan for the next two Cabinet meetings at the time the agenda was published.

**71. MINUTES OF WORKING GROUPS**

Members received a report which presented the minutes of meetings of the Local Development Framework Working Group (LDFWG) held on 3 October and 7 November 2011 and the Young People's Working Group (YPWG) held on 17 October 2011, attached as Annexes A, B and C respectively.

Members were invited to consider the advice offered by the working groups in their capacity as advisory bodies to the Cabinet, and in particular:

- a) The recommendations of the LDFWG to approve the draft Sub Division of Dwellings SPD for consultation purposes and the delegation of any changes to the SPD to the Director of City Strategy, in consultation with the Cabinet Member for City Strategy (Minute 10, Annex B).<sup>1</sup>
- b) The recommendations of the LDFWG to approve the draft House Extensions and Alterations SPD for consultation purposes and to delegate to the Director of City Strategy, in consultation with the Cabinet Member for City Strategy, the making of any necessary changes to the SPD (Minute 11, Annex B).<sup>2</sup>
- c) The request put forward by the Chair of the YPWG inviting Chairs of Working Groups to future Cabinet

meetings when the minutes of their groups were scheduled to be considered (Minute 14 Annex C).<sup>3</sup>

RESOLVED: (i) That the minutes at Annexes A, B and C to the report be noted.

(ii) That the specific recommendations of the Working Groups, as set out in paragraphs 5 to 11 of the report, be approved.

REASON: To fulfil the requirements of the council's Constitution in relation to the role of Working Groups.

Action Required

- |   |    |
|---|----|
| 1. Commence consultation on the draft SPD with agreement of any changes as delegated. | RM |
| 2. Commence consultation on the draft SPD with agreement of any changes as delegated. | NM |
| 3. Invite Chair of YPWG to future Cabinet meetings as required.                       | JC |

**72. REFERENCE REPORT: REVIEW OF COUNCIL-SUPPORTED COMMUNITY TRANSPORT SERVICES**

Members considered a report which had been taken to the City Strategy Cabinet Member Decision Session on 3 November 2011 for a review of Council supported community transport services.

At the meeting the Cabinet Member had declared a personal non prejudicial interest in the item, as a founder member of York Wheels. He had also confirmed that although he had had no direct involvement with the body for a number of years that he also knew the Operations Manager who was also a Cabinet colleague. The Cabinet Member had subsequently made his recommendations to Cabinet.

A copy of the report to the City Strategy Decision Session (Annex A) and the recommendation of the Cabinet Member (paragraph 5) were included in the report.

RESOLVED: That the Cabinet endorse the recommendations of the Cabinet Member for City Strategy to:

- i) Note the report contents.
- ii) Agree to York Wheels taking responsibility and control for the planning and delivery of Dial and Ride, within the context of a revised service level agreement. <sup>1.</sup>
- iii) Ask officers to negotiate the details of a service level agreement with York Wheels to support the range of services that it currently delivers and its Dial and Ride service. <sup>2.</sup>
- iv) Agree to the requested grant settlement for the period January to December 2012 and delegate responsibility to officers for the grant agreement for subsequent years within agreed budgetary limitations. <sup>3.</sup>

REASON: This course of action will allow the Council to continue to support York Wheels in its delivery of services to York residents at a sustainable cost. It will also allow York Wheels the flexibility to adapt its services to the changing needs of York's residents and communities.

Action Required

1/2. Undertaken negotiation of a service level agreement with York Wheels for their future delivery of the service.

PB

3. Confirm grant settlement to 2012 and for subsequent years.

PB

**73. LORD MAYORALTY 2012/13**

Consideration was given to a report which asked the Cabinet to consider which of the political groups should be invited to appoint the Lord Mayor for the 2012/13 municipal year.

The system for nominating the Lord Mayor was based on the party having the largest cumulative total of points, determined by the number of seats on Lord Mayor's Day. Details of the points system in respect of the various parties was set out in paragraphs 2 to 5 of the report.

The Cabinet were asked to consider the following two options:

Option 1

To invite the Liberal Democrat group to nominate the Lord Mayor for 2012/2013.

Option 2

To revisit the procedure for nominations

**RESOLVED:** That the Liberal Democrat Group be asked to nominate the Lord Mayor for the 2012/2013 municipal year. <sup>1</sup>.

**REASON:** To ensure that the Council secures the necessary leadership to undertake its civic functions and provide continuity for future selection.

Action Required

1. Confirm decision with Liberal Democrat Group. AP

**74. ORGANISATION REVIEW 2011**

Members considered a report which had been prepared in light of major changes to the operating environment of local government and approval of the Council Plan. It proposed redefined responsibilities for Directors and Assistant Directors, action to strengthen staff organisational development and the deletion of two Chief Officer posts.

Details of consultation undertaken with Council employees, Trade Unions, Partners and Regulators were provided in paragraphs 18 to 25 of the report.

The report also outlined the proposed functions and transfer of roles within the Chief Executive's Office together with the amended portfolios and job titles to reflect Directors new responsibilities.

- RESOLVED: i) That approval be given to the proposed directorate structure and activities to address organisation and staff development.
- ii) That approval is given to the functions to be contained within each directorate and director's portfolio as the preferred structure of council services.<sup>1.</sup>
- iii) That approval is given for the deletion of two Chief Officer posts at Assistant Director level.<sup>2.</sup>
- iv) That the Chief Executive is given delegated authority to determine the distribution of services within the Assistant Director portfolios in consultation with the Leader and Cabinet members.<sup>3.</sup>
- v) That Member Appointment Panels are established as and when required to undertake the appointment of Assistant Directors.<sup>4.</sup>
- vi) That the Workforce Plan addresses the implementation of the Organisation and Employee development proposals within section 39.
- vii) That a business case is brought back to Cabinet for the development of a consolidated Adult Learning and Workforce Development function.<sup>5.</sup>

- viii) That a further report is brought to Cabinet as soon as is practicable on the establishment of the Public Health function within the City of York Council.<sup>6</sup>

REASON: To ensure that the Council's priorities as detailed in the Council Plan are delivered and that all expenditure of the Council is effectively deployed.

Action Required

- |   |        |
|---|--------|
| 1. Proceed with the allocation of revised functions and update of the Constitution. | KE, AD |
| 2. Proceed with deletion of posts.  | KE     |
| 3. Proceed with consultation on the distribution of services.                       | KE     |
| 4. Establish Appointment Panels as and when required.                               | AD     |
| 5. Schedule report on the Forward Plan.   | KE, SH |
| 6. Schedule report on the Forward Plan.   | KE, SH |

**75. COMMUNITY STADIUM UPDATE**

*[See also under Part B Minutes]*

Consideration was given to a report which set out details of the timetable for progression of the business case and details of the resources required to develop the business case for the next stage of the Community Stadium project.

A planning application had now been submitted for the enabling development and, subject to the development gaining approval, it was reported that the Council's vision was deliverable. A summary of the capital funding position was set out in Tables 1 and 2 of the report. It was confirmed that to date £398k of council revenue funds had been spent or committed and £200k was now required to undertake the next stage of the business plan.

If the procurement exercise commenced in January/February 2012 the new facilities it was reported would be completed in 2014. An indicative project plan had been included at Annex 1.

RESOLVED: i) That Cabinet note the progress made to date on developing the business case for the Community Stadium.

REASON: To update members on progress to date with this project.

**76. GYM EXPANSION AT ENERGISE**

*[See also under Part B Minutes]*

Members considered a report which presented a business case for the Council to borrow £540k on behalf of York High School to facilitate and extension of the successful Energise gym.

A partnership existed between York High and the Council to provide community access to the sports facilities, although the school were responsible for the management of the facilities under the terms of the service level agreement.

The Council's aim had always been for long term sustainability however the current financial pressure on the authority had required examination of methods of achieving this. Annex A (exempt annex) presented the business case for the proposal and details of the project costs were set out in paragraphs 13 to 15 of the report.

Two options were presented for consideration:

- To approve the prudential borrowing so that the School may expand the gym facility at Energise
- Not to approve the prudential borrowing.

RESOLVED: That Cabinet approve the proposal to undertake prudential borrowing on behalf of York High School.

REASON: To improve the efficiency and effectiveness of the Council's leisure offer.

**77. THE HUNGATE SITE**

The Cabinet considered a report which sought their approval to proceed with the archaeological investigation on the former



Peasholme Hostel site and part of the Haymarket car park. The work would be funded by prudential borrowing against the future enhanced capital receipt. Approval was also requested for marketing of the Hungate site following the investigation works.

It had been confirmed that important archaeological remains lay beneath part of the site and that investigations would define the areas where development would be restricted. This would thereby reduce the risk and give developers more certainty as to development, enhancing site value.

Details of York Archaeological Trust's scope and quotation for investigative works were set out at paragraphs 6 to 9 of the report.

Officers confirmed receipt of a number of recent enquiries from developers and agents for a number of different uses for the site.

Members were asked to consider approving or rejecting the recommendations.

RESOLVED: That the Cabinet

- i) Approve the archaeological investigation at the Hungate site, and the funding of the work from the future capital receipt. <sup>1.</sup>
- ii) Approve the use of the property services revenue budget as required
  - a. to fund the finance costs incurred as a result of the timing differences between the archaeological investigation costs incurred and the sale of the capital receipt or
  - b. to fund the archaeological investigation costs from the surplus property fund budget if the site is not sold. <sup>2.</sup>
- iii) Approve the marketing of the whole Hungate site, following completion of the archaeological investigation. <sup>3.</sup>

REASON: To enable the site to be marketed for sale.

Action Required

- |  |    |
|--|----|
| 1. Proceed with the archaeological investigation.        | TB |
| 2. Proceed with use of budget as required.               | TB |
| 3. Proceed with marketing on completion of investigation | TB |

**78. YORK MUSEUMS TRUST FUNDING 2013-2018**

The Chief Executive confirmed that this report required additional financial work and would be considered in the New Year to fit with the timetable for the Council's budget process.

RESOLVED: That the report be withdrawn at this time.  
1.

REASON: To allow further work to be undertaken and to coincide with the Council's budget process.

Action Required

- |   |    |
|---|----|
| 1. Schedule report on the Forward Plan. | CC |
|---|----|

**79. 2012-14 BUDGET UPDATE**

Members considered a report which provided an update on the 2012/14 budget process. These would be the second and third budgets to be set under the current spending review and continue to present the council with significant challenges as services rose against reduced funding.

Savings of £22m were required with £12m in 2012/13 and £10m in 2013/14. The main pressures requiring these savings included:

- significant provisional reduction in the council's Formula Grant Settlement
- Continued pay and pension pressures
- Continued increased capacity for waste management
- Rising demand for other council services e.g. social care.

Consideration had been given to the possible extension of the council tax freeze grant as set out in Tables 1 and 2 of the report. This had shown that taking a Council Tax increase in 2012/13 would be of greater long term financial benefit to the council.

Details of the ongoing consultation with the numerous consultation strands was set out in paragraphs 16 to 18 of the report.

**RESOLVED:** That the Cabinet note the current position and the ongoing work that is being undertaken to deliver the 2012/14 budget.

**REASON:** So that the budget process can be completed in a timely manner.

## **80. REVIEW OF FEES AND CHARGES**

Consideration was given to a report which sought approval to increase a range of the council's fees and charges with effect from the 2 January 2012.

It was reported that a revised version of the annex detailing the proposed fees and charges had been republished with the agenda and circulated to members, prior to the meeting. A further revision to the charges at page 161 of the report (Burton Stone Community Centre) was tabled at the meeting (to be republished with the agenda following the meeting).

The report focussed mainly on the fees and charges that had last been reviewed in January 2011 and proposed an increase of 5%, based on the current rate of inflation.

Members were then invited to consider the following options:

Option 1 (recommended option) – Agree the fees and charges as set out in the annexes to the report. The majority of fees and charges have been increased by 5%, subject to minor variations due to roundings. No increases are proposed on sports charges, adult social care, car parking and markets at this time as it is felt that any increase in these areas would have an adverse impact either on service users or the volume of activity in these areas. These areas will be examined further as part of the 2012/14 budget strategy and any proposals included in the overall financial strategy if appropriate.

Option 2 – Agree a different increase to that proposed.

RESOLVED: That approval be given to option 1 to increase the relevant fees and charges as set out in the revised annexes circulated to members and published online.<sup>1</sup>

REASON: To enable the council to effectively manage its budget.

Action Required

1. Implement the increased charges with effect from 2 January 2012.

DM

**PART B - MATTERS REFERRED TO COUNCIL**

**81. AFFORDABLE HOUSING TARGETS IN RURAL AREAS**

Members considered a report which detailed the interim approach to affordable housing which had endorsed the reduction in the affordable housing targets in line with Fordham's Affordable Housing Viability Study in advance of the LDF Core Strategy examination in 2012.

Approval of the recommendation had however not included the reduction of the rural affordable housing target on sites between 2 and 15 homes from the interim approach. It was confirmed that this report had been considered at the meeting of the LDFWG on 5 December in an effort to clarify and amend the anomaly.

The report had invited Members to consider the following options:

Option 1: In-line with the interim policy approach for large sites greater than 15 units, reduce the affordable housing target on small rural sites (between 2 and 15 units) to the targets identified in Table 2, evidenced by the AHVS.

Option 2: Retain a 50% target on rural developments of between 2 and 15 units and apply the targets identified in the evidence base pragmatically.

Option 3: Retain the 50% target but increase the threshold at which it will apply to 8 homes.

It was reported that the Working Group had supported option 1 to reduce the affordable housing target on rural sites.

**RECOMMENDED:** That Council approve Option 1 as recommended by the LDFWG to reduce the affordable housing target on rural sites to the targets identified in Table 2, page 51 of the report.

**REASON:** In accordance with the provisions of the Council's Constitution and the position of the LDF Working Group as an advisory body to the Cabinet.

## **82. COMMUNITY STADIUM UPDATE**

*[See also under Part A Minutes]*

Consideration was given to a report which set out details of the timetable for progression of the business case and details of the resources required to develop the business case for the next stage of the Community Stadium project.

A planning application had now been submitted for the enabling development and subject to the development gaining approval it was reported that the Council's vision was deliverable. A summary of the capital funding position was set out in Tables 1 and 2 of the report. It was reported that to date £398k of council revenue funds had been spent or committed and £200k was now required to undertake the next stage of the business plan.

It was confirmed that if the procurement exercise commenced in January/February 2012 it would result in the completion of the new facilities in 2014. An indicative project plan had been included at Annex 1 of the report.

**RECOMMENDED:** ii) That Council approve the allocation of £200k of the £4M allocated in the Council's capital programme for the Community Stadium being released for the purpose of developing the business case to the next key stage.

**REASON:** To enable progress to be made on the Community Stadium project.

**83. GYM EXPANSION AT ENERGISE**

*[See also under Part A Minutes]*

Members considered a report which presented a business case for the Council to borrow £540k on behalf of York High School to facilitate an extension of the successful Energise gym.

A partnership existed between York High and the Council to provide community access to the sports facilities, although the school were responsible for the management of the facilities under the terms of the service level agreement.

The Council's aim had always been for long term sustainability however the current financial pressure on the authority had required examination of methods of achieving this. Annex A (exempt annex) presented the business case for the proposal and details of the project costs were set out in paragraphs 13 to 15 of the report.

Two options were presented for consideration:

- To approve the prudential borrowing so that the School may expand the gym facility at Energise
- Not to approve the prudential borrowing.

**RECOMMENDED:** ii) That Council approve the addition to the Capital Programme in 2011/12 of £540k in order to expand the gym at Energise.

**REASON:** To improve the efficiency and effectiveness of the Council's leisure offer.

Cllr J Alexander, Chair

[The meeting started at 5.30 pm and finished at 6.35 pm].

**Cabinet Meeting 10 January 2012**

**FORWARD PLAN (as at 14 December 2011)**

<b>Table 1: Items scheduled on the Forward Plan for the Cabinet Meeting on 14 February 2012</b>		
<b>Title &amp; Description</b>	<b>Author</b>	<b>Portfolio Holder</b>
<p><b>Quarter 3 Capital Monitor 2011/12</b></p> <p><i>Purpose of report: To provide members with an update on the capital programme.</i></p> <p><i>Members are asked to: Note the issues and approve any variations to the programme as necessary.</i></p>	Louise Brandford-White	Cabinet Member for Corporate Services
<p><b>Quarter 3 Finance Monitor 2011/12</b></p> <p><i>Purpose of report: To provide members with an update on 2011/12 financial performance.</i></p> <p><i>Members are asked to: Note the issues.</i></p>	Debbie Mitchell	Cabinet Member for Corporate Services
<p><b>Treasury Management Monitor 3 and Prudential Indicators 2011/12</b></p> <p><i>Purpose of report: To provide members with an update on the treasury management position.</i></p> <p><i>Members are asked to: Note the issues and approve adjustments as required to the prudential indicators of strategy.</i></p>	Louise Brandford-White	Cabinet Member for Corporate Services

<p><b>Changes to Council Tax Benefit</b></p> <p><i>Purpose of Report: To inform members about the cuts to Council Tax Benefit proposed by the government.</i></p> <p><i>Members are asked to consider how they would like to deal with the implications to York residents.</i></p>	David Walker	Cabinet Member for Corporate Services
<p><b>Equality Act 2010 - Implementing the public sector duties in City of York Council</b></p> <p><i>Purpose of Report: The public sector duties in the Equality Act 2010 support public bodies to improve quality of life outcomes in their areas. They came into effect in April and September 2011. The report will summarise the duties as outlined in legislation and how the government and the Equality and Human Rights Commission expect us to meet them. It will outline proposals for action to meet the duties and also minimum standards for these actions.</i></p> <p><i>Cabinet will be requested to consider and approve the actions proposed in the report.</i></p>	Charlie Croft/Evie Chandler	Cabinet Member for Leisure, Culture and Social Inclusion
<p><b>Housing Revenue Account (Finance) Plan</b></p> <p><i>Purpose of Report: To set out the Housing Business Plan following Housing Revenue Account (HRA) reform and the introduction of self financing from April 2012. Members are asked to approve the outline HRA business plan and agree the recommendations.</i></p> <p><i>This item has slipped from the January to the February meeting to coincide with other budget papers</i></p>	Steve Waddington	Cabinet Member for HHASS and Corporate Services
<p><b>Waste Management &amp; Minimisation Strategy 2012-2015</b></p> <p><i>Purpose of report: To provide an update on work undertaken to meet the aims of the strategy and focus the development of the strategy 2012-2015 in response to current position, trends, legislative changes and</i></p>	Liz Levitt	Cabinet Member for Communities and Neighbourhoods



*economic pressures.*

*Members are asked to: 1. Note the strategy's focus on Zero Waste York as the driver for future policies and service provision. 2. Approve the direction of travel 2012 -2015. 3. Note the update on the work undertaken by waste services.*

*The reason this item has slipped from the January to the February meeting: Following matters arising at Communities & Neighbourhoods Departmental Management Team with respect to additional budget proposals which need to be investigated further, which will impact on aspects of the strategy and will need to be included in the strategy before it goes to Cabinet this report needs to put back to February to allow that work to be done.*

**Table 2: Items scheduled on the Forward Plan for the Cabinet Meeting on 6 March 2012**

<b>Title &amp; Description</b>	<b>Author</b>	<b>Portfolio Holder</b>
<p><b>Minutes of Working Groups</b> <i>Purpose of Report: This report presents the minutes of recent meetings of the Young People's Working Group, the Local Development Framework Working Group and the Equality Advisory Group and asks Members to consider the advice given by the groups in their capacity as advisory bodies to the Cabinet.</i></p> <p><i>Members are asked to: Note the minutes and decide whether they wish to approve the specific recommendations made by the Working Groups, and/or respond to any of the advice offered by the Working Groups.</i></p>	Jayne Carr	Cabinet Leader
<p><b>Customer Strategy 2011-13</b> <i>Purpose of report: To seek approval for the council's Customer Strategy and the action plans to deliver and support the priorities within the Council Plan. Members are asked to approve the refreshed Customer Strategy 2011-13.</i></p> <p><i>This item has now been slipped to the March meeting to further consult with internal and external stakeholders , and to fully consider the impact of the 2012/14 budget'.</i></p>	Pauline Stuchfield	Cabinet Member for Corporate Services
<p><b>Workforce Strategy 2011-15</b> <i>Purpose of report: To seek approval for the council's Workforce Strategy to deliver a healthy, responsive and skilled work force to deliver the priorities within the Council Plan. Members are asked to approve the new Workforce Strategy 2011-15.</i></p> <p><i>This item has now been slipped to the March meeting to further consult with internal and external stakeholders , and to fully consider the impact of the 2012/14 budget'.</i></p>	Pauline Stuchfield	Cabinet Member for Corporate Services

<p><b>York Citizens Theatre Trust Funding 2012-16</b>  <i>Purpose of report: To consider the provision of grant funding to the Theatre for the period 2012-2016.</i></p> <p><i>Members are asked to approve the funding for this period.</i></p> <p><i>This report has slipped to the March meeting to fit with the timetable for the Council's budget process.</i></p>	<p>Charlie Croft</p>	<p>Cabinet Member for Leisure, Culture and Social Inclusion</p>
<p><b>York Museums Trust (YMT) Funding 2013-18</b>  <i>Purpose of report: The Cabinet will be asked to approve funding for the period 2013-18 in response to a business plan to be submitted by the Yorkshire Museums Trust.</i>  <i>Members are asked to: Consider the report and approve the funding.</i></p> <p><i>This report was withdrawn from consideration at the 6 December 2011 Cabinet meeting as it required additional financial work and to fit in with the timetable for the Council's budget process.</i></p>	<p>Charlie Croft</p>	<p>Cabinet Member for Leisure, Culture and Social Inclusion</p>
<p><b>Funding the Voluntary Sector 2012 – 2015</b>  <i>The purpose of this report is to approve grant funding to voluntary sector organisations for the 3 years 2012-2015. (Some of the grants are over £50k and therefore require Cabinet approval).</i></p> <p><i>Members are asked to approve the grants.</i></p> <p><i>This report had been slipped from the November meeting to allow more time for discussion with the voluntary sector. This report has now been slipped to the March meeting to await the outcome of the Fairness Commission and to fit with the timescales of the Council's overall budget process.</i></p>	<p>Adam Gray</p>	<p>Cabinet Leader</p>
<p><b>The Future of Neighbourhood Working</b>  <i>Purpose of Report: This report sets out a new model for neighbourhood working in York.</i></p>	<p>Charlie Croft</p>	<p>Cabinet Member for Communities and Neighbourhoods</p>

*The Cabinet will be asked to approve a new model for neighbourhood working including: the roll out of elements of the area working pilot across the city; the introduction of service contracts; a new focus for the Neighbourhood Management Unit; reorganisation of other front-line posts to support the new way of working.*

*This report was slipped from the October meeting to the November meeting to allow further work to be undertaken on the options.*

*This report was slipped to the December meeting to enable additional work to be undertaken on the report.*

*This report was then slipped to the January meeting to allow time to take account of initial findings from the Fairness Commission.*

*The report has now been slipped to the March meeting to await the outcome of the budget process.*

**Table 3: Items slipped on the Forward Plan**

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p><b>York Citizens Theatre Trust Funding 2012-16</b></p> <p><i>Purpose of report: To consider the provision of grant funding to the Theatre for the period 2012-2016.</i></p> <p><i>Members are asked to approve the funding for this period.</i></p>	Charlie Croft	Cabinet Member for Leisure, Culture and Social Inclusion	10 January 2012	6 March 2012	To fit with the timetable for the Council's budget process.
<p><b>Housing Revenue Account (Finance) Plan</b></p> <p><i>Purpose of Report: To set out the Housing Business Plan following Housing Revenue Account (HRA) reform and the introduction of self financing from April 2012.</i></p> <p><i>Members are asked to approve the outline HRA business plan and agree the recommendations.</i></p> <p><i>This item has slipped from the January to the February meeting to coincide with other budget papers</i></p>	Steve Waddington	Cabinet Member for HHASS and Corporate Services	10 January 2012	14 February 2012	To coincide with other budget papers.

<p><b>Waste Management &amp; Minimisation Strategy 2012-2015</b></p> <p><i>Purpose of report: To provide an update on work undertaken to meet the aims of the strategy and focus the development of the strategy 2012-2015 in response to current position, trends, legislative changes and economic pressures.</i></p> <p><i>Members are asked to: 1. Note the strategy's focus on Zero Waste York as the driver for future policies and service provision. 2. Approve the direction of travel 2012 -2015. 3. Note the update on the work undertaken by waste services.</i></p>	Liz Levitt	Cabinet Member for Communities and Neighbourhoods	10 January 2012	14 February 2012	Following matters arising at Communities & Neighbourhoods Departmental Management Team with respect to additional budget proposals which need to be investigated further, which will impact on aspects of the strategy and will need to be included in the strategy before it goes to Cabinet this report needs to put back to February to allow that work to be done.
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<p><b>Customer Strategy 2011-13</b>  <i>Purpose of report: To seek approval for the council's Customer Strategy and the action plans to deliver and support the priorities within the Council Plan.</i></p> <p><i>Members are asked to approve the refreshed Customer Strategy 2011-13.</i></p>	<p>Pauline Stuchfield</p>	<p>Cabinet Member for Corporate Services</p>	<p>10 Jan 2012</p>	<p>6 March 2012</p>	<p>To further consult with internal and external stakeholders , and to fully consider the impact of the 2012/14 budget'.</p>
<p><b>Workforce Strategy 2011-15</b>  <i>Purpose of report: To seek approval for the council's Workforce Strategy to deliver a healthy, responsive and skilled work force to deliver the priorities within the Council Plan.</i></p> <p><i>Members are asked to approve the new Workforce Strategy 2011-15.</i></p> <p><i>This item has now been slipped to the March meeting</i></p>	<p>Pauline Stuchfield</p>	<p>Cabinet Member for Corporate services</p>	<p>10 Jan 2012</p>	<p>6 March 2012</p>	<p>To further consult with internal and external stakeholders , and to fully consider the impact of the 2012/14 budget'.</p>

<p><b>York Museums Trust (YMT) Funding 2013-18</b>  <i>Purpose of report: The Cabinet will be asked to approve funding for the period 2013-18 in response to a business plan to be submitted by the Yorkshire Museums Trust.</i></p> <p><i>Members are asked to: Consider the report and approve the funding.</i></p>	Charlie Croft	Cabinet Member for Leisure, Culture and Social Inclusion	6 Dec 2011	6 March 2012	This report was withdrawn from consideration at the 6 December 2011 Cabinet meeting as it required additional financial work and to fit in with the timetable for the Council's budget process.
<p><b>The Future of Neighbourhood Working</b>  Purpose of Report: This report sets out a new model for neighbourhood working in York.  The Cabinet will be asked to approve a new model for neighbourhood working including: the roll out of elements of the area working pilot across the city; the introduction of service contracts; a new focus for the Neighbourhood Management Unit; reorganisation of other front-line posts to support the new way of working.</p>	Charlie Croft	Cabinet Member for Communities and Neighbourhoods	10 January 2012	6 March 2012	To await the outcome of the budget process.





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**Cabinet**

10 January 2012

Report of the Cabinet Member for Corporate Services

## **Annual Audit Letter 2010/11 - Audit Commission**

### **Summary**

1. This paper introduces the Annual Audit Letter 2010/11 (see annex A) prepared by the Audit Commission together with the council's response.

### **Background**

2. The District Auditor reports annually his independent opinion of the Council's arrangements based on an annual programme of work agreed by officers and members. This programme of work must meet the standards set out in the Code of Audit Practice and gives an opinion on the corporate governance arrangements at the council focused across 3 main areas:
  - the opinion given on the council's annual Statement of Accounts (including the Annual Governance Statement);
  - assessment of arrangements to achieve value for money in the use of resources
  - to consider any matters brought to my attention by the public, and whether there is a need for the District Auditor to exercise his formal audit powers.
3. The Letter also provides details of the 2010/11 audit fee and a commentary from the Audit Commission on the current and future challenges facing the Council.

## The council's response

4. The key messages contained in the Annual Audit Letter (AAL) which relate to the Financial Statements, were presented in detail to the Audit and Governance Committee on 29th September 2011 as part of the Annual Governance Report. The AAL notes the challenges for all authorities in implementing the requirements of the new International Financial Reporting Standards (IFRS), which was compounded at CYC by staffing changes resulting from organisational change. Although a number of amendments were made to the draft financial statements, none of the adjustments had any significant impact on the Council's underlying financial position and the District Auditor issued an unqualified opinion on the 2010/11 financial statements through the Annual Governance Report.
  
5. The AAL confirms that the Council has proper corporate arrangements in place to secure financial resilience, and to challenge how it delivered economy, efficiency and effectiveness (VFM) in the use of resources for 2010/11. The Council's performance was assessed against criteria specified by the Audit Commission and arrangements were assessed adequate against each of the criteria. The AAL outlines the strengths and improvements identified by the Audit Commission. Specifically the Audit Commission has identified sustained strength in:
  - Medium Term Financial Planning;
  - Budget consultation with staff, stakeholders, local people and businesses;
  - An effective risk based approach to financial planning which has enabled the Council to plan to deliver a robust, balance budget without the need to reduce reserves or working balances;
  - Treasury management which continues to ensure investments deliver above average returns;
  - Effective financial reporting to Members;
  - Generally low service costs per head of population, low management and back office costs and low council Tax levels when compared to others;
  - Delivering efficiencies from already low cost base;
  - Staff suggestion scheme to foster a VFM culture and identify more opportunist operational savings;

- Good examples of shared service provision and outsourcing;
- Office relocation plans progressing well to secure significant financial savings;

The Letter does draw attention to some areas of activity which require close review;

- Most services are still delivered in-house and the Council may need to consider alternative models of service delivery in the future;
- Minimal investment in Council property over recent years, and asset records requiring improvement;
- An increased risk as a result of significant reductions in management and back office staff over recent years;
- A need to ensure that the Council is receiving value for money from its partnership activities.

6. In assessing the current and future challenges facing the Council, the AAL notes the steps that the Council has taken to maximise future funding streams including proactively marketing the services it can provide to partners and third parties. The report notes the need to keep under review the potential local impact of future changes to Housing Revenue Account financing, Council Tax Benefits subsidies and the localisation of NNDR arrangements. The Council has also requested the Audit Commission to undertake some Advice and Assistance work on asset management arrangements in the authority.

### **Consultation**

7. Not relevant for the purpose of the report.

### **Options**

8. Not relevant for the purpose of the report.

### **Analysis**

9. Not relevant for the purpose of the report.

### **Council Plan**

10. This report contributes to the overall effectiveness of the council's governance and assurance arrangements.

### Implications

11. There are no financial, HR, equalities, legal, crime and disorder, IT or property implications arising from this report.

### Risk Management

12. By not responding effectively to the matters contained in this report, the council will fail to properly comply with legislative and best practice requirements.

### Recommendation

13. Members are asked to note the contents of this report and the Annual Letter, attached as the annex to this report;

Reason: To comply with the statutory requirements for the external audit of the council.

### Contact Details

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**Chief Officer Responsible for the report:**

Ian Floyd  
Director of Resources  
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**Report  
Approved**



**Date** 23 December  
2011

### Specialist Implications Officers

Not applicable

**Wards Affected:**

All

**For further information please contact the author of the report**

**Background Papers:**

Annual Audit Letter 2010/11, Audit Commission – Audit and Governance Committee 5<sup>th</sup> December 2011

Annual Governance Report – Audit and Governance Committee 29<sup>th</sup> September 2011

**Annex**

Annex A - Annual Audit & Inspection Letter 2010/11

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# Annual Audit Letter

City of York Council  
Audit 2010/11



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# Key messages

This report summarises the findings from my 2010/11 audit, which comprises two elements:

- the audit of your financial statements; and
  - my assessment of your arrangements to achieve value for money in your use of resources.
- I am also required to consider any matters brought to my attention by the public, and whether there is a need for me to exercise my formal audit powers.

Key audit risk	Our findings
Unqualified audit opinion	✓
Proper arrangements to secure value for money	✓
Certificate issued	✓

## Value for money

The Council has a good track record of delivering efficiencies from an already low cost base. I have issued an unqualified conclusion stating that the Council had proper corporate arrangements in place to secure financial resilience, and to challenge how it delivered economy, efficiency and effectiveness in the use of resources for 2010/11.

This is known as the value for money conclusion.

## Audit certificate

I have not received any formal notices of objection from the public, and no other issues have arisen during our audit this year which required me to exercise my formal audit powers.

Consequently I was able to issue my certificate alongside the audit opinion on 29 September 2011.

## Audit opinion on the financial statements

I have issued an unqualified opinion on the 2010/11 financial statements and my annual governance report was presented to Members on 29 September 2011.

A significant number of adjustments were made to the accounts originally presented for audit, but none of these had any significant impact on the Council's underlying financial position or levels of useable reserves and balances.

# Current and future challenges

## Challenges

### Key issues

Economic downturn and financial pressure on the public sector

Financial plans have been reworked to reflect expected funding reductions in the next five years and deliver a balanced budget that maintains established levels of balances. Key changes approved for 2011-12 include:

- Focussing services on vulnerable people and those most in need
- Reducing the cost of management and back office services
- Reducing expenditure following government reductions to specific grants.

The Council has developed a good track record of delivering to budget in recent years but there are continued pressures on specific service areas such as social care and looked after children which will continue to need careful management.

It is also likely that the scale of spending reductions required in future years will require local authorities to adopt more strategic solutions. The Council has some examples of shared service provision and plans for a joint waste disposal facility are well underway, but most services are still delivered in-house and the Council may need to consider alternative models of service delivery in the future.

Future funding streams

The Council has taken appropriate steps to maximise future funding streams. Fees and charges are kept under regular review. The Council has also reconsidered the future of several areas of expenditure in the light of reductions to specific grant funding schemes, and is more proactively marketing the services it can provide to partners and third parties. But proposed changes to Housing Revenue Account financing, housing benefits subsidies and NNDR pooling arrangements could all have a significant impact on local authority finances in future years. The potential impact of these at a local level will need to be kept under review and assessed as part of future budget preparations.

Asset Management

Well-planned asset management can improve public services, reduce costs and generate additional income. We reported on the Council's approach to asset management in December 2009 and made a number of recommendations for improvement. Some progress has been made and the move to new office accommodation next year should secure significant financial savings as well as improved facilities for customers and staff. Further action is necessary however as there has been minimal investment in Council property over recent years, and a somewhat fragmented approach.

The Council has asked us to review asset management as Advice and Assistance work and our findings will be reported to

Challenges	Key issues
Treasury management	<p>Members early in 2012.</p> <p>Treasury management strategies and policies, in particular judgements about the sums set aside to meet future repayments of debts, have a significant impact on the Council's finances. The Council has achieved above average rates of return on its investments in future years but to help meet future financial challenges it intends to review treasury management strategies and set aside arrangements in the coming year. Any such changes should be properly approved by members, and supported by a comprehensive review of not just strategic objectives and policies but also the supporting capital financing calculations.</p>
Implementing International Financial Reporting Standards	<p>Meeting new reporting requirements has been challenging for all authorities and the financial statements submitted for audit required significant adjustment. We are already discussing with Council officers how the closedown processes can be better managed next year with a view to:</p> <ul style="list-style-type: none"> <li>• allowing sufficient time for preparation and audit of both the accounts and Whole of Government return by the due dates.</li> <li>• strengthening internal review so that obvious errors and inconsistencies are eliminated prior to audit.</li> </ul>

# Financial statements and annual governance statement

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**The Council's financial statements and annual governance statement are an important means by which the Council accounts for its stewardship of public funds.**

## **Overall conclusion from the audit**

Implementing the new requirements of International Financial Reporting Standards, which had full retrospective effect, was a challenging process for all local authorities in 2010/11. At City of York Council this challenge was compounded by staffing and organisational changes. Consequently a significant number of amendments were made to the financial statements originally presented for audit:

- The Cash Flow Statement, Movement in Reserves Statement, segmental analysis and restatement of prior years' balances were all significantly reworked following our initial review and officers' own reflections on the accounts and reporting requirements
- Additional disclosures were made in the Housing Revenue Account, together with reclassification and analysis of investment property transactions, grant income and cash and cash equivalents
- Errors in relation to pension changes and property, plant and equipment transactions were corrected together with a number of other, more minor amendments to improve the presentational aspects of the financial statements and internal consistency between core statements and disclosure notes.
- The explanatory foreword was also amended as a consequence of the above changes to the accounts.

Fortunately none of these adjustments had any significant impact on the Council's underlying financial position or levels of useable reserves and reserves.

## **Significant weaknesses in internal control**

The only internal controls I considered during the course of the audit were those relevant to my opinion on the financial statements. External audit work is not designed, and should not be relied upon, to identify all the weaknesses in internal control that might exist.

Any internal control issues identified by us, together with suggestions for improvement, were included in my regular progress reports to Members during the year. I have undertaken additional procedures where necessary to compensate for any weaknesses in internal control which are relevant to the audit. My conclusion for 2010/11 was that the Council's financial systems overall were adequately controlled, but that improvement was needed in two specific areas:

- problems with completing timely bank reconciliations were highlighted last year. These have largely been addressed through compensating controls within the relevant financial systems, and by reconciling various components of the bank reconciliation at different points during the year. However a full bank reconciliation covering daily cash records, bank statements and all relevant general ledger account codes was only carried out at the year end. We have recommended that in future this is undertaken on a quarterly basis.
- the Framework 1 system, which is used to record approved social care contracts, was not regularly reconciled to the general ledger during the year and it appears that the operation and evidencing of some detailed processing controls has changed without specific authorisation by management.

### **Whole of Government Accounts**

Whole of Government Account returns are an important part of the Government's national financial management framework, and submission deadlines were brought forward this year. The Council did not submit its 2010/11 data on time and this meant that we in turn were unable to meet our target date of 30 September 2011 for completing and reporting on our audit work. I gave an unqualified opinion on the return on 14 October.

The Council should plan and manage its closedown processes in future years to allow sufficient time for both the preparation and audit of the Whole of Government Accounts pack by the national deadline dates.

# Value for money

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**I considered whether the Council is managing and using its money, time and people to deliver value for money. I assessed your performance against the criteria specified by the Audit Commission and have reported the outcome as the value for money conclusion.**

I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against two criteria specified by the Audit Commission. To help inform this assessment I have followed up recommendations from previous years' work and reports, and specific issues highlighted by continuous audit planning and the Council's own risk management processes. In 2010/11 this included consideration of:

- Asset management
- Corporate efficiency programmes
- corporate and finance function restructuring
- office relocation plans
- the joint waste PFI scheme
- partnership governance arrangements, particularly for demonstrating and reporting on value for money.

My overall conclusion is that the Council had proper arrangements in place, and my findings in respect of each of the two specific criteria are summarised below.

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## Value for money criteria and key messages

Criterion	Key messages
<b>1. The organisation has proper arrangements in place to secure financial resilience.</b>	<b>Criteria met.</b> The Council has adopted an integrated process for updating the medium term financial plan and

## Criterion

Focus for 2010/11:

The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.

## Key messages

setting annual budgets. Both have been significantly reworked in the light of the Government's spending review and reflect anticipated reductions to funding levels of over coming years. Extensive consultation with staff, stakeholders, local people and businesses has enabled the Council to revisit its priorities and a series of reports to members, staff newsletters and public meetings have taken place to ensure that the Council's financial position is clearly and widely understood. Key changes approved for 2011-12 include:

- Focussing services on vulnerable people and those most in need
- Reducing the cost of management and back office services
- Reducing expenditure following government reductions to specific grants.

Members have played their full part in this debate, and draft budgets were subject to detailed review by portfolio holders and Executive before finalisation and Full Council approval.

Financial plans clearly set out the key risk areas and how these will be managed, and make reasonably prudent assumptions about funding levels, interest rates, pay and price increases. Plans indicate that the Council is intending to deliver a balanced budget going forward without significant reductions to reserves and working balances, which have been maintained at £6.1m in line with Council policy.

The Council has developed a good track record of delivering to budget in recent years. Pressures on budgets in specific service areas such as social care and looked after children are now promptly identified and tackled. Treasury Management is also sound, with no statutory breaches or impairment losses reported in 2010-11 and above average rates of return. Quarterly reports to members are comprehensive and comprehensible, providing forecast outturn as well as year to date. More centralised financial management arrangements are being put in place for 2011-12 to implement a more standardised approach to budget setting and monitoring between Council departments.

### Criteria met.

The Council has generally low service costs per head of population, low management and back office costs and low Council Tax levels, when compared to others. Performance reports, scrutiny reviews and other reports to members contain comparative information so there is generally a sound awareness of how costs and quality of service compare with others.

## 2. The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.

Focus for 2010/11:

## Criterion

The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

## Key messages

There is a good track record of delivering efficiencies from an already low cost base. An ongoing efficiency programme looks to identify and deliver savings, based on comparing the Council to "best in class". A staff suggestion scheme is also in place to foster a value for money culture and identify more opportunist operational savings. There are some examples of shared service provision and outsourcing, and plans for a joint waste PFI scheme are well underway. Most services are still delivered in-house however and the Council may need to consider alternative models of service delivery in the future.

Most support services have now been centralised, area based service delivery and more homeworking for revenues and benefits staff are also helping to reduce costs. Fees and charges are regularly reviewed and services the Council can provide to partners and third parties are pro-actively marketed.

Office relocation plans are progressing well, and should secure significant financial savings as well as improved facilities for customers and staff. However there has been minimal investment in Council property over recent years, and asset records require improvement.

A significant number of management and back office posts have been taken out of the establishment over recent years. This has reduced costs but also in some areas increased risk. For example now that the central partnership team has been wound up it is not clear how the Council will ensure that it is receiving value for money from partnerships.



# Closing remarks

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This letter has been discussed and agreed with the Chief Executive and the Director of Customer and Business Support Services, and will be presented to the Audit and Governance Committee on 5 December 2011. Copies will be provided to all elected members.

Detailed findings, conclusions and recommendations in the areas covered by our audit have been included in the following reports which I have issued during the year.

Report	Date issued
Initial Fee Letter	April 2010
Opinion Audit Plan	February 2011
Audit Progress Reports	April and July 2011
<ul style="list-style-type: none"><li>Annual Governance Report</li><li>Audit opinion , certificate and value for money conclusion</li></ul>	September 2011
Whole of Government certification and assurance statement	October 2011
Annual Audit Letter	November 2011

The Council has taken a positive and constructive approach to our audit, and I would like to thank the Council's staff for their support and co-operation.

Steve Nicklin

District Auditor

November 2011

# Appendix 1 - Fees

	Actual	Proposed	Variance
Audit Fee (1)	£248,900	£248,900	0
Mandated work – National Fraud Initiative	£3,650	£3,650	0
Grant claims and returns (2)	£42,700	£42,700	0
<b>Total (3)</b>	<b>£295,250</b>	<b>£295,950</b>	<b>0</b>

1. The Audit Commission scale fee for York City Council is £249,260.
2. This represents our current best estimate for grant claims and returns fees. The work is not likely to be completed until the end of December 2011.
3. The figures above do not reflect the fee rebates made to audited bodies on a national basis as a result of savings made by the Audit Commission. The rebate received by City of York Council in 2010-11 was £15,576.

# Appendix 2 - Glossary

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## **Annual governance statement**

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities.

The annual governance statement is a public report by the Council on the extent to which it complies with its own local governance code, including how it has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.

## **Audit opinion**

On completion of the audit of the financial statements, I must give my opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question; and
- whether they have been prepared properly, following the relevant accounting rules.

## **Opinion**

If I agree that the financial statements give a true and fair view, I issue an unqualified opinion. I issue a qualified opinion if:

- I find the statements do not give a true and fair view; or
- I cannot confirm that the statements give a true and fair view.

## **Value for money conclusion**

The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources based on criteria specified by the Audit Commission.

If I find that the audited body had adequate arrangements, I issue an unqualified conclusion. If I find that it did not, I issue a qualified conclusion.

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- any director/member or officer in their individual capacity; or
- any third party.





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**Cabinet**

10 January 2012

Report of the Cabinet Member for Corporate Services

**Minutes of Working Groups****Summary**

1. This report presents the draft minutes of meetings of the Equality Advisory Group (EAG) and the Local Development Framework Working Group (LDFWG) and asks Members to consider the advice given by the Groups in their capacity as advisory bodies to the Cabinet.

**Background**

2. Under the Council's Constitution, the role of Working Groups is to advise the Cabinet on issues within their particular remits. To ensure that the Cabinet is able to consider the advice of the Working Groups, it has been agreed that minutes of the Groups' meetings will be brought to the Cabinet on a regular basis. In accordance with the requirements of the Constitution, draft minutes of the following meetings are presented with this report:
  - Equality Advisory Group of 24 November 2011 (Annex A)
  - LDF Working Group of 5 December 2011 (Annex B)

**Consultation**

3. No consultation has taken place on the attached minutes, which have been referred directly from the Working Groups. It is assumed that any relevant consultation on the items considered by the Groups was carried out in advance of their meetings.

## **Options**

4. Options open to the Cabinet are either to accept or to reject any advice that may be offered by the Working Groups, and / or to comment on the advice.

## **Analysis**

5. In respect of City of York Council – Revised Local Development Scheme, Members are asked to consider the following recommendations contained in the attached draft minutes at Annex B (minute 15 refers):

*“That Members recommend to Cabinet that it:*

- (i) Approves the proposed Local Development Scheme, subject to the comments made by the LDF Working Group.*
- (ii) Delegates to the Director of City Strategy, in consultation with the Cabinet Member for City Strategy, the making of any other necessary changes arising from the either the recommendations of the LDF Working Group or Cabinet.*

6. The recommendation in respect of affordable housing targets in rural areas (Annex B minute 17 refers) was considered by Cabinet at their meeting on 6 December 2011.

## **Council Plan**

7. The aims in referring these minutes accord with the Council’s recognition that to achieve the priorities set out in the Council Plan it needs to be a confident, collaborative organisation completely in touch with its communities.

## **Implications**

8. There are no known implications in relation to the following in terms of dealing with the specific matter before Members, namely to consider the minutes and determine their response to the advice offered:

- **Financial**

- **Human Resources (HR)**
- **Equalities**
- **Legal**
- **Crime and Disorder**
- **Property**
- **Other**

### **Risk Management**

9. In compliance with the Council's risk management strategy, there are no risks associated with the recommendations of this report.

### **Recommendations**

10. Members are asked to note the draft minutes attached at Annexes A and B and to decide whether they wish to:
- a. Approve the specific recommendation made by the LDF Working Group, as set out in paragraph 5 above, and/or;
  - b. Respond to any of the advice offered by the Working Groups.

### **Reason:**

To fulfil the requirements of the council's Constitution in relation to the role of Working Groups.

### **Contact details:**

#### **Author:**

Jayne Carr  
Democracy Officer  
01904 552030

#### **Chief Officer Responsible for the report:**

Andrew Docherty  
Assistant Director Governance and  
ICT

**Report  
Approved**

√ **Date** 21.12.11

**Specialist Implications Officer(s)** None

**Wards Affected:**

All

**For further information please contact the author of the report**

**Annexes**

Annex A – Draft minutes of the meeting of the Equality Advisory Group of 24 November 2011.

Annex B – Draft minutes of the LDF Working Group of 5 December 2011.

**Background Papers**

Agendas and associated reports for the above meetings (available on the Council's website).



City of York Council

Draft Committee Minutes

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Meeting	Equality Advisory Group
Date	24 November 2011
Present	Councillors Crisp (Chair), Richardson (Vice-Chair), Barnes and Jeffries  Community Representatives: Marije Davidson – York Independent Living Network Sue Lister – York Older People’s Assembly Tony Martin – York Older People’s Assembly Claire Newhouse – Higher York Sarah Nicholson – Youth Council Ella – Youth Council Member Rita Sanderson – York Racial Equality Network Dan Sidley – LGBT Forum Paul Wordsworth – Churches Together In York
Apologies	Councillor Aspden – City of York Council David Brown – York Access Group John Burgess – York Mental Health Forum Daryoush Mazloun – York Racial Equality Network Diane Roworth – York Independent Living Network Fiona Walker – Valuing People Partnership

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## 12. Declarations Of Interest

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. Councillor Jeffries declared a personal interest in items on the agenda as Co-Chair of York Independent Living Network.

**13. Public Participation**

There was one registration to speak under the council's Public Participation Scheme.

Colin Hall raised issues in respect of the renewal of York Compact. He stated that the revision of the Compact provided an opportunity to make clear to organisations that were in receipt of public funding of their responsibilities in terms of ensuring that the provision they offered was fully accessible.

**14. Minutes**

Resolved: That the minutes of the meeting held on 18 July 2011 be approved as a correct record.

**15. Update on Actions Agreed at the Last Meeting**

The group was updated on the action that had been taken to address issues raised at the previous meeting:

(i) Implementation of the taxi card scheme

Officers gave an update on the implementation of the taxi card scheme. They apologised for the delays that had occurred at the start of the roll-out and explained that 1500 cards had been issued. Some issues had arisen in respect of driver training and it was proposed that refresher training sessions would be held.

The group suggested that there were wider issues to be addressed in respect of training for taxi drivers and they requested that further consideration be given to this issue at a future meeting<sup>1</sup>.

(ii) Poverty Awareness Project

Claire Newhouse asked for the group's views regarding proposals for the poverty awareness project. The proposal was for a Community Co-ordinator from St John's University to lead a team of student volunteers in arranging two or three events for older people who were feeling isolated in areas of the city including Heworth,

Clifton and Guildhall. Costings were currently being drawn-up. The Group welcomed the proposal that had been put forward and agreed that final approval of the arrangements should be delegated to the Chair.

(iii) Disabled parking arrangements in Library Square

The group was informed that parking spaces had now been marked out in Blake Street. The Footstreets Review would include consideration as to how accessible parking arrangements were operating in the area.

(iv) Representation on Equality Advisory Group from the York Carers Forum

The York Carers Forum had been asked if they would like to be involved in the work of the Equality Advisory Group. They had welcomed this approach but, because of their caring commitments, had explained that they would find it difficult to attend evening meetings.

The group suggested that the Carers Centre should also be approached to ascertain if they wished to be represented on the Equality Advisory Group<sup>2</sup>.

Discussion took place regarding the membership of EAG. Members agreed that it was important that the protected characteristics continued to be represented but were mindful of the need to ensure that the group did not become so large that it was unable to operate effectively. The Chair informed the group that it was intended that there would be a total refresh of EAG during the year and that further consideration could be given to these issues as part of the process.

(v) Footstreets Review

A report on the Footstreets Review was due to be considered by the Cabinet Member for City Strategy at a Decision Session on 1 December 2011. The report was available to view on-line. Subject to approval by the Cabinet Member, more detailed consultation would take place on this issue. One of the recommendations was that there would be zero tolerance in respect of A-boards within the city centre.

(vi) Osballdwick right of way issue

The Chair informed the group that she had carried out a piece of casework in respect of the Osballdwick right of way following issues George Wright had raised at the previous meeting. The information would be forwarded to him.

(vii) North Yorkshire Police Diversity Unit

In response to questions raised at the previous meeting, representatives from North Yorkshire Police had been invited to attend the meeting to talk about the review of equalities that had taken place and the reasons why there would no longer be a discrete equalities unit. Details were given of the new arrangements that were being put in place. It was intended that these would enable equalities issues to be embedded throughout the organisation and not be seen as an “add-on”. A review of the new arrangements would be carried out.

Action Required

1. Include as an agenda item for future meeting CC
2. Contact Carers Centre to ascertain if they wish to be involved. CC

**16. Equalities Framework for Local Government**

The group was given a verbal update on the Equalities Framework for Local Government final report and the next steps. Supporting information had been included with the agenda papers.

Officers went through the key findings with the group, as detailed in the report that had been included with the agenda papers. They explained that the council had been accredited as “achieving” in the equalities assessment. A work programme had now been put in place to enable the council to work towards achieving excellence.

The Chair informed the group that it was very important that the equalities agenda was embedded throughout the Authority. Although progress was being made, there was still much work

to be done if the council was to achieve excellence within the next two years.

Resolved: That the update on the Equalities Framework for Local Government be noted.

Reason: To ensure that EAG is informed of the council's progress.

## 17. Procurement Strategy

The group received a verbal report on the council's Procurement Strategy Refresh from the Cabinet Member for Corporate Services and a procurement manager.

The group was informed that the council was the largest employer in the area and was a major purchaser of goods and services. Details were given of how the council was seeking to improve the ways it procured goods and services, including the putting in place of a new procurement strategy. The group was encouraged to participate by attending a workshop that had been arranged for 13 December 2011.

The Cabinet Member explained some of the key issues that were being taken into account when developing procurement processes including:

- Value for money (ensuring that the goods and services purchased were also of good quality)
- Supporting the local economy
- Protecting the local environment
- Protecting vulnerable people
- Being collaborative
- Focusing on the council's key priorities
- Building strong relationships with the voluntary sector.
- Looking at who large suppliers could sub-contract within the city.
- Apprenticeship schemes.
- The use of EIAs.

Resolved: That the information on the Procurement Strategy, including the consultation event, be noted.

Reason: To ensure that the EAG has an opportunity to contribute to the Procurement Strategy refresh.

**18. Council Management Team Meeting with the Equality Advisory Group**

Details were given about the proposal for the Council's Management Team (CMT) to meet with EAG on 19 December 2011. The event would take place at the Priory Street Centre from 9:30am to 2:00pm.

The group was asked for their views on the content, style and organisation of the event. The following suggestions were put forward:

- There should be a short introduction from the Directors so that the group was clear about the council's structure.
- There should be discussion about the council's budget – including initial feedback from the Fairness Commission.
- It was important that directors used the meeting as an opportunity to find out more about the protected characteristics. This was an opportunity to learn about how things could be done better. Equalities issues were sometimes seen as problems but they should be seen as opportunities.
- An update on the move to the new council offices would be helpful – for example who would be based there?
- Learning points should be identified by the Directors so that action taken could be reported back.
- Whilst it was agreed that it would be useful for Directors to meet with representatives from EAG around the table, differing views were expressed as to how this was best organised.

Rita Sanderson offered to help with the planning. Other members who also wished to be involved in the planning were asked to contact Charlie Croft.

Resolved: That the information on the CMT meeting with EAG be noted.

Reason: To enable EAG members to have input in the planning of the event.

**19. Mystery Shoppers**

Details were given about the “mystery shopper” initiative. The group was asked to consider whether they, or members of the organisations they represented, would wish to be involved. It was noted that currently this involved the mystery shoppers telephoning departments of the council with a range of scenarios. In the longer term it was hoped to extend this to include face to face visits and use of the council’s website.

One of the mystery shoppers informed the group about his experiences. He stated that he welcomed this initiative by the council. His experiences regarding the service that he had received had been generally very good.

Officers confirmed that some staff had been trained to use BT Typetalk.

Members of the group were encouraged to consider putting themselves forward to become mystery shoppers.

Resolved: That the information on mystery shoppers be noted.

Reason: To ensure EAG members, and the organisations they represent, have an opportunity to be involved in this initiative.

**20. Options for Relocation of Services Following the Closure of Acomb Office**

The group’s views were sought regarding options for the relocation of services following the closure of Acomb Housing Office in January/February 2012.

Officers explained how they were looking at options to provide housing services out in the community. Details were given of the venues that were being considered.

Details were also given of options in respect of the delivery of benefits services, including the use of libraries or a mobile unit.

The group was invited to attend the consultation events that had been planned regarding the options.

Resolved: That the information on options for relocation of services, including the opportunities for consultation, be noted.

Reason: To provide an opportunity for the EAG to comment on the options.

## 21. **Community Say/Exchange**

Community representatives were invited to raise equality and inclusion matters about council policy and services which were of importance to the groups they represented. The following issues were raised:

### (i) York Older Peoples Assembly

- York Older Peoples Assembly requested that they be kept informed about the Footstreets Review.
- Concerns had been expressed regarding the need for training to be in place for people who used mobility scooters. It was noted that the results of government consultation on this issue were awaited.
- Concerns had been expressed that the Choice Based Lettings scheme disadvantaged some older people and other members of the community who may not be computer literate or have access to a computer. The group requested that a report on this issue be brought to the next meeting<sup>1</sup>.
- Concerns had been expressed that the council no longer appointed member champions. Of particular concern to YOPA, was that there was no longer a nominated Older People's Champion. YOPA had found it useful to have a known contact with whom they could raise issues. The Chair explained that no firm decision had been taken as to whether member champions would be appointed in the future. It had been envisaged that issues would be raised with the Cabinet Member whose portfolio covered the relevant area. Members agreed that it was important that organisations and individuals knew who to contact with specific issues. The Chair stated that she would make other Members aware that this issue had been raised.
- The group's attention was drawn to the distress caused to residents who had noisy neighbours. The Authority



was urged to ensure that, when procuring housing, there was adequate soundproofing in place.

(ii) LGBT Forum

- The group's attention was drawn to the under-reporting of hate crime. It was encouraging to note that a police LGBT liaison officer was in place but more needed to be done to encourage victims to report incidents.
- The group was informed that the LGBT Forum would welcome the flying of the rainbow flag on the Mansion House during LGBT Pride Week. This would demonstrate the council's commitment to LGBT issues.

(iii) YREN

YREN reported that four key events had taken place since the last EAG meeting:

- York BME Citizens and Groups Open Forum event on 28 July 2011. YREN thanked the Chair of EAG for her attendance and opening address at this meeting.
- Community Conversations Hate Crime Workshop on 15 September 2011. This was a partnership event with City of York Council.
- York International Shared Meal event on 29 October 2011, in celebration of One World Week. This was a collaborative event by York Racial Equality Network, York Baha'i community and York Interfaith.
- York BME Citizens and Group Open Forum event on 12 November 2011.

YREN reported that the following issues were highlighted at the BME Citizens and Groups Open Forum events:

- The need for additional site provision to be made available for travellers.
- The need for additional resources to increase the capacity for YREN to meet the growing demand on its core services. The increased demand is due in part to the current economic climate and the need to respond to the changing

demographics within the city – York is the second fastest growing city in the UK. Additionally, there are increasing demands on YREN's services from organisations needing to demonstrate that they are working in a more inclusive way.

- The need for a safe place for the Hindu and Sikh communities to worship.
- The need for access to free legal advice for refugees and asylum seekers.
- Additionally, YREN had identified the need for some race-equality and human rights awareness training within the city, particularly myth-busting exercises, in response to some adverse comments made in the media in response to the City of Sanctuary initiative. It was imperative that racism was challenged in everyday lives.

Action Required

1. Include as agenda item for next meeting.

CC

Councillor Crisp, Chair

[The meeting started at 6.00 pm and finished at 8.45 pm].

City of York Council

Draft Committee Minutes

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MEETING	LOCAL DEVELOPMENT FRAMEWORK WORKING GROUP
DATE	5 DECEMBER 2011
PRESENT	COUNCILLORS MERRETT (CHAIR), BARTON, D'AGORNE, LEVENE, POTTER, REID, RICHES AND SIMPSON-LAING

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## 12. DECLARATIONS OF INTEREST

At this point in the meeting, Members were asked to declare any personal or prejudicial interests they may have in the business on the agenda.

Councillor Simpson Laing declared a personal interest in relation to agenda item 5 as she is the Ward Councillor for Acomb Ward and also lives in the Leeman Road area.

## 13. MINUTES

RESOLVED: That the minutes of the meeting held on 7 November 2011 be approved and signed by the Chair, subject to the following amendment:

Minute item 7 Declarations of Interest:

Councillor Merrett's interest be amended to state 'his neighbours have a proposed extension'.

## 14. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

**15. CITY OF YORK COUNCIL - REVISED LOCAL DEVELOPMENT SCHEME.**

Members considered a report which advised them on the production of a revised Local Development Scheme (LDS) for the City as required under the Planning and Compulsory Purchase Act (2004, amended 2008). The LDS is effectively the project plan for the delivery of the Local Development Framework (LDF). A draft of the LDS was attached at Annex A of the report.

Officers outlined the report and provided an update, in particular that after the 15 January 2012, there is no longer a requirement for the LDS to go to the Department for Communities and Local Government (CLG).

Members suggested that the colour scheme for the graph at Figure 2 of the Annex should be reconsidered as it is currently not clear enough.

RESOLVED: That Members recommend to Cabinet that it:

- (i) Approves the proposed Local Development Scheme, subject to the comments made by the LDF Working Group.
- (ii) Delegates to the Director of City Strategy, in consultation with the Cabinet Member for City Strategy, the making of any other necessary changes arising from either the recommendations of the LDF Working Group or Cabinet.

REASONS:

- (i) So that the Local Development Scheme can be progressed.
- (ii) So that any recommended changes can be incorporated into the Local Development Scheme and it can be progressed.

**16. YORK CENTRAL DEVELOPMENT FRAMEWORK AND FORMER BRITISH SUGAR/MANOR SCHOOL SUPPLEMENTARY PLANNING DOCUMENT.**

Members were asked to consider a report which set out the findings of work undertaken to establish a transport approach including site

access strategy on the York Central (YC) and former British Sugar/Manor School (fBS/MS) development sites. Members were asked to note the findings of the work and to endorse the proposed approaches to taking these findings forward as outlined in the report.

The Chair addressed the Committee and asked that this item be deferred as the York Northwest Transport Masterplan had not been appended to the report nor had it been placed on the Council's website. He asked that the decision on this item be deferred to a future meeting to enable Members and the public to have more time to consider the report and its background documents.

The Chair asked the Committee to email any queries in respect of the report to the relevant officers for consideration in the revised report. Members also asked that 2 hard copies of the Halcrow Report be made available to them.

**RESOLVED:** That consideration of this report be deferred to a meeting in early 2012.

**REASON:** To enable full consideration of the report and its related documents by Members and the public.

## **17. AFFORDABLE HOUSING TARGETS IN RURAL AREAS.**

A report on a proposed interim approach to affordable housing was considered by the Council's Executive on 14<sup>th</sup> December 2010. This endorsed the reduced affordable housing targets in line with the Fordham's Affordable Housing Viability Study (AHVS, July 2010), as amended following consultation with the York Property Forum and Developers, as an interim measure in advance of the LDF Core Strategy examination in 2012. The AHVS has previously been adopted as part of the LDF evidence base.

However, whilst Members approved the recommendation, the minutes exempted the reduction of the rural affordable housing target on sites between 2 and 15 homes from the interim approach. This resulted in an affordable housing target of 25% on brownfield and 35% on Greenfield sites on urban and rural developments above 15 units, but retained a 50% target on rural sites between 2 and 15 homes.

This report sought to clarify and amend this anomaly, reducing the rural target in-line with the study recommendations and current interim approach for sites above 15 homes.

Officers outlined the report and Members queried the use of commuted sum money and whether it could go back into the rural community. Officers advised that legal advice would be required before settling on such a policy.

Members asked that their request that preference be given to rural housing with rural funding be noted.

Councillor Watt expressed concern that the targets were still too high.

When the recommendation to approve Option 1 was put to the vote, Councillors Watt and Barton abstained.

RESOLVED: That Members recommend Cabinet to:

Approve Option 1 and reduce the affordable housing target for rural sites between 2 and 15 units in line with the Council's evidence base (targets identified in Table 2 of the report), until such a time as it is superseded by the adopted Local Development Framework Core Strategy.

REASON: This will ensure that the interim approach is consistent and in line with the Council's own approved evidence base (Affordable Housing Viability Study). It will also publically reduce the affordable housing requirement to a level that has proven achievable through recent planning applications and discussions.

Cllr Merrett, Chair

[The meeting started at 5.00 pm and finished at 5.35 pm].



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**Cabinet****10 January 2012**

Report of the Cabinet Member for Corporate Services

**Revision to the Council's Administrative Accommodation Strategy****Summary**

1. This report seeks member approval to revise the current approved administrative accommodation strategy in the light of ongoing work for space planning in relation to the move to the new Council headquarters at West Offices.
2. Members are also asked to approve a number of actions arising from the revision to this strategy, as outlined in the report below.

**Background**

3. The current approved strategy for the rationalisation of existing administrative accommodation has been to move from 16 buildings located around the city to 4 buildings (plus the Eco Depot), with the focus of council services being provided from a single office located in the city centre, including an effective and efficient single customer contact centre. The four locations previously approved were West Offices; the Guildhall complex; St Anthony's House; and 50 York Road, Acomb.
4. When approved in December 2005, the administrative accommodation strategy envisaged that the Guildhall would continue to be the centre of democratic activity. The council chamber would continue to be used and the new building design would not include provision of a new chamber. It was also expected that other formal member meetings (Cabinet Member Decision Sessions, Advisory Panels, Scrutiny and Planning) would continue to take place within the existing committee rooms within the Guildhall complex. Political group rooms would also remain on the Guildhall complex. At that time it was agreed that democracy services might have to remain at the Guildhall to

support these functions. The issue of staff moving to and from the new central office to and from the Guildhall was acknowledged as a disadvantage that may have to be lived with.

5. The development of the new Council Headquarters at West Offices means that this building will now offer a range and quantity of secure and accessible meeting rooms able to be used in a flexible way, to a high standard, that would readily support a major part of those political meeting needs outlined above. It is also now clear that the introduction of new ways of working could provide the space required to house all of the democracy staff and political group rooms. This development away from the original thinking for the Guildhall would provide significant benefits of close working between members and officers, and additionally with the public through the customer contact centre.
6. The outcome of the initial space planning work for West Offices has indicated that the new HQ together with the Eco Depot would provide sufficient administrative accommodation to meet the needs of the Council and potentially a number of partners. Members will be aware that a decision was made by Cabinet in October 2011 to exercise the break clause in the lease of 50 York Road, Acomb. Following the recently completed space planning work for locating staff in West Offices, it is appropriate to now review the future of the Guildhall complex and St Anthony's House within the Council's Accommodation Strategy.
7. There are many issues that will influence decisions on the future use and development of the Guildhall complex, including:
  - a. The historic and civic nature of the buildings and those constraints imposed by listed status. The preparation of a Heritage and Conservation plan will provide guidance and understanding on the future potential uses of the building. There are exciting possibilities for its re-use, if it is not substantially required by the Council. In addition, there is the opportunity to examine the Guildhall complex as part of a wider regeneration which would impact on enhancing the vitality and viability of the City Centre as well as improving the river frontage.
  - b. The wish to retain a civic presence at the Guildhall, even if limited to use of the Council Chamber. In addition, the Guildhall is part of the offer in association with the use of



the Mansion House for weddings, being required on an occasional basis as a catering venue.

- c. Understanding the potential of the Guildhall complex for future use and development and its place within the City. The Guildhall currently forms a venue for a range of community based activities.
  - d. The financial commitment that the council would need to make to conserve, maintain and improve the complex, in an environment where financial resources are at a premium.
8. Current information suggests that there is a need to spend circa £800k on repairs (and not including refurbishment) over the 3-5 years on the Guildhall complex, and similar amounts every five years beyond. This summary is based upon a full survey undertaken in 2007 and covers outstanding planned maintenance works and works necessary to facilitate DDA and operational improvements (the costs reflect 2010 prices). It is important to determine the degree to which the building should be accessible depends upon its future use. If it, and particularly the Council Chamber, remain as the focus of democracy within which open public meetings occur, investment in modern forms of access will be needed. To implement such work within an historic building will be challenging and expensive. A further £200k of work has been undertaken since the report was written in 2007. There is no specific budget for any improvement, alterations or refurbishment to the Guildhall. This needs to be considered alongside other priorities for maintenance and repairs.
9. As part of the space planning work, more detailed assessments are taking place regarding the location of services currently based at St. Anthony's House in either West Offices or the Eco Depot.

### **Consultation**

10. This report has been written in consultation with Council Management Team.

### **Options**

11. Approve or reject the recommendations.

## **Analysis of Options**

12. Taking account of these issues, the Council Management Team would recommend that we seek to limit the utilisation of the Guildhall by the Council as much as possible and review the approved administrative accommodation strategy in order that member and democratic activity is based at West Offices. This would make most effective use of available space whilst offering the best opportunity for member engagement with Council staff and customers.
13. In doing so, it is recommended that the Council retains the use of the Council Chamber in the Guildhall for holding of Council meetings. The largest meeting room at West Offices has the capacity to hold Council meetings but not in the current format of a debating chamber. As part of the space planning work for West Offices it is proposed to undertake further work with the political parties to determine their space requirements for the new HQ. As the intention is not to fully utilise the building, then there is now the opportunity to discuss with other organisations the future custodianship of the Guildhall in order to ensure its future use and long term viability and maintenance. In doing so, it is recognised that there is a need to assure the people of York that the council is committed to preserving and conserving its historic buildings.
14. Regarding St Anthonys House, it is intended that staff currently based there can be relocated to either West Offices or the Eco Depot. On this basis, it would be appropriate for the Director of City Strategy to be given authority to consider and implement options for the disposal of this site.

## **Council Plan**

15. This report will contribute to a number of the Council's priorities, particularly regarding jobs and growth and the protection of the environment. It will also contribute to developing the Council as a confident, collaborative organisation, focused on its priorities.

## **Implications**

### **Finance**

16. The sale of St. Anthony's House would realise a capital receipt to the council. This level of receipt is unquantified at this time however would be the subject of a further report. The capital programme doesn't currently assume this sale so would be an additional receipt. There would also be revenue savings from the council no longer operating services from the premises. In a full year these savings equate to £19.3k per annum. This potentially increases the savings arising from the Admin Accommodation Project by £627k over 25 years.  
There would also be savings arising from the council moving out of the Guildhall. The direct running costs at the Guildhall (National Non-Domestic Rates, energy etc) total approximately £100k. Further work regarding use and custodianship of the building needs to be undertaken to finalise the level of operational savings that could be made from relocating services to the new Headquarters.

### **Legal**

17. None.

### **Property**

18. All implications are included in this report, except that St Anthony's House is the location of a hub for the Council's dark fibre network which would be required to be relocated elsewhere.

### **Human Resources**

19. None

### **Risk Management**

20. There are no known risks with the recommendation.

## Recommendations

21. That the status of the Guildhall and St Anthony's House in relation to the Administrative Accommodation Strategy is revised in line with this report.
22. That further work is progressed to develop future use and development options in relation to the Guildhall site in line with the finalised Conservation and Heritage Plan for the site, bearing in mind the requirement for continued use of the Council Chamber.
23. That work is undertaken to assess the requirements of the political groups in relation to space and accommodation needs in West Offices.
24. That the Director of City Strategy is authorised to commence initial discussions with third parties regarding possible property options to support the long term use, custodianship or ownership, viability and maintenance of both the Guildhall and St Anthony's House.

**Reason:** To manage the Council's property assets in an economic and efficient manner in line with corporate objectives.

## Contact Details

**Author:  
Cabinet Member  
Responsible for the  
Report:**

**Cllr Julie Gunnell  
Cabinet Member,  
Corporate Services**

**Roger Ranson  
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**Report  
Approved**



**Date** 23 December 2011

**Specialist Implications Officer(s)** *List information for all*

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**Ward Affected:**  
**Guildhall**

All

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**Cabinet**

10 January 2012

Report of the Cabinet Member for City Strategy

**Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document****Summary**

1. The purpose of this report is to seek approval from Members for the draft Supplementary Planning Document (SPD) on controlling the concentration of Houses in Multiple Occupation (HMOs) (attached at Annex 1 of this report) to be published for consultation.
2. The role of the SPD is to provide guidance on how planning applications for change of use to HMO will be determined in order to allow the Council to manage the spread of HMOs. It will also ensure that unsustainable large concentrations of HMOs in our neighbourhoods are not created.
3. This paper has been considered by Members of the Local Development Framework Working Group on 9 January 2012. A verbal update of the outcomes of this meeting will be given at Cabinet on 10 January 2012.

**Background**

4. Houses in Multiple Occupation or HMOs as they are commonly referred to represent a significant and growing proportion of the mix of housing in York. They make an important contribution to York's housing offer, providing flexible and affordable accommodation for students and young professionals, alongside low-income households who may be economically inactive or working in low paid jobs. Whilst HMOs are regarded as a valuable asset to the city's housing offer there has been debate about the wider impacts concentrations of HMOs are having on

neighbourhoods. This debate has mainly been driven by the increasing number of student households in the city and focuses on the detrimental impact large concentrations of HMOs can have on neighbourhoods, such as the loss of family and starter housing.

5. An evidence base has been developed to explore the spatial distribution and impact of HMOs, typically occupied by student households, which indicates that it is necessary to control the number of HMOs to ensure that communities do not become imbalanced. This control will be achieved through an Article 4 Direction which will come into force on 20 April 2012. This removes permitted development rights, requiring a planning application to be submitted to change a property into an HMO. The Controlling Concentrations of HMOs SPD provides guidance on how these planning applications will be determined.
6. It is not intended that this report replicate the detailed evidence base work undertaken. However, for more information please see the background papers listed at the end of this report.
7. The SPD supports Policy CS7 'Balancing York's Housing Market' of the emerging Core Strategy. This policy seeks housing development that helps to balance York's housing market, address local housing need and ensuring that housing is adaptable to the needs of all of York's residents throughout their lives. With regard to HMOs, the LDF will seek to control the concentration of HMOs, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.

### **The Draft SPD**

8. The proposed approach set out in the SPD has been guided by the LDF Vision for all of York's current and future residents having access to decent, safe and accessible homes throughout their lifetime. A key element of this is maintaining community cohesion and helping the development of strong, supportive and durable communities.
9. There is evidence (set out in the background papers listed at the end of this report) to demonstrate that it is necessary to control the number of HMOs across the city to ensure that communities do not become imbalanced. A threshold based policy approach is considered most appropriate as this tackles concentrations of



HMOs and identifies a 'tipping point' when issues arising from concentrations of HMOs become harder to manage and a community can be said to tip from balanced to unbalanced.

10. Under the threshold approach an assessment of the proportion of households that are HMOs is undertaken within a given area. As such, it is important to consider the geographic level at which the threshold should be applied.

### *Assessing concentrations of HMOs*

#### Neighbourhood Level

11. It is considered that for York, issues arising from concentrations of HMOs can be a neighbourhood matter, going beyond the immediate area of individual HMOs. Accordingly, a consistent and robust understanding of a 'neighbourhood area' has been developed. The following approach is proposed could be used to determine planning applications relating to HMOs:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*

- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis<sup>1</sup> HMO planning consent or are known to the Council to be HMOs; and*
  - *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*
12. A threshold of 20% is considered to allow for flexibility for some new HMOs to be created in appropriate areas. Essentially, where a large concentration of HMOs does not currently exist it would still be acceptable for the use of a dwelling to change from C3 to C4 or Sui Generis HMOs. However, in neighbourhood areas where there is an existing high concentration of HMOs (i.e. more than 20% of all households) further change of use to HMO would be resisted. In marginal cases, where an area is approaching a 20%

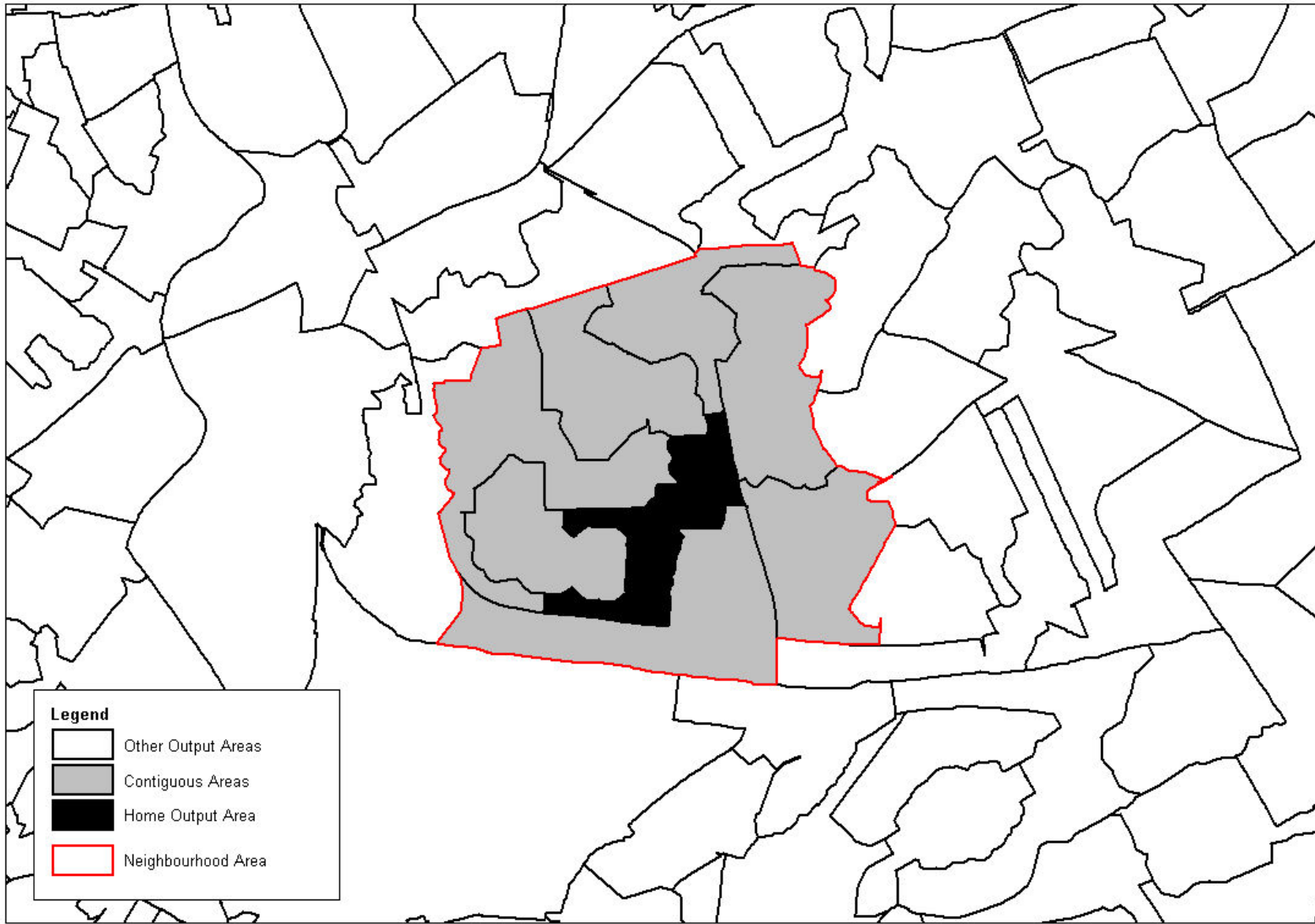
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<sup>1</sup> Sui Generis meaning 'of its own kind'. In a planning sense this relates to uses that do not fall within the four main use class categories. Sui Generis HMOs are known as large HMOs where 6 or more unrelated people share a dwelling

concentration of HMOs, a thorough assessment of the impact additional HMOs will have on the neighbourhood area would be undertaken to establish if it is appropriate for further change of use to take place.

13. It has been necessary to establish an understanding of how a neighbourhood area could be defined. Output Areas (capturing approximately 125 households), defined by the Office for National Statistics were considered to provide the only independently defined and convenient geographical units for the purposes of such an approach. Following best practice in Charnwood Borough Council and Nottingham City Council, it is considered that one Output Area is too small to properly represent a neighbourhood and accordingly, in assessing concentrations of HMOs a cluster of contiguous Output Areas will be applied. The number of contiguous Output Areas varies depending upon local circumstances but typically clusters comprised of between 5 and 7 Output Areas capturing 625 to 875 households will be used to calculate concentrations of HMOs. An example of a cluster of Output Areas is shown below at Figure 1 overleaf. The 'home output area' is where the planning application is located.

Figure 1



14. It is considered that some issues arising from HMOs can reliably be measured across a neighbourhood area. This is because the impacts associated with high concentrations of HMOs, as highlighted in the evidence base underpinning the Article 4 Direction, go beyond the immediate area of individual HMOs. A neighbourhood approach would in particular address the impact large numbers of HMOs can have on decreasing demand for some local services, particularly local schools, doctor and dental surgeries and changes in type of retail provision, such as local shops meeting day to day needs becoming take-aways.
15. A neighbourhood approach based on contiguous output areas has been taken by Charnwood Borough Council and Nottingham City Council and has been developed following an appeal decision whereby the Inspector concluded that assessing HMOs on two output areas (approximately 250 properties) was statistically unreliable. The Inspector considered that it would be more statistically relevant and significant to assess the potential impacts of concentrations of HMOs across a cluster of Output Areas. He asserted that using this approach would give a more reliable picture of the impact HMOs have on communities.

#### Street Level

16. A number of Local Authorities are currently progressing Article 4 Directions to control HMOs in their area. Most Authorities are proposing a threshold approach to identify when a tipping point has been reached when a community becomes unbalanced. However different policy approaches are emerging on how authorities propose to assess concentrations of HMOs.
17. Some Authorities have decided to assess HMO concentrations using street level data. For example, Manchester City Council and Oxford City Council are proposing to adopt a policy approach whereby concentrations of HMOs are calculated on a street by street basis, across an area of within a 100 metre radius of the HMO change of use planning application site. In Oxford a threshold of 20% is proposed and in Manchester, 10%.
18. For Oxford City Council a threshold of 20% on a given length of street represents 1 in 5 properties potentially being HMOs. In areas of Oxford dominated by terraced housing, a row of houses unbroken by cross-streets is typically a minimum of about 100 metres. Accordingly, it is considered that this length of frontage can reasonably be considered to constitute a property's more immediate neighbours and is therefore the proposed distance

threshold. This is proposed to be measured along the adjacent street frontage on either side, crossing any bisecting roads, and also continuing round street corners. This measurement would also apply to the opposite street frontage, from a point directly opposite the application site. This is illustrated at Figure 2.

Figure 2



19. Should a street by street analysis of concentrations of HMOs be taken the following approach could be used to determine planning applications relating to HMOs:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*

- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

20. This approach would allow the Council to manage the clustering of HMOs at street level. This would prevent whole streets from changing use from dwellinghouses to HMO. Such control may be beneficial for those streets with property types that are particularly suited to HMO use and would protect the character of a street by maintaining a mixed and balanced community. This could avoid the situation where whole streets or large sections of streets change use to HMOs; the effects of which are most keenly felt out of term time when properties are empty.
21. A street by street approach would address the impacts large concentrations of HMOs can have on increased levels of crime and the fear of crime, change in nature of street activity, street character and natural surveillance through less availability of neighbours and community outside of term times, standards of property maintenance and repair, increased parking pressures, littering and accumulation of rubbish, noise between dwellings at all times and especially music at night.
22. However, the relevance of the street level as the basis for assessing concentrations of HMOs has not been tested at examination or appeal. Manchester City Council's street level approach is currently being considered at the examination of their Core Strategy. For Oxford, their approach to HMOs is being progressed through their Sites and Housing Development Plan Document which is currently at the preferred options stage. Mindful of the appeal decision in Nottingham whereby the Inspector called into question the appropriateness of assessing HMOs on a narrow geographic scale there is a risk that in taking a street level

approach to assessing HMOs the Council would be open to challenge at appeal. Furthermore, York's HMO evidence base analysis is not on a street by street basis.

### Neighbourhood and Street Level

23. A combined approach of both a neighbourhood and street level analysis of HMOs could be undertaken to determine HMO planning applications. This would seek to control concentrations of HMOs of less than 20% of all households at both a neighbourhood area and at the street level. The following approach could be used:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*

- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

24. An approach that covered both neighbourhood and street level assessment of HMO concentrations would give the council greater control in managing concentrations of HMOs. Under this approach, concentrations at a neighbourhood and street level would both be controlled, acknowledging that issues arising from concentrations of HMOs affect both neighbourhoods and individual streets. However, there is a risk that this approach could be seen to be overly onerous and given that street level assessment of HMOs is untested, the Council could be open to challenge at appeal.

### *Residential Amenity*

25. The Council seeks a standard of development that maintains or enhances the general amenity of the area and provides a safe and attractive environment for all. The SPD recognises that large

concentrations of HMOs can impact upon residential amenity issues such as increased parking pressures and noise between dwellings, especially at night.

26. In assessing change of use planning applications for HMOs the SPD proposes that the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. In considering impact on residential amenity attention will be given to whether the applicant has demonstrated the following:
- the dwelling is large enough to accommodate an increased number of residents;
  - there is sufficient space for potential additional cars to park;
  - there is sufficient space for appropriate provision for secure cycle parking;
  - the condition of the property is of a high standard that contributes positively to the character of the area and that the condition of the property will be maintained following the change of use to HMO;
  - the increase in number of residents will not have an adverse impact noise levels and the level of amenity neighbouring residents can reasonably expect to enjoy;
  - there is sufficient space for storage provision for waste/recycling containers in a suitable enclosure area within the curtilage of the property; and
  - the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene.
27. Should the change of use to HMO also involve alteration, extension, or subdivision detailed guidance is provided in the House Extension and Alterations SPD and Sub Division of Dwellings SPD. These SPDs set out the planning principles that the Council will use to assess such developments and in essence, seeks to ensure that they do not have an adverse impact on residential amenity. They cover issues such as bin storage, parking, good design, appropriate extensions to protect the character of an area and private amenity space.

### **Scope of the Draft SPD**

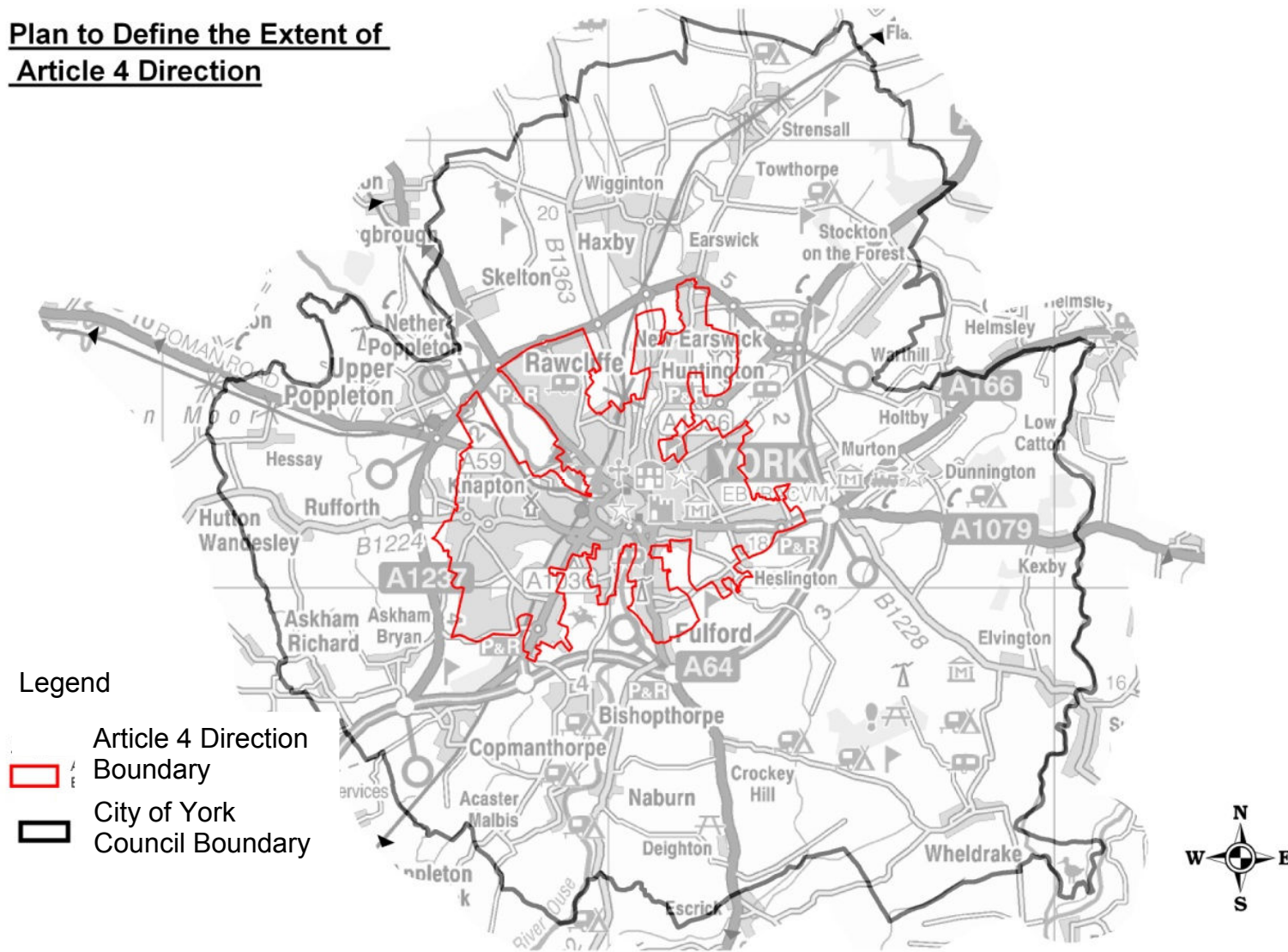
28. The guidance will apply to all planning applications for change of use from dwelling house (Use Class C3) to HMO (Use Class C4) within the main urban area (i.e. the extent of the Article 4 Direction), as shown below at Figure 3. It will also apply to



planning applications for the change of use from dwelling house (Use Class C3) to 'sui generis' large HMOs across the Local Authority area. The guidance will not apply to purpose-built student accommodation.

Figure 3

Plan to Define the Extent of Article 4 Direction



## **Consultation**

29. The public consultation will last for six weeks, beginning early in the New Year. The consultation will seek views on the threshold of when a community tips from balanced to unbalanced, alongside which approach is considered most appropriate to assess concentrations of HMOs. In accordance with the adopted Statement of Community Involvement (2007), there will be material on the website, press releases and letters. Those who responded to the recent consultation on the Article 4 Direction where contact details are available will also be contacted. It is proposed that the consultation will include a focus group event to explore student housing issues and discuss balanced communities and a threshold of when a community becomes imbalanced. A wide range of stakeholders will be invited including representatives from the Universities, residents groups and landlords.
30. A consultation statement detailing the outcomes of the consultation and a final draft SPD for adoption will be reported to the LDF Working Group and Cabinet in March/April 2012. This will ensure that the SPD is in place at the time the Article 4 Direction comes into force on 20 April 2012.

## **Options**

31. The options below are available to Cabinet.

**Option 1:** To approve the SPD at Annex 1 for consultation

**Option 2:** To approve a revised SPD with an alternative approach to assessing concentrations of HMOs

## **Analysis of Options**

### *Option 1*

32. This option will provide consultees with information on the approaches available to assessing concentrations of HMOs and the pros and cons with each approach. This will allow consultees to fully consider the options available to assess concentrations of HMOs.

*Option 2*

33. Cabinet may wish to propose an alternative approach. This could include pursuing a stricter approach to determining HMO planning application. Alternatively Cabinet may decide that the proposed approaches are too restrictive.

**Council Plan**

34. Exploring the impacts of HMOs relates to the following Corporate Strategy Priorities:
- Build strong communities.
  - Protect vulnerable people.
  - Protect the environment.

**Implications**

35. The implications are as listed below:
- **Financial:** None
  - **Human Resources (HR):** None
  - **Equalities:** None
  - **Legal:** None
  - **Crime and Disorder:** None
  - **Information Technology (IT):** None
  - **Property:** None
  - **Other:** None

**Recommendation**

36. That the Cabinet:
- i) approve the attached draft SPD for consultation purposes in accordance with Option 1; and
  - ii) delegate to the Director of City Strategy the making of any changes to the SPD that are necessary as a result of the recommendations of the LDF Working Group.

Reason: So that the SPD can be consulted on, and amended accordingly ahead of it being used for Development Management purposes to support the emerging LDF Core

Strategy and the Article 4 Direction which comes into force on 20 April 2012.

**Contact Details**

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**Cabinet Member Responsible for the report**

Dave Merrett  
Cabinet Member for City Strategy

**Report  
Approved**



**Date** 21<sup>st</sup> December  
2011

*Martin Grainger  
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**Chief Officer Responsible for the report:**

Richard Wood  
Assistant Director for Strategic Planning  
and Transport  
Tel: 01904 551488

**Report  
Approved**



**Date** 21<sup>st</sup> December  
2011

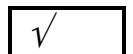
**Specialist  
Officer(s)**

N/A

**Implications**

**Wards Affected:** *List wards or tick box to indicate all*

**All**



**For further information please contact the author of the report**

## **Background Papers**

*Houses in Multiple Occupation Technical Paper (2011) CYC*

*'Student Housing' Report to the Local Development Framework Working Group 6 September 2010 and Minutes*

*'HMOs and Article 4 Directions' Report to the Local Development Framework Working Group 10 January 2011 and Minutes*

*'Minutes of Working Groups' Report to Executive 1 February 2011 and Minutes*

*'The Distribution and Condition of HMOs in York' Report to Cabinet 1 November 2011 and Minutes*

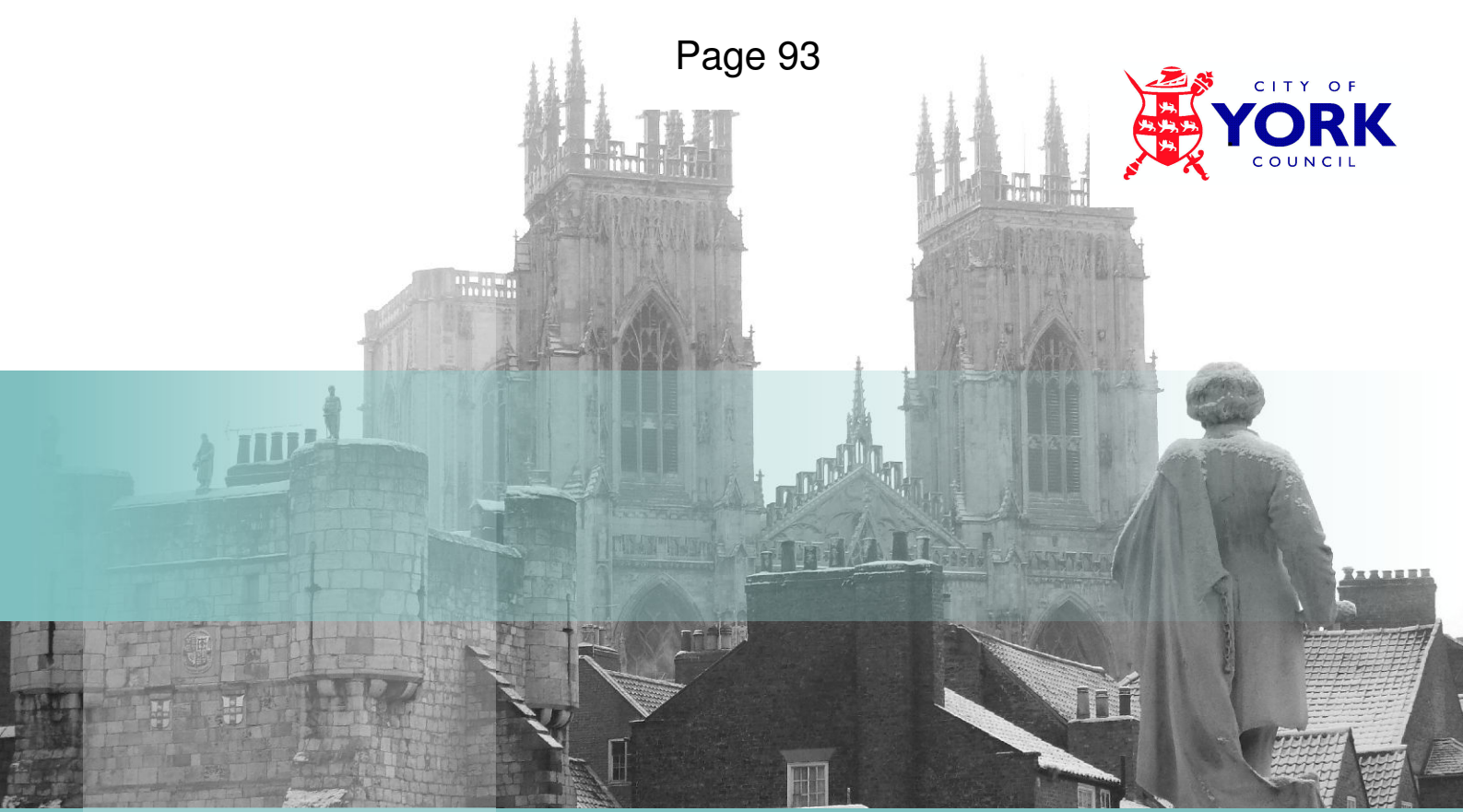
## **Annexes**

*Annex 1: Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document – Consultation Draft (December 2011)*

**ANNEX 1: Draft Controlling Houses in Multiple  
Occupation Supplementary Planning  
Document (December 2011)**

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# SUPPLEMENTARY PLANNING DOCUMENT

DRAFT

## **Controlling the Concentration of Houses in Multiple Occupation**

December 2011

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### Background Papers

**Annex 1: Spread of Student Households 2000-2010**

**Annex 2: Local Plan Extract**

**Annex 3: Core Strategy Submission (Publication) Extract**

### *Figures*

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**For further information on the details in this SPD, please email [integratedstrategy@york.gov.uk](mailto:integratedstrategy@york.gov.uk) or telephone 01904 551388**

## 1.0 Introduction

- 1.1 National policy guidance<sup>1</sup> provides the context for local planning policy to ensure that balanced and mixed communities are developed. With the aim of avoiding situations where existing communities become unbalanced by the narrowing of household types and the domination by a particular type of housing. Within this context, a key City of York Council priority from its *Sustainable Community Strategy, York – A City Making History 2008 -2025 (2008)* is building confident, creative and inclusive communities that are strong, supportive and durable.
- 1.2 Houses in Multiple Occupation<sup>2</sup> or HMOs as they are commonly referred to represent a significant and growing proportion of the mix of housing in York. They make an important contribution to York's housing offer, providing flexible and affordable accommodation for students and young professionals, alongside low-income households who may be economically inactive or working in low paid jobs. Whilst HMOs are regarded as a valuable asset to the city's housing offer there has been debate about the wider impacts concentrations of HMOs are having on neighbourhoods and increasing rental costs. This debate has mainly been driven by the increasing number of student households in the city and focuses on the detrimental impact large concentrations of HMOs can have on neighbourhoods, such as the loss of family and starter housing.
- 1.3 An evidence base has been developed to explore the spatial distribution and impact of HMOs, typically occupied by student households, which indicates that it is necessary to control the number of HMOs to ensure that communities do not become imbalanced. This control will be achieved through an Article 4 Direction which will come into force on 20 April 2012. This removes permitted development rights, requiring a planning application to be submitted to change a property into an HMO. This Draft Supplement Planning Document (SPD) provides guidance on how these planning applications could be determined, providing a number of options for consideration through consultation.

## 2.0 Supplementary Planning Documents

### Purpose

- 2.1 An SPD is intended to expand upon policy or provide further detail to policies in Development Plan Documents. It does not have development plan status, but it will be afforded significant weight as a material planning consideration in the determination of planning applications.

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<sup>1</sup> Planning Policy Statement 1 'Creating Sustainable Communities and Planning Policy Statement 3 'Housing'

<sup>2</sup> A House in Multiple Occupation or HMO can be defined as a dwelling house that contains between three and six unrelated occupants who share basic amenities

## Scope

- 2.2 The guidance will apply to all planning applications for change of use from dwelling house (Use Class C3) to HMO (Use Class C4) within the main urban area, as shown at Figure 1 overleaf. It will also apply to planning applications for the change of use from dwelling house (Use Class C3) to 'sui generis' large HMOs across the Local Authority area. The guidance will not apply to purpose-built student accommodation. Please see Section 3.0 below for further information with regard to what constitutes an HMO and Section 5.0 for detail on the Council's decision to implement an Article 4 Direction.

**Figure 1: Extent of Article 4 Direction – The Main Urban Area**



## 3.0 Context

### HMO Definition

- 3.1 Previously, Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended 2005) provided no distinction between a dwelling occupied by one household, such as a family, and that of a dwelling occupied by up to 6 unrelated people. Shared houses where there are 6 or more residents did not fall within Class C3, and were defined as Houses in Multiple Occupation and classed as Sui Generis 'of its own kind'. In a planning sense Sui Generis relates to uses that do not fit within the four main use class categories.

- 3.2 On 6 April 2010, amendments were made to the Use Classes Order and the General Permitted Development Order to introduce a new class of type C development – C4 ‘Houses in Multiple Occupation’. These are commonly referred to as ‘small HMOs’. The Sui Generis HMOs which existed under the previous legislation are still considered as HMOs, but these are now commonly referred to as ‘large HMOs’ which, in broad terms, consist of more than six occupants. The new use class, C4, describes a house that contains three, four or five unrelated occupants who share basic amenities. However, properties that contain the owner and up to two lodgers do not constitute HMOs for these purposes. To classify as an HMO, a property does not need to be converted or adapted in any way.

#### **Powers under planning legislation to manage the spatial distribution of HMOs**

- 3.3 Initially, the changes made to the Use Class Order in April 2010 meant that planning permission would be required for any change from a single household dwelling to either a small or a large HMO. However, following the formation of the new Coalition Government, further changes were made to the General Permitted Development Order on 1 October 2010 making changes of use from Class C3 (single household dwelling houses) to C4 (HMOs) permitted development. This means that planning permission for this change in use is not required. Should Local Authorities wish to exert tighter planning controls on the development of HMOs, permitted development rights would have to be removed through a planning mechanism called an Article 4 Direction.
- 3.4 An Article 4 Direction would mean that planning permission, within a given area, would then be required for a change of use from a dwelling house to an HMO. It should be noted that the effect of an Article 4 Direction is not to prohibit development, but to require a planning application to be submitted for development proposals, to which it applies, in a particular geographical area.

#### **Powers under housing legislation to improve the management and condition of HMOs**

- 3.5 The standard and management of existing HMOs is primarily controlled through the Housing Act 2004 (the Act) and Regulations. Under this Act Local Authorities have a duty to license any HMOs that are three storeys or over and are occupied by five or more persons. This is known as mandatory licensing. Authorities also have the option of extending licensing (additional licensing) to other types of HMO or to specific areas (selective licensing under certain conditions. Other actions may include a landlord accreditation scheme or street/community wardens to deal with anti-social behaviour.

- 3.6 The Council's current approach recognises that HMOs are a vital source of accommodation within the city used by a range of tenants and is to:
- rigorously enforce the mandatory provisions of the Act by licensing larger HMOs (three storey and more with five or more unrelated occupants);
  - ensure that we fulfil our duty to inspect all licensed HMOs;
  - respond to and investigate complaints about general housing conditions and management; we use the legal tool called the Housing Health and Safety Rating System to assess the condition and the HMO management regulations which provides a framework for managers to ensure that the accommodation including the outside space is kept in a good order, tidy and clean; and
  - investigate complaints of overcrowding; although the problem of overcrowding in the city is low we have found that HMOs can be more prone to overcrowding than other sectors.
- 3.7 This approach is complemented by the Code of Best Practice<sup>3</sup> for shared student accommodation. This has been developed in partnership with the universities. It provides clear information about housing standards and is part of the Council's strategy to ensure that students feel welcome and reassured by removing some of the uncertainties from house hunting.
- 3.8 The Council are currently pursuing the implementation of an accreditation scheme. This will seek voluntary compliance by private landlords with good standards in the condition and management of their properties and their relationship with their tenants.
- 3.9 The exercise of powers available to the Council under the Housing Act 2004 does not directly control the scale and distribution of HMOs but importantly, it does provide opportunities for intervention to secure improvements to the management and maintenance of HMOs. Accordingly, it presents the Council with the opportunity to pursue complementary measures to support its planning policies. These measures cannot be developed through this SPD and are instead covered by separate legislation.

### **HMOs in York**

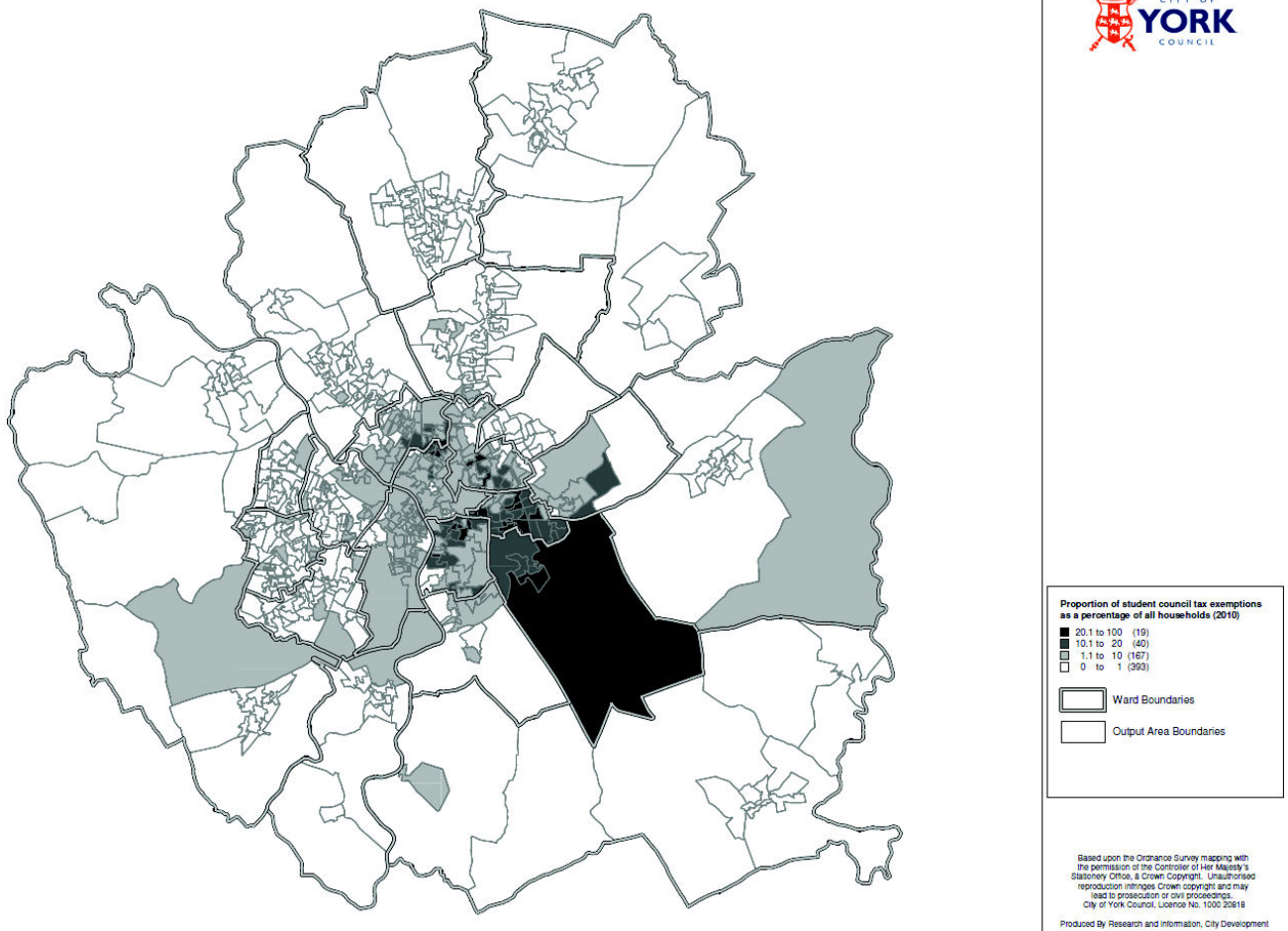
- 3.10 A detailed evidence base has been undertaken to explore HMOs in York, which has focused on student households. This is because in York, HMO issues are driven by the large student population in the City and because Council Tax student exemption data is the most robust information available to indicate the location of potential HMOs. It is not intended to replicate this evidence in this SPD, however a summary of the headline outcomes are presented below. For more detail please see the *Houses in Multiple Occupation Technical Paper (2011)* that supports the Core Strategy.

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<sup>3</sup> Please see [http://www.york.gov.uk/housing/hmo/Landlords\\_accreditation\\_scheme/](http://www.york.gov.uk/housing/hmo/Landlords_accreditation_scheme/)

- 3.11 Historic mapping shown at Annex 1 undertaken to explore the spatial extent of HMOs shows a clear spread of student households in several of the city's Wards over a ten year period between 2000 and 2010, indicating clustering in the Clifton/Guildhall Wards and Hull Road but there have also been more general rises over much of the rest of the main urban area. Council Tax student housing exemption data has been mapped. This applies to properties occupied only by one or more students either as full time or term time accommodation. Properties falling within 'Halls of residence' on campus have not been included. It does however include some off campus accommodation owned or managed by the universities. Based on these past trends it would be reasonable to assert that permitted development comprising a change of use to student HMO would be likely to take place in the future. Moreover, given the clustering that has already taken place in the Clifton/Guildhall Wards and in Hull Road in particular it is likely that if unmanaged this would continue and could create unbalanced communities. It is also likely that new clusters may develop. Current concentrations of HMOs are shown overleaf at Figure 2.
- 3.12 Work undertaken indicates that areas with high concentrations of student households can suffer from increased levels of crime, burglary, noise nuisance, parking pressures and poor quality of environment. Although it is important to note that it is not suggested that this is attributed to students themselves who can often be the victims of crime for example or suffer from a poor quality environment.
- 3.13 It is also recognised that there is likely to be an increase in the number of HMOs in York following the changes to the national benefit rules on 1 April 2012. The new rules will mean that single working age people under 35 years old will only be eligible to receive benefits for a single room in a shared house, currently the age limit is 25 years. As such, it is anticipated that there will be an increase in the number of claimants seeking accommodation in HMOs.

Figure 2: Concentrations of HMOs



## 4.0 Policy Framework

### Local Plan

- 4.1 At the time of preparing the City of York Draft Local Plan the use class order provided no distinction between a dwelling occupied by one household, such as a family, and that of a dwelling occupied by up to 6 unrelated people. Albeit, shared houses where there are 6 or more residents did not fall within Class C3, and were defined as HMOs and fell within the Sui Generis use class. Accordingly, the Council had very limited control over the occupation of dwellings in the private rented sector by groups of up to 6 people.
- 4.2 It was within this context that Policy H7 'Residential Extensions' and Policy H8 'Conversions' of the City of York Draft Local Plan were written to control the conversion of properties to flats and for Houses in Multiple Occupation (for more than 6 people). These policies, appended at Annex 2 for information, essentially seek to ensure that residential amenity is protected. To support local plan policies Supplementary Planning Guidance on extensions and alterations to private dwelling houses was prepared which provides a



reference for householders, builders and developers intending to alter or extend residential buildings.

### **Core Strategy Submission (Publication)**

- 4.3 Policy CS7 'Balancing York's Housing Market' of the emerging Core Strategy supports housing development which helps to balance York's housing market, addresses local housing need, and ensure that housing is adaptable to the needs of all of York's residents throughout their lives. This will be achieved in a number of ways as set out in the policy, which is shown at Annex 3. With regard to HMOs, the LDF will seek to control the concentration of Houses in Multiple Occupation, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.
- 4.4 The Core Strategy recognises that higher education institutions and the student population form an important element of the community and the presence of a large student population contributes greatly to the social vibrancy of the City and to the local economy. The Council are committed to ensuring their needs are met and will continue to work with the City's higher education institutions in addressing student housing needs. However, it is also recognised that concentrations of student households, often accommodated in HMOs, can cause an imbalance in the community which can have negative effects. These can include a rise in anti social behaviour, increases in crime levels, parking pressures and decreased demand for local shops and services, sometimes leading to closures. It can also put pressures on family and starter housing as owner occupiers and buy to let landlords compete for similar properties and have implications for non students seeking accommodation in the private rented sector.
- 4.5 It is considered that monitoring the spatial distribution and impacts of student housing will allow the Council to identify if it is necessary to prevent an increase in the number of student households in certain areas to ensure communities do not become imbalanced. As discussed in Section 3.0, this control can be achieved through an Article 4 Direction and the removal of permitted development rights, requiring landlords to apply for planning permission to change a property into an HMO.

### **5.0 Article 4 Direction**

- 5.1 As set out in Section 3.0 an Article 4 Direction is a decision made by a Local Planning Authority preventing certain specified development from enjoying the benefit of permitted development rights. On 15 April 2011 the Council published its intention to implement an Article 4 Direction relating to development comprising change of use from Class C3 (dwellinghouse) to a use falling within Class C4 (HMO). The effect of the Direction is that within the main urban area of York (see Figure 1 on page 2), permitted development rights are removed for this type of development. Planning permission will therefore be required for a change of use within the defined area from Class

C3 to Class C4 once the Article 4 Direction is in force. The Article 4 Direction, confirmed at Cabinet on 1 November 2011, applies to the main urban area as shown within the red line boundary on the map at Figure 1 and will come into effect from 20 April 2012.

- 5.2 For York, the justification for making an Article 4 Direction to control HMOs lies in the harm that would be caused to local amenity and the proper planning of the area. The evidence of the spread of student housing provides a strong justification for implementing an Article 4 Direction in York on a wide scale. The purpose of introducing the planning control is not to unreasonably suppress an appropriate level of HMOs in the city. Its purpose is to ensure that the supply of shared housing is managed to avoid localised high concentrations of HMOs which could create unbalanced communities.
- 5.3 It should be noted that the effect of an Article 4 Direction is not to prohibit development, or to unreasonably suppress the number of HMOs, but to require a planning application to be submitted. Accordingly this SPD is required to develop a policy response to provide guidance for determining planning applications.

## **6.0 Proposed Approaches**

- 6.1 The following proposed approaches to determining planning applications for change of use to HMO are guided by the LDF Vision for all of York's current and future residents having access to decent, safe and accessible homes throughout their lifetime. A key element of the LDF is its role in maintaining community cohesion and helping the development of strong, supportive and durable communities.
- 6.2 There is evidence to demonstrate that it is necessary to control the number of HMOs across the city to ensure that communities do not become imbalanced. A policy approach for the development management for HMOs of all sizes is required. A threshold based policy approach is considered most appropriate as this tackles concentrations of HMOs and identifies a 'tipping point' when issues arising from concentrations of HMOs become harder to manage and a community or locality can be said to tip from balanced to unbalanced.
- 6.3 Whilst there is no formal definition of what constitutes a balanced community, recently, there have been attempts to establish what constitutes a large HMO proportion and the threshold at which a community can be said to be/or becoming imbalanced. Useful precedents have been set in a number of Authorities. For York, a threshold of 20% of all properties being HMOs is considered to be the point at which a community can tip from balanced to unbalanced.
- 6.4 Under the threshold approach an assessment of the proportion of households that are HMOs is undertaken within a given area. To capture as many different types of shared accommodation as possible the Council will use the following:

- council tax records - households made up entirely of students can seek exemption from Council Tax and the address of each exempt property is held by the Council. This applies to properties occupied only by one or more students either as full time or term time accommodation. Properties falling within 'Halls of residence' on campus will not be included, however some accommodation owned or managed by the universities off campus will included;
- licensed HMOs - records from the Council's Housing team of those properties requiring an HMO licence will be utilised. These are those properties that are three storeys or over and are occupied by five or more persons;
- properties benefiting from C4 or sui generis HMO planning consent – in addition to those properties already identified as having HMO permission, where planning permission is given for a change of use to C4 HMO or a certificate of lawful development issued for existing HMOs this will be recorded in the future to build up a clearer picture of HMO properties; and
- properties known to the Council to be HMOs – this can be established through site visits undertaken by the Council's Housing team in response to complaints for example.

6.5 The above data sets will be collated to calculate the proportion of shared households as a percentage of all households. The data will be analysed to avoid double counting, for example, identifying where a property may be listed as a licensed HMO and have sui generis HMO planning consent. Given that the information collated may be expected to change over the course of the calendar year as houses and households move in and out of the private rented sector it is considered appropriate to base the assessment on a single point in time.

6.6 It is important to understand the appropriate geographic level at which the threshold approach should be applied. Below are three options for assessing concentrations of HMOs and we would like your views on which option is the right approach to managing concentrations of HMOs.

### **Assessing concentrations of HMOs**

#### **Option 1 - Neighbourhood Level**

6.7 It is considered that for York, some issues arising from concentrations of HMOs can be a neighbourhood matter, going beyond the immediate area of individual HMOs, particularly a decreasing demand for local schools and changes in type of retail provision, such as local shops meeting day to day needs becoming take-aways. Accordingly, a consistent and robust understanding of a 'neighbourhood area' has been developed as explained in the following methodology section.

6.8 The following approach could be used to determine planning applications relating to HMOs:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*

- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

6.9 In neighbourhood areas where there is an existing high concentration of HMOs (i.e. more than 20% of all households) further change of use to HMO would be resisted. In marginal cases, where an area is approaching a 20% concentration of HMOs, a thorough assessment of existing HMOs and the impact additional HMOs will have on the neighbourhood area will be undertaken to establish if it is appropriate for further change of use to take place.

#### **You Tell Us**

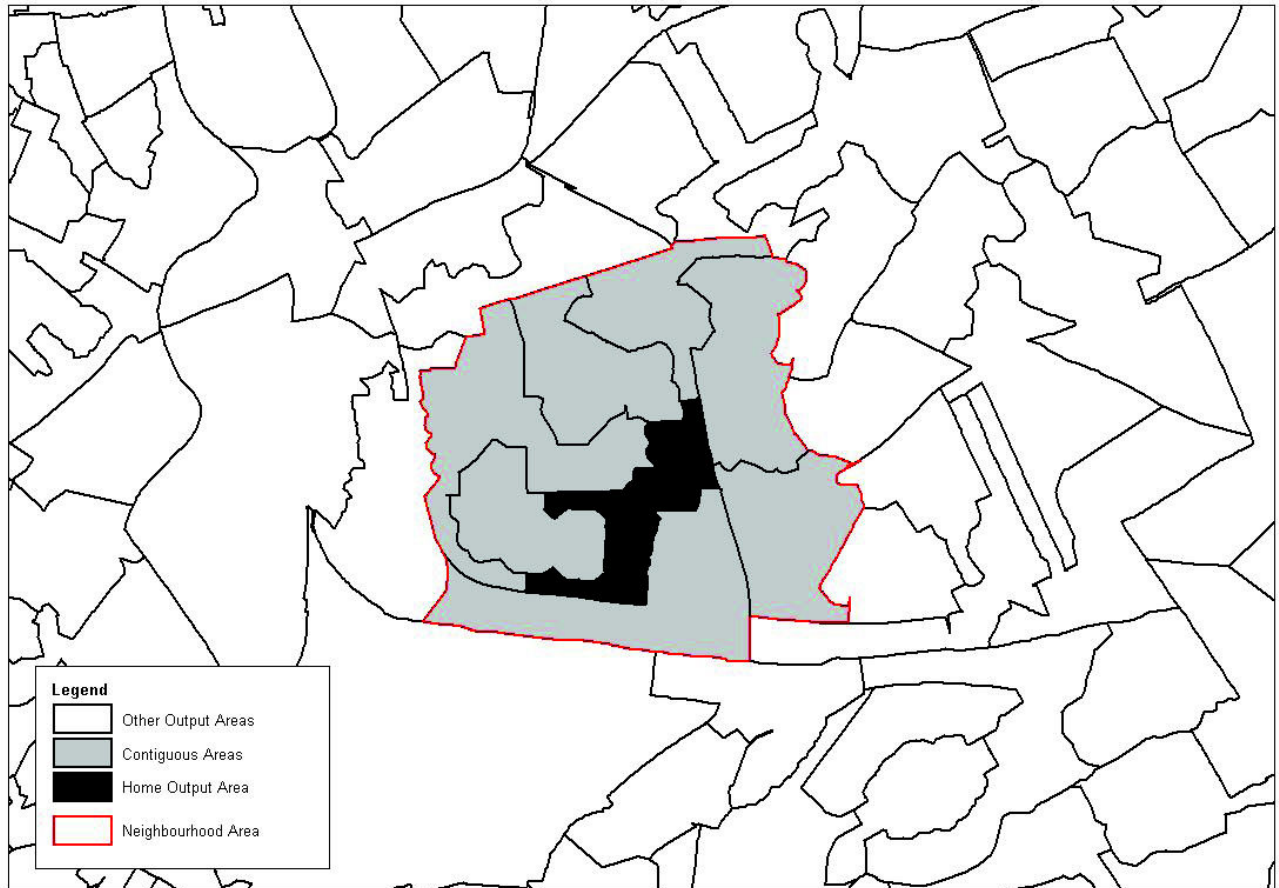
##### **Question 1**

**Do you think a threshold of 20% is appropriate across a neighbourhood area? If not what would be an appropriate percentage?**

6.10 It has been necessary to establish a definition of a neighbourhood area. For the purpose of this guidance, this must be consistent and robust as well as being related to available statistical information and of a sufficiently large area to be statistically significant. There is a risk that if too small an area is used the assessment will be statistically unreliable.

6.11 On this basis, the Output Areas (capturing approximately 125 households), defined by the Office National Statistics were considered to provide the only independently defined and convenient geographical units for the purposes of such an approach. Following best practice, it is considered that one Output Area is too small to properly represent a neighbourhood and accordingly, in assessing concentrations of HMOs a cluster of contiguous Output Areas will be applied. The number of contiguous Output Areas varies depending upon local circumstances but typically clusters comprised of between 5 and 7 Output Areas capturing 625 to 875 households will be used to calculate concentrations of HMOs. It is considered that this size of an area will be statistically significant when assessing the impact of additional HMOs. An example of a cluster of Output Areas is shown below at Figure 3. The 'home output area' is where the planning application is located. To ensure a consistent and robust approach, all adjoining output areas to the output area where the planning application is located will be used to form the neighbourhood area in all cases.

**Figure 3: Neighbourhood Area**



6.12 It is considered that some issues arising from HMOs can most reliably be measured across a neighbourhood area. This is because some of the impacts associated with high concentrations of HMOs, as highlighted in the evidence base underpinning the Article 4 Direction, go beyond the immediate area of individual HMOs. A neighbourhood approach would in particular address the impact large numbers of HMOs can have on decreasing demand for some local services such as the examples included in paragraph 6.7 above.

6.13 A neighbourhood approach based on contiguous output areas has been taken by Charnwood Borough Council and Nottingham City Council and has been developed following an appeal decision whereby the Inspector concluded that assessing HMOs on two output areas (approximately 250 properties) was statistically unreliable. The Inspector considered that it would be more statistically relevant and significant to assess the potential impacts of concentrations of HMOs across a cluster of Output Areas. He asserted that using this approach would give a more reliable picture of the impact HMOs have on communities.

### **Option 2 - Street Level**

6.14 A number of Local Authorities are currently progressing Article 4 Directions to control HMOs in their area. Most Authorities are proposing a threshold approach to identify when a tipping point has been reached when a

community becomes unbalanced. However different policy approaches are emerging on how authorities propose to assess concentrations of HMOs.

- 6.15 Some Authorities have decided to assess HMO concentrations using street level data. For example, Manchester City Council and Oxford City Council are proposing to adopt a policy approach whereby concentrations of HMOs are calculated on a street by street basis, across an area of within a 100 metre radius of the HMO change of use planning application site. In Oxford a threshold of 20% is proposed and in Manchester, 10%.
- 6.16 For Oxford City Council a threshold of 20% on a given length of street represents 1 in 5 properties potentially being HMOs. In areas of Oxford dominated by terraced housing, a row of houses unbroken by cross-streets is typically a minimum of about 100 metres. Accordingly, it is considered that this length of frontage can reasonably be considered to constitute a property's more immediate neighbours and is therefore the proposed distance threshold. This is proposed to be measured along the adjacent street frontage on either side, crossing any bisecting roads, and also continuing round street corners. This measurement would also apply to the opposite street frontage, from a point directly opposite the application site. This is illustrated at Figure 2.

Figure 4: Street Level



6.17 Should a street by street analysis of concentrations of HMOs be taken the following approach could be used to determine planning applications relating to HMOs:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*

- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*

- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

**You Tell Us**

**Question 2**

**Do you think a threshold of 20% is appropriate for a street level assessment of concentrations of HMOs? If not what would be an appropriate percentage?**

- 6.18 This approach would allow the Council to manage the clustering of HMOs at street level. This would prevent whole streets from changing use from dwellinghouses to HMO. Such control may be beneficial for those streets with property types that are particularly suited to HMO use and would protect the character of a street by maintaining a mixed and balanced community. This could avoid the situation where whole streets or large sections of streets change use to HMOs; the effects of which are most keenly felt out of term time when properties are empty.
- 6.19 A street by street approach would address the impacts large concentrations of HMOs can have on increased levels of crime and the fear of crime, changes in the nature of street activity, street character and natural surveillance by neighbours and the community outside of term times, standards of property maintenance and repair, increased parking pressures, littering and accumulation of rubbish, noise between dwellings at all times and especially music at night.
- 6.20 However, the relevance of the street level as the basis for assessing concentrations of HMOs has not been tested at examination or appeal. Manchester City Council's street level approach is currently being considered at the examination of their Core Strategy. For Oxford, their approach to HMOs is being progressed through their Sites and Housing Development Plan Document which is currently at the preferred options stage. Mindful of the appeal decision in Nottingham whereby the Inspector called into question the appropriateness of assessing HMOs on a narrow geographic scale there is a risk that in taking a street level approach to assessing HMOs the Council would be open to challenge at appeal.

**Option 3 - Neighbourhood and Street Level**

- 6.21 A combined approach of both a neighbourhood and street level analysis of HMOs could be undertaken to determine HMO planning applications. This would seek to control concentrations of HMOs of less than 20% of all households at both a neighbourhood area and at the street level. The following approach could be used:

*Applications for the change of use from dwelling house (Use Class C3) to HMO (Use Class C4 and Sui Generis) will only be permitted where:*



- *It is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *Less than 20% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent or are known to the Council to be HMOs; and*
- *The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.*

6.22 An approach that covered both neighbourhood and street level assessment of HMO concentrations would give the council greater control in managing concentrations of HMOs. Under this approach, concentrations at a neighbourhood and street level would both be controlled, acknowledging that issues arising from concentrations of HMOs affect both neighbourhoods and individual streets. However, there is a risk that this approach could be seen to be overly onerous and given that street level assessment of HMOs is untested, the Council could be open to challenge at appeal.

### **You Tell Us**

#### **Question 3**

**Which of the following options do you think is appropriate for managing HMO's?**

#### **Option 1:**

**Do you think the neighbourhood area approach set out in Option 1 is the best way to manage concentrations of HMOs?**

#### **Option 2:**

**Do you think the street by street approach set out in Option 2 is the best way to manage concentrations of HMOs?**

#### **Option 3:**

**Do you think a neighbourhood and street level approach set out in Option 3 is the best way to manage concentrations of HMOs?**

### **Residential Amenity**

6.23 This purpose of this SDP is to provide guidance on the change of use from a dwellinghouse to an HMO. This may not involve any internal or external alterations to the property but the change of use in itself constitutes 'development'. The Council seeks a standard of development that maintains or enhances the general amenity of an area and provides a safe and attractive environment for all. It is recognised that HMOs can impact upon residential amenity and can create particular issues with regard to:

- increased levels of crime and the fear of crime;
- poorer standards of property maintenance and repair;
- littering and accumulation of rubbish;
- noises between dwellings at all times and especially at night;
- decreased demand for some local services;
- increased parking pressures; and
- lack of community integration and less commitment to maintain the quality of the local environment.

6.24 Several of these issues can be most keenly felt during out of term times when properties can be empty for long periods of time.

6.25 In assessing planning applications for HMOs that fall within a neighbourhood area with less than 20% of properties being HMOs and particularly in marginal cases where a neighbourhood area is approaching the 20% threshold the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. In considering the impact on residential amenity attention will be given to whether the applicant has demonstrated the following:

- the dwelling is large enough to accommodate an increased number of residents;
- there is sufficient space for potential additional cars to park
- there is sufficient space for appropriate provision for secure cycle parking;
- the condition of the property is of a high standard that contributes positively to the character of the area and that the condition of the property will be maintained following the change of use to HMO;
- the increase in number of residents will not have an adverse impact noise levels and the level of amenity neighbouring residents can reasonably expect to enjoy;
- there is sufficient space for storage provision for waste/recycling containers in a suitable enclosure area within the curtilage of the property; and
- the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene.

6.26 In some cases, such as parking and bin storage there are Council standards which may be useful for applicants to refer to. For further advice on the above please see the planning guidance section of [www.york.gov.uk](http://www.york.gov.uk).

6.27 Permitted development rights under the General Permitted Development Order (GDPO)<sup>4</sup> allow certain types of development to proceed without the need for planning permission. The most commonly used permitted

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<sup>4</sup> Permitted development rights are provided by the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008

development rights relate to dwelling houses. The GPDO permits householders to undertake alterations, minor extensions as well as erect buildings and structures within the curtilage of a property, without planning permission. Local Authorities have the power to remove all or some of these rights on single dwellings by conditions attached to planning permissions.

6.28 In York, properties benefiting from a Sui Generis HMO planning permission have permitted development rights removed for certain types of development within the curtilage of the property, such as small scale extensions and alterations to the roof, such as dormer windows. Where it is considered reasonable to do so, the Council may decide that it is necessary to remove permitted development rights for properties benefiting from C4 HMO planning permission. This would be achieved through attaching planning conditions to permission for change of use to C4 HMO. In the interest of residential amenity, such planning conditions may seek to resist inappropriate alteration or extension to properties and to avoid the hard surfacing of gardens. This will ensure that HMOs with gardens are able to revert back to dwellinghouses for family occupation over the lifetime of the property. In some cases it may also be considered necessary to attach a condition to retain garages for the purposes of vehicle parking and the storage of cycles and bins.

6.29 Should the change of use from dwellinghouse to HMO also involve alteration, extension, or subdivision detailed guidance is provided in the House Extension and Alterations SPD and Sub Division of Dwellings SPD. These SPDs set out the planning principles that the Council will use to assess such developments and in essence, seeks to ensure that they do not have an adverse impact on residential amenity. They cover issues such as bin storage, parking, good design, appropriate extensions to protect the character of an area and private amenity space. Applicants should also consult the Interim Planning Statement on Sustainable Design and Construction which is designed to help achieve the Council's objectives for sustainable development.

6.30 Given the important role shared housing plays as part of the city's housing offer, the condition of HMO properties should be of a high standard and this high standard is maintained. This is particularly important given that the Private Sector Stock Condition Survey (2008) identified that nearly 40% of HMOs failed the decent homes standard<sup>5</sup>. As such, in the interest of visual amenity and where considered reasonable to do so, the Council may request that the applicant submit and implement a management plan for external areas of the property, including arrangements for the regular maintenance of gardens and bin storage. This will be secured by planning condition.

6.31 As set out in Section 3.0, the Council are able to secure improvements to the management and maintenance of HMOs under the Housing Act 2004. In particular, applicants are encouraged to sign up to the forthcoming accreditation scheme.

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<sup>5</sup> To meet the Decent Homes Standard, dwellings are required to be in a reasonable state of repair. For more information please see [http://www.york.gov.uk/housing/Housing\\_plans\\_and\\_strategies/stockcon/](http://www.york.gov.uk/housing/Housing_plans_and_strategies/stockcon/)

**You Tell Us**

**Question 4**

**Do you think the right amenity issues have been adequately covered in this section?**

**Do you think the guidance in this section would contribute to addressing amenity issues arising from concentrations of HMOs?**

**7 Conclusion**

- 7.1 The guidance in this document, setting out the approaches to determining planning applications for the change of use from dwellinghouse (Use Class C3) to HMO (Use Class C4 and Sui Generis) aims to contribute to delivering the LDF Vision for all of York's current and future residents having access to decent, safe and accessible homes throughout their lifetime. This guidance seeks to control the concentration of HMOs across the city in order to maintain community cohesion and help the development of strong, supportive and durable communities for all of York's residents. We would like your views on the approaches set out to help us determine which is the most appropriate way to assess change of use to HMO planning applications.

**Background Papers**

*Houses in Multiple Occupation Technical Paper (2011) CYC*

*'Student Housing' Report to the Local Development Framework Working Group 6 September 2010 and Minutes*

*'HMOs and Article 4 Directions' Report to the Local Development Framework Working Group 10 January 2011 and Minutes*

*'The Distribution and Condition of HMOs in York' Report to Cabinet 1 November 2011 and Minutes*

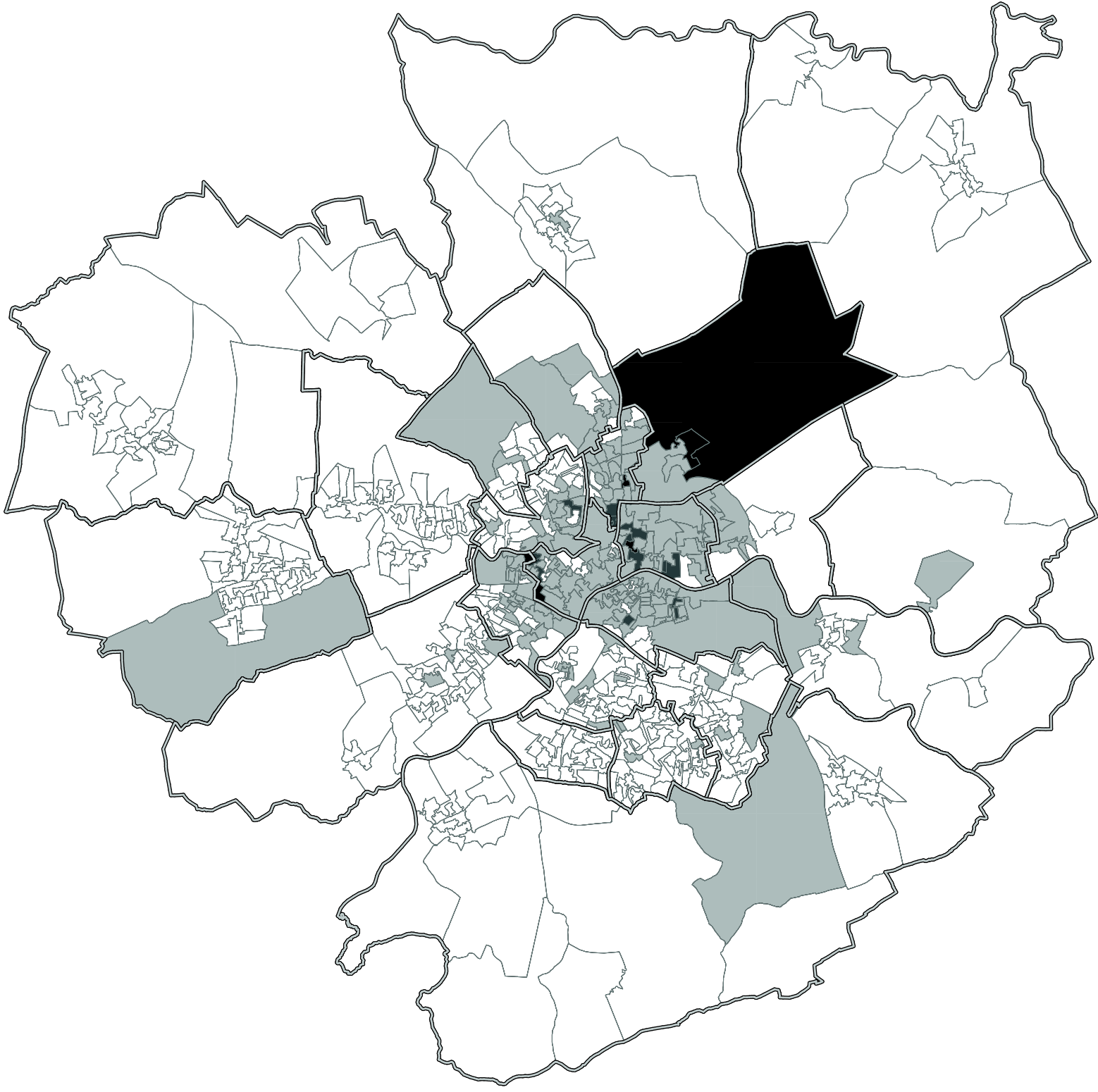
**Annex 1: Spread of Student Housing 2000-2010**

Proportion of student council tax exemptions  
as a percentage of all households (2000)

- 20.1 to 100 (6)
- 10.1 to 20 (15)
- 1.1 to 10 (171)
- 0 to 1 (427)

▭ Ward Boundaries

▭ Output Area Boundaries

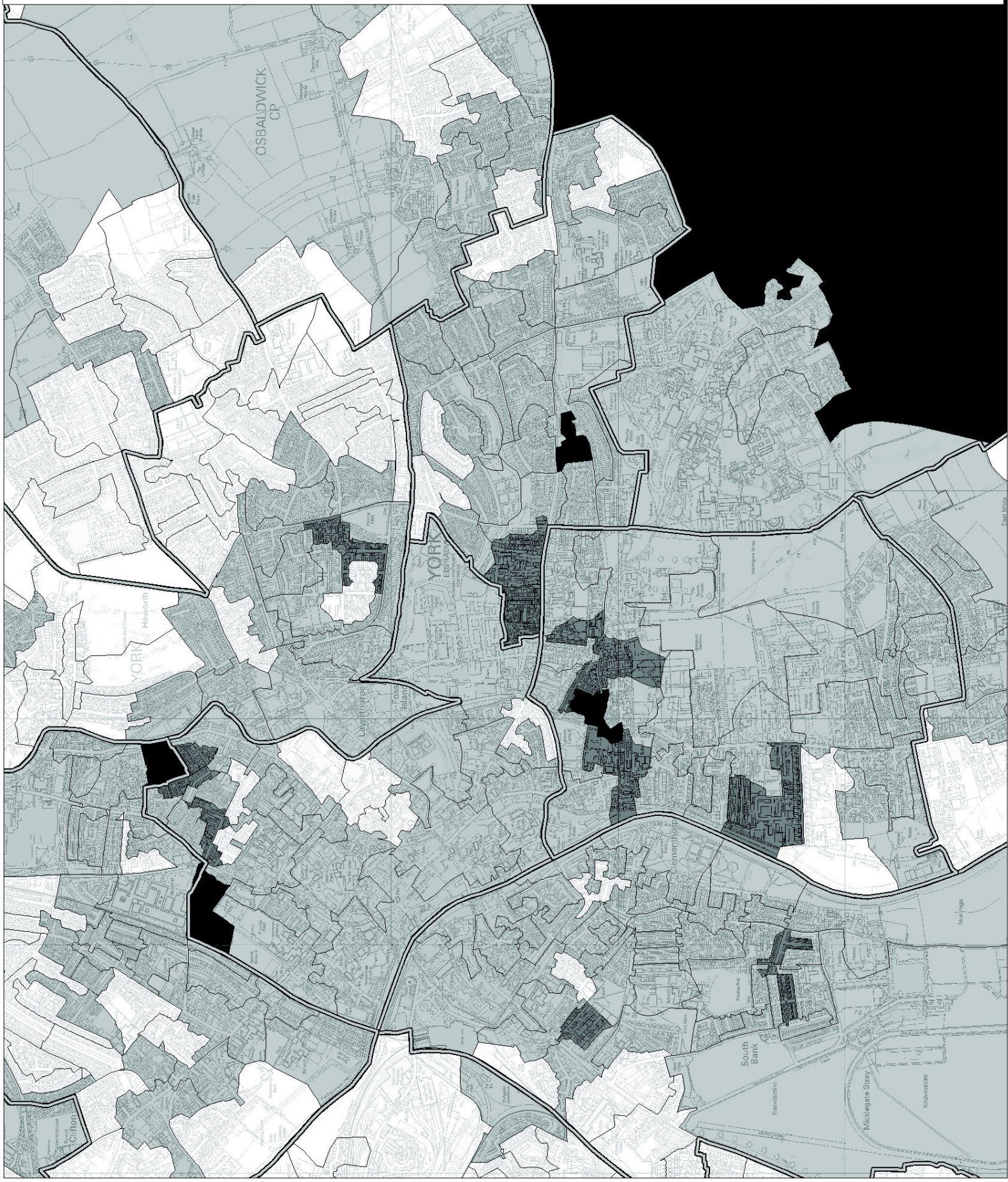


Proportion of student council tax exemptions  
as a percentage of all households (2000)

- 20.1 to 100 (6)
- 10.1 to 20 (15)
- 1.1 to 10 (171)
- 0 to 1 (427)

Ward Boundaries

Output Area Boundaries



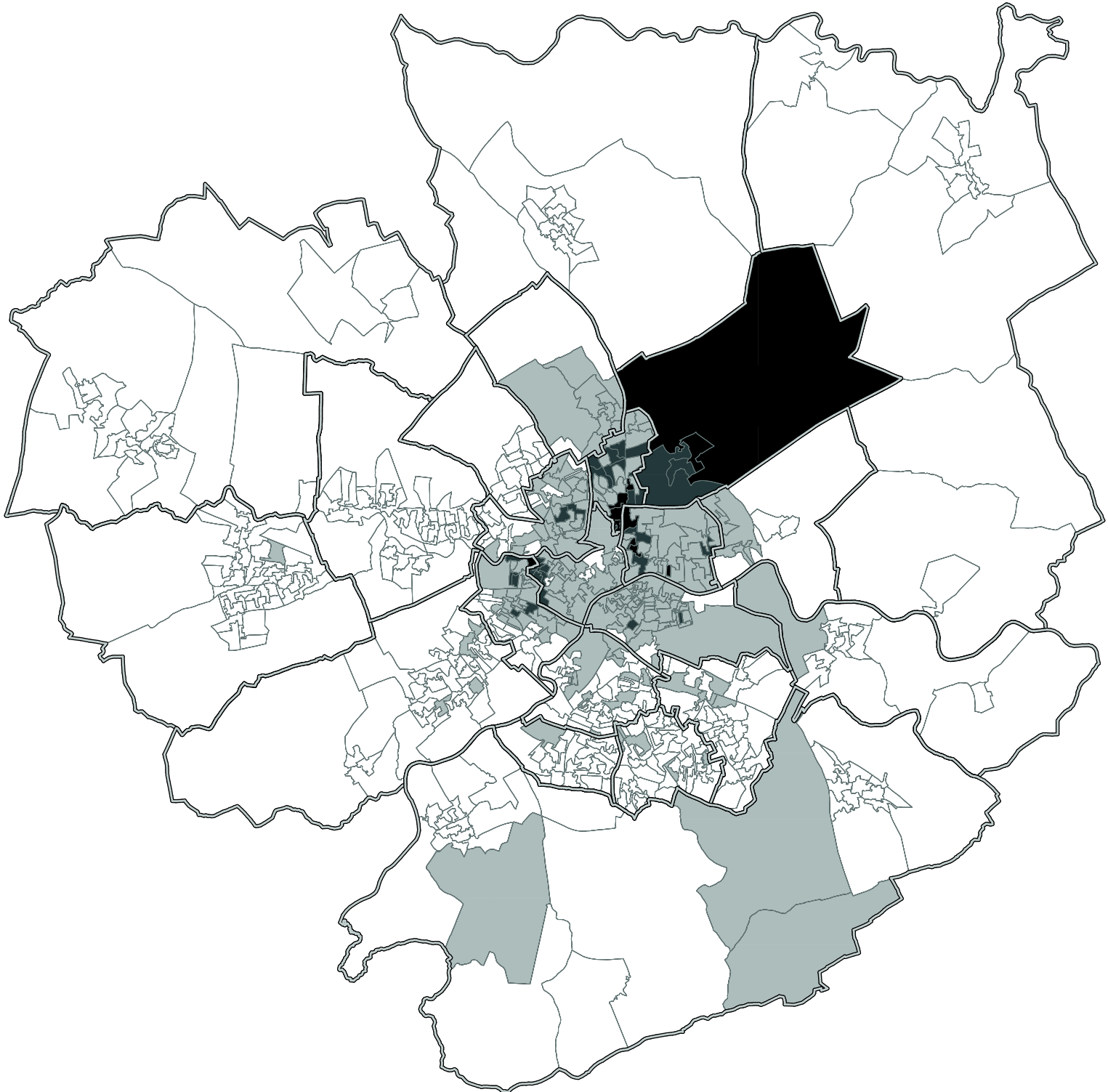


Proportion of student council tax exemption  
as a percentage of all households (2005)

- 20.1 to 100 (11)
- 10.1 to 20 (30)
- 1.1 to 10 (179)
- 0 to 1 (399)

▭ Ward Boundary

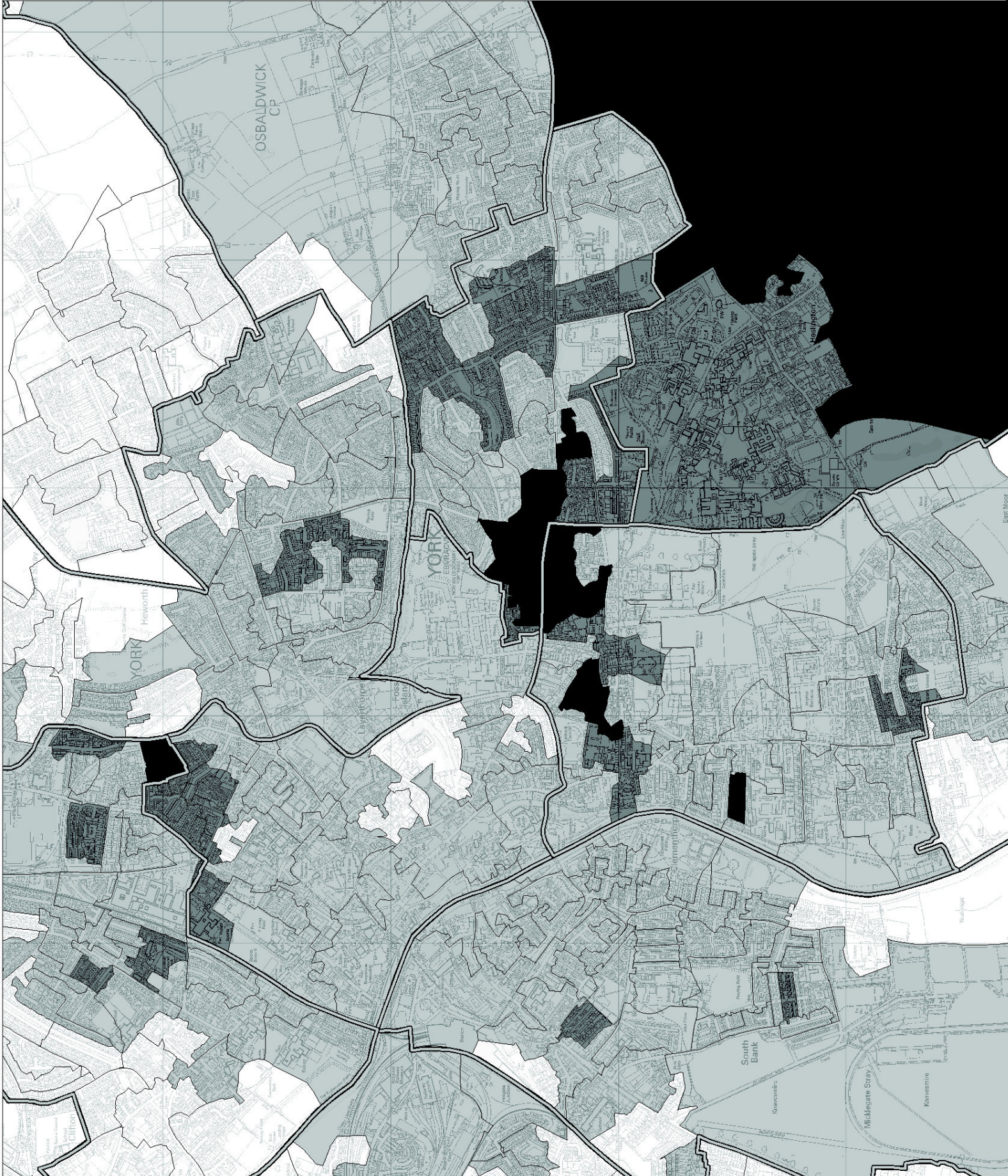
▭ Output Area Boundary



Proportion of student council t  
as a percentage of all househo

- 20.1 to 100 (11)
- 10.1 to 20 (30)
- 1.1 to 10 (179)
- 0 to 1 (399)

Ward Boundary  
Output Area Boundary



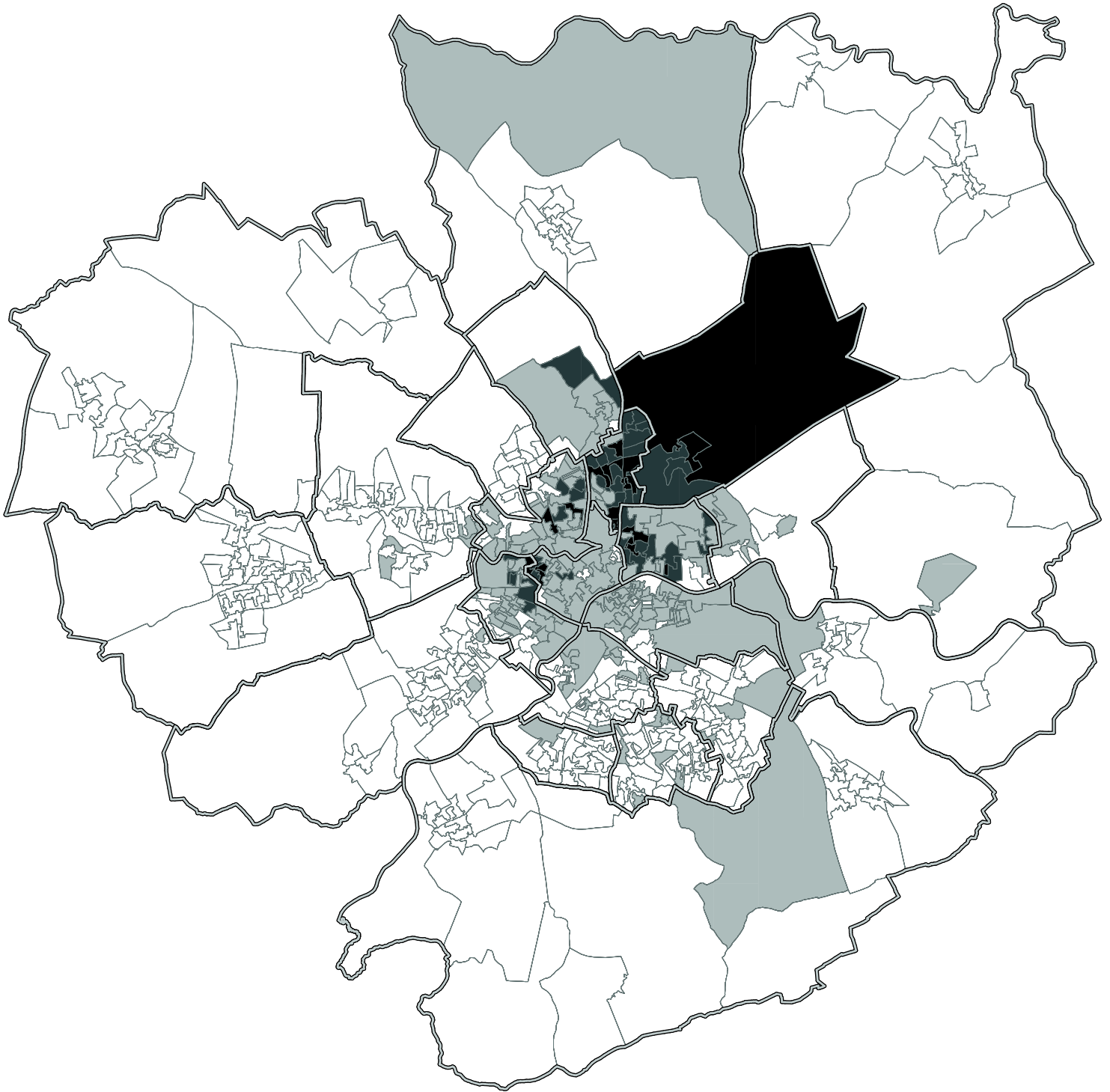
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Proportion of student council tax exemptions  
as a percentage of all households (2010)

- 20.1 to 100 (19)
- 10.1 to 20 (40)
- 1.1 to 10 (167)
- 0 to 1 (393)

Ward Boundaries

Output Area Boundaries

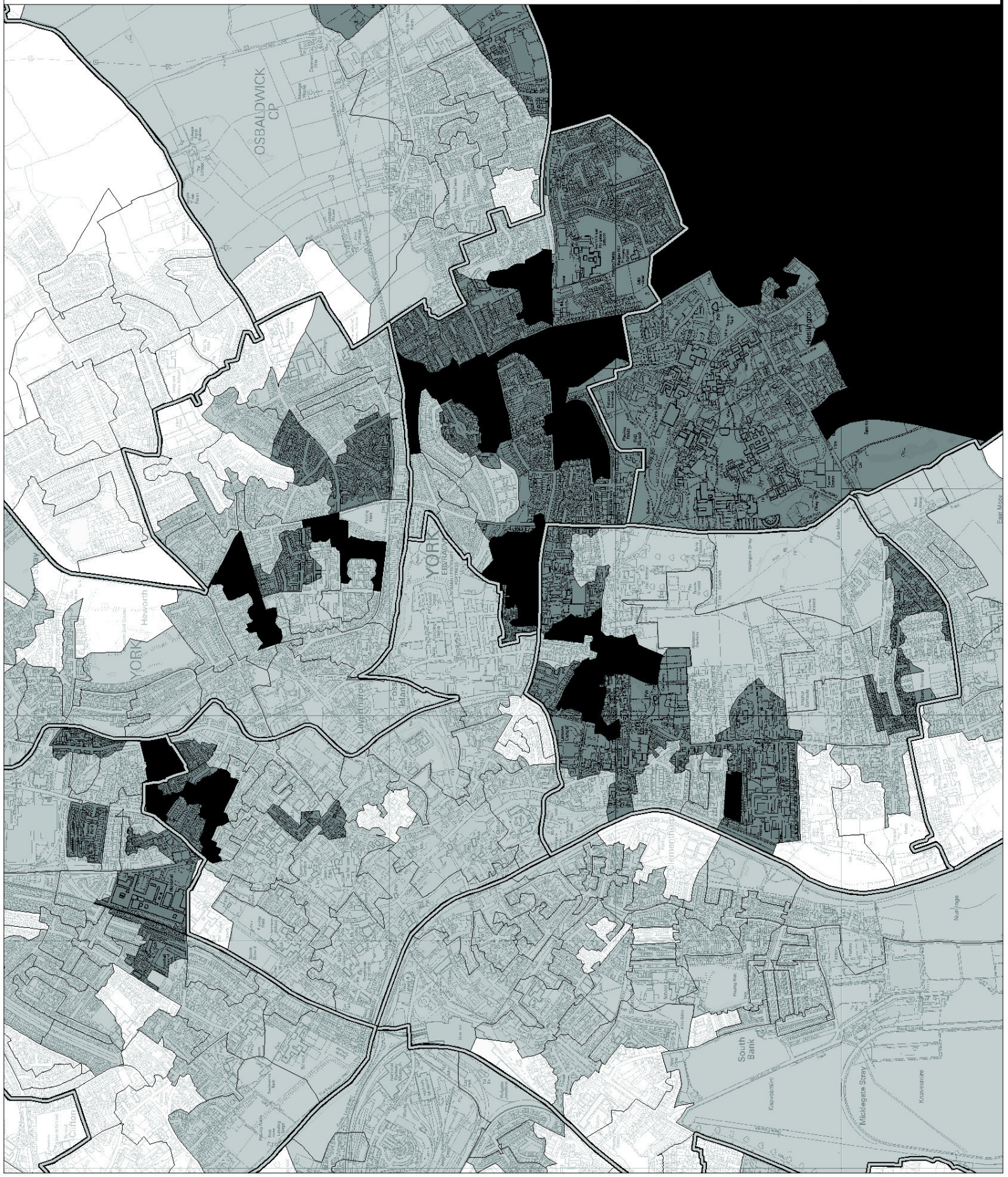


**Proportion of student council tax exemption  
as a percentage of all households (2010)**

- 20.1 to 100 (19)
- 10.1 to 20 (40)
- 1.1 to 10 (167)
- 0 to 1 (393)

Ward Boundaries

Output Area Boundaries



## Annex 2: Local Plan Extract

### ***Policy H7: Residential Extensions***

Planning permission will be granted for residential extensions where:

- a) the design and materials are sympathetic to the main dwelling and the locality of the development; and
- b) the design and scale are appropriate in relation the main building; and
- d) there is no adverse effect on the amenity which neighbouring residents could reasonably expect to enjoy; and
- e) proposals respect the spaces between dwellings; and
- g) the proposed extension does not result in an unacceptable reduction in private amenity space within the curtilage of the dwelling.

Justification for Policy H7

Residential extensions are generally acceptable provided they are sympathetically designed in relation to their host building and the character of the area in which they are located and do not detract from the residential amenity of existing neighbours. Particular care is needed, however, in the design of front extensions and dormer extensions. Pitched roofs on extensions will normally be the most appropriate with large, box-style roof extensions being resisted in most cases.

### ***Policy H8: Conversions***

Planning permission will only be granted for the conversion of a dwelling to flats or multiple occupation where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future occupiers.
- external alterations to the building would not cause harm to the character or appearance of the building or area; and
- adequate off and on street parking and cycle parking is incorporated; and
- it would not create an adverse impact on neighbouring residential amenity particularly through noise disturbance or residential character of the area by virtue of the conversion alone or cumulatively with a concentration of such uses.
- adequate provision is made for the storage and collection of refuse and recycling.

Justification for Policy H8

Houses in multiple occupation (HMO's) are those occupied by a number of unrelated people who do not live together as a single household. They include

bed sits, hostels lodgings and bed and breakfasts not primarily used for holiday purposes.

The Use Classes Order (1987) does not distinguish between a dwelling occupied by a conventional household, and that of a dwelling occupied by up to six residents living together as a single household. Therefore a change of use from a family dwelling to one occupied by no more than six individuals does not constitute as a change of use.

There is potential for the number of dwellings in the City to be increased by the sensitive conversion of large dwellings. Such conversion can ensure a continued life for properties and can contribute to meeting housing need. Nonetheless, in certain situations, a concentration of such conversions can have an adverse impact on the residential environment. In considering this impact, attention will be given to the character of the street, the effect on and the amount of available amenity space, parking requirements, traffic generation and any other material planning considerations particular to the case.

The number of residential conversions will be monitored to calculate the contribution that they make to the Local Plan's housing requirement and so that the cumulative impact of several conversions in any one location can be ascertained.

### Annex 3: Core Strategy Submission (Publication) Extract

#### Policy CS7: Balancing York's Housing Market

Proposals for residential development must respond to the current evidence base, including the findings of the *Strategic Housing Market Assessment*, *North Yorkshire Gypsy and Traveller Accommodation Assessment (2008)*, *North Yorkshire Accommodation Requirements of Showmen (2009)*, and/or other local assessments of housing need. The Local Development Framework (LDF) will support housing development which helps to balance York's housing market, address local housing need, and ensure that housing is adaptable to the needs of all of York's residents throughout their lives. This will be achieved in the following way:

- i. identifying appropriate housing sites through the Allocations Development Plan Document (DPD) and Area Action Plan (AAP) in accordance with Spatial Principles 1 and 2;
- ii. identifying sites through the Allocations DPD and AAP for at least 36 additional Gypsy and Traveller pitches in the plan period, and land to accommodate at least 13 permanent plots for Showpeople by 2019;
- iii. securing the provision of new specialist housing schemes within major housing developments, including to accommodate those with severe learning disabilities, physical disabilities and dementia;
- iv. enabling higher density development in the most accessible locations, to provide homes for young people (aged 18-25 years). These locations will offer the best access to the City Centre, higher education institutions and a range of day to day services;
- v. delivering an overall mix of 70% houses:30% flats. Sites required for specific housing types and site-specific mix standards will be identified through the Allocations DPD and AAP;
- vi. requiring that all new housing is built to Lifetime Homes standard; and
- vii. controlling the concentration of Houses in Multiple Occupation, avoiding the division of small properties, where further development of this type of housing would have a detrimental impact on the balance of the community and residential amenity.

#### Explanation

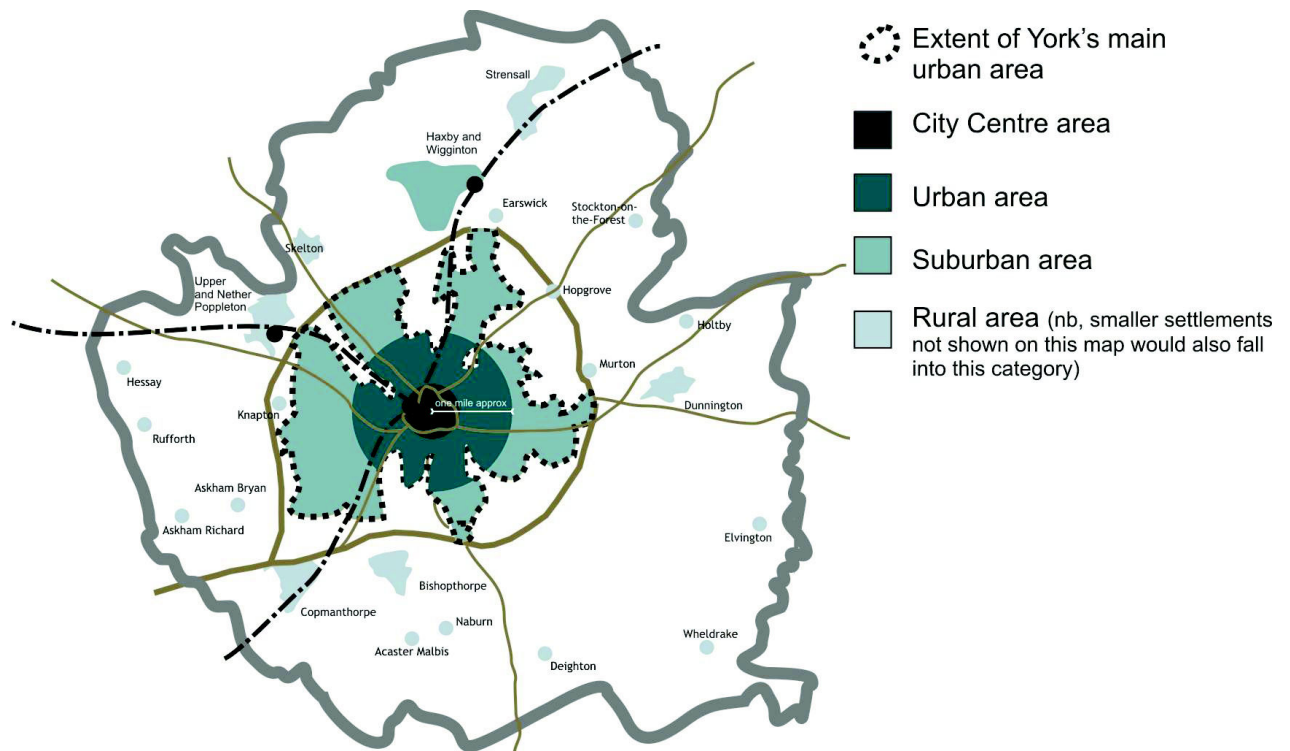
- 9.1 *Planning Policy Statement 1 (2005)* makes clear the commitment to building sustainable communities where people want to live. Section 3 'Spatial Strategy' has set out our overall strategy guiding the level and broad location of future strategic housing growth but it is not simply a question of providing more homes, policy has to consider housing quality and choice in order to help future proof communities and help deliver lifetime neighbourhoods. The Housing Strategy for York is regularly updated and reviews the housing market, conditions and needs in York and picks up on some of the headline priorities within local service plans, as well as those that have a wider regional and sub-regional significance. Strategically, its focus is on reducing the number of those in housing need, providing better access to support for those in crisis, and improving housing options across the wide range of housing

need. The supply of homes is only one part of this - alongside other partners, the LDF will help to deliver the priorities of York's Housing Strategy, and, as priorities change, undertake regular policy reviews to assess whether current and emerging needs are being addressed.

9.2 The Core Strategy will use the results of the *Strategic Housing Market Assessment (2007) (SHMA)* and, in light of recent housing mix, will prioritise houses rather than flatted development in order to help redress imbalance in the City's housing market overall. The SHMA and other housing needs assessments will be regularly reviewed in order to provide a relevant evidence base reflecting changes in the housing market over the plan period.

9.3 York's current housing areas are shown at Figure 9.1.

**Figure 9.1 York's Housing Areas**



9.4 At the heart of a successful policy for meeting future housing pressures must be a policy which provides for people as they grow up and leave home, grow older, and as their circumstances, options and preferences change. We must plan for homes and communities so that people can live out their lives, as long as possible, independently and safely with their families and friends around them. Building new homes and communities designed with older people in mind not only makes sense in terms of meeting the diverse needs of an ageing population, it can also help to open up housing opportunities and choices for younger people. A housing policy for an ageing society is therefore a good housing policy for everyone.

9.5 As Section 8 'Housing Growth and Distribution' made clear, this means building lifetime homes and neighbourhoods that are capable of adapting as



people's circumstances change. Lifetime Homes Standards are inexpensive, simple features designed to make homes more flexible and functional for all.

- 9.6 Over the years different housing solutions have evolved as a response to older peoples' needs. These include retirement housing for independent living, and specifically designed housing with support for frail older people and those with specific needs such as dementia. In recent years there has been a shift away from the traditional 'old peoples' home' towards models that offer much more independence and choice. In line with many other areas York has seen the development of 'extra care' housing - self contained housing with options to receive appropriate levels of care as required to sustain independent living.
- 9.7 The emerging Housing Strategy for 2011- 2015 indicates that within York there are currently around 80 specialist housing schemes providing various kinds of housing with some element of on-site care and shared facilities. Most is rented, despite there being a significant preference for owner occupation. There is also an oversupply of 1-bed affordable specialist accommodation and an undersupply of affordable 2-bed accommodation.
- 9.8 It is estimated that there are around 4,000 adults in the York area with a learning disability. There are a growing number of people with complex needs, people living longer with the possibility of early on-set dementia. Until recently, housing options were limited, with a significant number of households living in 'residential care' settings. The growing trend is for households to live independently in their own homes, with appropriate support.
- 9.9 However, we also recognise that there will be a need for further specialist housing options for a small proportion of households. Where specialist provision is required, often by those needing higher levels of care, we must ensure it serves to maximise independence by being a minimum of two bedrooms, self contained and well connected to local amenities and transport networks. We would also encourage a greater range of tenure options, including full and shared home ownership. Housing is central to health and well-being, so associated services need to be planned and integrated to reflect this.
- 9.10 Students form an important element of the community and the presence of a large student population contributes greatly to the social vibrancy of the City and to the local economy. The Council are committed to ensuring their needs are met and will continue to work with the City's higher education institutions in addressing student housing needs. However, it is also recognised that concentrations of student households, often accommodated in Houses in Multiple Occupation (HMOs), can cause an imbalance in the community which can have negative effects. These can include a rise in anti social behaviour, increases in crime levels, parking pressures and decreased demand for local shops and services, sometimes leading to closures. It can also put pressures on family housing as owner occupiers and buy to let landlords compete for similar properties and have implications for non students seeking accommodation in the private rented sector. The impacts of concentrations of student housing in York is explored in the *Houses in Multiple Occupation*

*Technical Paper (2011)*. Monitoring the spatial distribution and impacts of student housing will allow us to identify if it is necessary to control the number of student households in certain areas to ensure communities do not become imbalanced. This control can be achieved through the removal of permitted development rights, requiring landlords to apply for planning permission to change a property into an HMO.

- 9.11 The LDF will support housing development at density levels which reduce overall demand for greenfield land and help engender community cohesion by making more intensive use of land which offers the best access to facilities and services. As would be expected, mixed development sites (those including flatted development) could achieve much higher net densities, however this would not help achieve other aspirations to deliver greater levels of family housing. As such, policy CS9 guides net 'housing' density. Higher density development will be expected in those areas with access to a quality public transport service and a good mix of shops and services. Specific sites will be identified to provide housing options for young people aged 18-25 years, offering the best access to the City Centre, higher education institutions and a range of day to day services. As such, they will be built out at higher densities and with an emphasis on providing communal, flatted development. The dual priorities of providing more family housing and raising suburban densities are compatible, and offer future residents the advantage of the best access to shops, services, and most importantly, public transport linkages.
- 9.12 Site specific density, mix and type targets will be established through the Allocations DPD, AAP and Supplementary Planning Documents and through negotiations undertaken on a site by site basis, to ensure that proposals for housing development reflect local circumstances and the outcomes of the SHMA and to restrain housing types where concentrations are unduly high. Negotiation will also be guided by local visual and amenity considerations in order to help safeguard the character of the City and its villages.



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**Cabinet**

10 January 2012

Report of the Cabinet Member for Corporate Services

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**Proposed Expansion of Veritau Limited**

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**Summary**

- 1 This report seeks approval for the expansion of Veritau Limited to enable the company to provide internal audit services to a number of the North Yorkshire district councils from 1 April 2012.

**Background**

- 2 Veritau Limited was originally formed on 19 January 2009. On 1 April 2009, the council and North Yorkshire County Council (NYCC) transferred their internal audit, counter fraud and information governance services to the new company. From this date, Veritau has been contracted to provide these services to the two councils together with a number of other public sector bodies. The company is wholly owned by the council and NYCC, with each holding 50% of the share capital.
- 3 Veritau currently employs approximately 35 staff, organised into five teams. In addition, both the council and NYCC are able to second staff to the company in support of their own professional training programmes (normally CIPFA or AAT). The company operates from two offices, one in York and the other at County Hall, Northallerton.
- 4 The North Yorkshire Audit Partnership (NYAP) was formed in February 1999. The partnership originally consisted of Scarborough Borough, Selby District and Ryedale District Councils. Richmondshire and Hambleton District Councils joined the partnership in May 2008. The partnership is based on a joint committee model with Ryedale District Council

acting as lead authority. The existing partnership agreement ends on 31 March 2012.

- 5 NYAP currently has 12 staff and provides internal audit and counter fraud services to the five partner councils. The staff are employed by Ryedale DC and the service is delivered via satellite offices at each council. The existing Head of Internal Audit for NYAP is expected to retire in March 2012.
- 6 The NYAP Directors approached Veritau in November 2009 to discuss potential options for future collaboration. These discussions showed that there was a high level of interest in the possibility of the existing services provided by NYAP being transferred to Veritau. Since that date, detailed plans have been developed to address the legal, financial, staffing and operational implications of any such transfer. Various options for the structure of the expanded business have also been considered, including increasing the number of shareholders in Veritau or establishing a subsidiary company. Details of the final proposals are set out below.

### **Drivers for Change**

- 7 The NYAP member councils are facing similar challenges to the council in terms of delivering internal audit and counter fraud services at a time of financial pressures and significant change. The main drivers for change are therefore the need to:
  - a) deliver further efficiencies and cost savings;
  - b) ensure future service resilience and capacity so as to be able to respond to changing priorities and increasing workload demands;
  - c) retain skilled and experienced staff by creating greater critical mass and providing more opportunities for career development and specialism;
  - d) make best use of the scarce professional audit expertise available (particularly in contract and IT audit);
  - e) establish an effective succession plan and to reduce the existing reliance on certain key staff for service continuity (particularly within NYAP).

## Proposal

- 8 It is proposed that the services currently provided by NYAP to the 5 district councils are transferred to Veritau on 1 April 2012. Veritau will form a subsidiary company called Veritau – North Yorkshire Limited (VNY) to deliver the transferring services. The subsidiary company will be limited by shares with Veritau holding 50% of the share capital and each district council holding 10%. The subsidiary company will have a board of directors comprising an officer from each district council and two directors appointed by Veritau.
- 9 Staff currently employed in providing the services would transfer to VNY in accordance with the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).
- 10 Veritau will seek to ensure that the transferring staff are included in the Local Government Pension Scheme. Staff will also be given the option of transferring from their existing terms and conditions to those of VNY (which will be identical to those offered by Veritau).
- 11 The creation and future operating arrangements of VNY will be governed by a formal Shareholders Agreement. The Agreement will set out the rights and obligations of the shareholders and the ongoing relationship between each council and Veritau as participants in the venture. The services to be provided to each district council will be specified in separate Service Agreements, identical or similar to the existing Service Agreements which Veritau currently has with the council and NYCC. The length of the new Service Agreements would be coterminous with Veritau's existing Service Agreements.
- 12 Each district council will nominate a client officer to oversee the delivery of services under its Service Agreement with VNY. The annual fee for the core service will be calculated on the basis of an agreed daily fee rate, multiplied by the agreed level of service i.e. the number of days required by each district council. The daily fee rate will be same for each district council and the rate charged by Veritau to the council and NYCC. Each district council will however be able to request additional work under its Service Agreement. The fee for such additional work will be calculated on the basis of rates

for additional work for the appropriate grade of staff which will be specified in the relevant Service Agreement.

- 13 Each district council will provide serviced office accommodation on similar terms to the existing arrangements Veritau has with the council and NYCC.
- 14 Further details relating to the establishment of VNY and the associated legal, financial and human resource implications are detailed in the Business Case which is attached at **Annex 1**.
- 15 Section 95 of the Local Government Act 2003 provides a general power to local authorities to undertake trading activities. This general power is however subject to the requirements of the Local Government Power to Trade Order which specifies that before exercising the power, each authority must prepare a business case in support of the proposal and approve that business case. In the event that Members are minded to approve the recommendation to establish VNY, then this Business Case is considered to satisfy the requirements of the Local Government Power to Trade Order.

### **Benefits**

- 16 The key benefits of the proposal to the council and NYCC as shareholders in Veritau are that it will:
  - a) help achieve greater critical mass and hence provide scope to further improve the resilience and capacity of the existing services provided by Veritau;
  - b) deliver cost savings to the council and NYCC. These cost savings will be achieved by sharing overheads, reducing unproductive time and greater economies of scale;
  - c) allow access to a new market to sell audit related services;
  - d) further enhance the focus on service delivery, professionalism and quality;

- e) further increase the opportunity for staff to specialise as well as enhancing career opportunities, resulting in greater staff satisfaction and retention;
- f) further reduce reliance on key members of staff for service continuity;
- g) enable the council and NYCC to retain full control of Veritau (whilst offering the district councils influence over VNY);
- h) avoid the need for the council and NYCC to value their existing shareholding in Veritau and for the district councils to purchase a proportion of the shares;
- i) minimise any risk to the council's investment in Veritau should VNY encounter future financial or operational difficulties. Veritau could continue trading even if the wider 'partnership' failed;
- j) offer greater transparency since the different parts of the business will be trading as separate entities.

### **Timetable**

- 17 The North Yorkshire district councils have already obtained approval from their respective member decision making bodies to wind-up NYAP and to transfer their internal audit and counter fraud services to VNY on 1 April 2012. Approval to the proposed expansion of Veritau has also been given by NYCC's Executive (as one of Veritau's existing shareholders).
- 18 Details of the outline timetable necessary to establish VNY are set out below:

<b>Action</b>	<b>Target Date for Completion</b>
Formal consultation with NYAP staff to be completed	31/12/2011
Staffing establishment in VNY to be confirmed	15/1/2012
Pension admission agreement to be finalised	31/1/2012
Company formation and issue of share capital	31/1/2012
Appointment of directors to the board of VNY	31/1/2012
Legal agreements to be finalised	28/2/2012
Client officers to be appointed	28/2/2012
Business Plan (3 year) to be approved by board of VNY	15/3/2012
2012/13 budget to be approved by board of VNY	15/3/2012
Formal transfer of services and staff to VNY	1/4/2012

### **Consultation**

- 19 The Audit and Governance Committee has been consulted on the proposed expansion of Veritau. No issues were raised in respect of Veritau's ability to provide an effective internal audit service to the council as a result of the proposal.

### **Options**

- 20 Two options have been considered for the future structure of the expanded business as follows:
- a) the inclusion of the five district councils as shareholders in Veritau (option 1).
  - b) the creation of a subsidiary company (option 2).
- 21 Whilst being relatively simple to implement, option 1 was rejected because it would have left the council (and NYCC)



having less control and influence over Veritau. It would also have required the district councils to make a greater capital investment in the new venture which they would have found difficult to finance. Option 2 is recommended.

22 Members have three options to consider:

- a) as shareholders in Veritau to confirm the recommendation of the company's directors to proceed with the establishment of VNY and to use this subsidiary to provide services to the North Yorkshire district councils from 1 April 2012; or;
- b) request additional information from officers before making a final decision, or;
- c) to reject the proposal.

### **Analysis**

23 Not relevant for the purpose of the report.

### **Corporate Priorities**

24 This proposal helps to deliver efficiency savings by using innovative models of service delivery whilst helping to maintain the council's standards of governance.

### **Legal / Financial / Human Resource Implications**

25 See Business Case (attached at Annex 1)

### **Equalities Implications**

26 There are no equalities implications for the council arising from the proposed expansion of Veritau. Individual equality impact assessments will be prepared for the relevant services areas which will be delivered by the new subsidiary company.

### **Information Technology Implications**

27 The council currently provides IT support to Veritau including the hosting of the company's audit and fraud applications. It is proposed that the existing support arrangements are extended to incorporate VNY.

### **Other Implications**

28 There are no implications to this report in relation to:

- **Crime and Disorder**
- **Property**

### **Risk Management Assessment**

29 A detailed risk assessment was undertaken as part of the work to prepare the business case and to consider the different options for including the district councils in the expanded business. The Veritau Board of Directors has continued to monitor the identified risks and, where possible has taken mitigating action.

30 The proposed structure will minimise the risk to Veritau itself and hence the council's interest in the company should VNY encounter difficulties. Whilst there would be the potential for reputational damage to Veritau and its shareholders should VNY fail, any financial risk is considered to be low. Ryedale District Council is providing a guarantee to cover future pension liabilities in such an event. Veritau's exposure would be limited to the value of the initial investment (£10k) plus any inter company balances. The proposed model would allow Veritau to carry on relatively unhindered in the event of problems.

31 The proposed structure of the expanded business is also considered less likely to be subject to challenge under EU public procurement legislation (Teckal) compared to granting the district councils a minority shareholding in Veritau itself. The approach also offers a model for any further expansion of the company, for example to accommodate other future public sector 'partner' organisations.

### **Recommendation**

32 Members are asked to approve the expansion of Veritau through the creation of a subsidiary company, Veritau – North Yorkshire so as to enable internal audit services to be provided to the North Yorkshire district councils from 1 April 2012.

Reason: As shareholders in Veritau, to consider the expansion of the company so as to enable the provision of services to other local authorities in the region.

### Contact Details

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**Cabinet Member and Chief Officer  
Responsible for the report:**

Councillor Julie Gunnell, Cabinet  
Member for Corporate Services

Ian Floyd, Director of Customer and  
Business Support Services

**Report  
Approved**



**Date** 14/12/11

### Specialist Implications Officers

Not applicable

**Wards Affected:** Not applicable

**All**



**For further information please contact the author of the report**

### Background Papers

NYAP Integration Report and Action Plans kept by Veritau Ltd at 2  
St Leonards Place.

### Annexes

Annex 1 – Veritau Limited, Business Case for Expansion

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## VERITAU LIMITED - Business Case for expansion

### DETAILED PROPOSALS

#### Summary

- 1 It is proposed that the services currently provided by NYAP to the 5 district councils are transferred to Veritau on 1 April 2012. Staff currently employed in providing those services would then transfer to Veritau in accordance with the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).
- 2 Veritau will form a subsidiary company called Veritau – North Yorkshire Limited (VNY) to deliver the transferring services. The subsidiary company will be limited by shares with Veritau holding 50% of the share capital and each district council holding 10%. The subsidiary company will have a board of directors comprising an officer from each district council and two directors appointed by Veritau.
- 3 The creation and future operating arrangements of the subsidiary company will be governed by a formal Shareholders Agreement. The Agreement will set out the rights and obligations of the shareholders and the ongoing relationship between each district council and Veritau as participants in the venture. The services to be provided to each district council will be specified in separate Service Agreements, identical or similar to the existing Service Agreements which Veritau currently has with the council and NYCC. The length of the new Service Agreements would be coterminous with Veritau's existing Service Agreements.
- 4 Each district council will nominate a client officer to oversee the delivery of services under its Service Agreement with VNY. The annual fee for the core service will be calculated on the basis of an agreed daily fee rate, multiplied by the agreed level of service i.e. the number of days required by each district council. The daily fee rate will be same for each district council and the rate charged by Veritau to the council and NYCC. Each district council will however be able to request additional work under its Service Agreement. The fee for such additional work will be calculated on the basis of rates for additional work for the appropriate grade of staff which will be specified in the relevant Service Agreement.

**VERITAU LIMITED - Business Case for expansion**

- 5 Each district council will provide serviced office accommodation on similar terms to the existing arrangements Veritau has with the council and NYCC.
- 6 Veritau will seek to ensure that the transferring staff are included in the Local Government Pension Scheme. Staff will also be given the option of transferring from their existing terms and conditions to those of VNY (which will be identical to those offered by Veritau).

Legal Implications

- 7 The new arrangement must comply with the EU public procurement regime and the Public Contract Regulations 2006. Specific case law (including Teckal) has established that if a local authority wishes to award a contract to supply services, to a company set up by that local authority, then the authority does not need to carry out a competitive tender exercise before awarding such a contract provided that the following principles apply:
  - the authority must exercise a similar degree of control over the company to that which it exercises over its own departments;
  - the exercise must be ‘a power of decisive influence over both the strategic objects and significant decisions of the company’;
  - the essential part of the company’s activities must be carried out on behalf of the controlling authority. Any activities undertaken for bodies other than the controlling authority can be of no more than marginal significance.
  - The exemption also applies to companies controlled by more than one authority, providing the principles set out above are complied with.
- 8 Section 95 of the Local Government Act 2003 provides a general power to local authorities to trade in function related activities. Section 95 also defines the type of company that an authority can use for trading activities. The Section states that the company must be a company regulated by Part V of the Local Government and Housing Act 1989, which limits the proposed structure to:
  - companies limited by share;
  - companies limited by guarantee with or without share capital;

**VERITAU LIMITED - Business Case for expansion**

- unlimited companies;
  - societies registered under the Industrial and Provident Societies Act.
- 9 As with Veritau, the new company would be funded from the public sector so its own procurement activities would be bound by the Public Contract Regulations.
- 10 The new company's primary objective will be to provide high quality internal audit and counter fraud services to the five North Yorkshire district councils. The company will also seek to provide services to other local authorities and public sector bodies in the region where it is possible to generate an appropriate level of profit and there is no potential conflict of interest. However, to demonstrate compliance with the Teckal principles, it is proposed that the provision of services to external customers will be limited to no more than 10% of the subsidiary company's total activities. An external customer is defined as anyone who is not a shareholder of the company. As the council and NYCC will not be direct shareholders in VNY then any work undertaken for either council would count against this limit. Any fees to external customers will be calculated so as to recover the full economic cost of providing the service plus an element of profit. Charges to the five 'member' councils would be at a lower rate (see paragraph 30 below). Work would not be undertaken where there was considered to be an unacceptable level of risk to either the company or the services provided to the five district councils. Where services are provided to third parties then these would be undertaken on a contractual basis.
- 11 The proposed transfer of staff from Ryedale District Council to VNY will be regulated by the Transfer of Undertakings (Protection of Employment) Regulations 2006 which guarantee that there will be equivalence of terms and conditions of employment. In addition, because this is a public sector TUPE transfer there would also be equality of pensions involving a "buy in" to the North Yorkshire Pension Fund (NYPF).
- 12 A formal Shareholders Agreement will be required to govern the rights and obligations of the shareholders of VNY and the ongoing relationships between the five district councils and Veritau Limited as participants in the venture. The main issues which the Shareholders Agreement will deal with are the:

**VERITAU LIMITED - Business Case for expansion**

- shareholders' voting rights;
  - arrangements for allowing any future changes in the company's membership (including the possible admission of the remaining two North Yorkshire district councils);
  - arrangement for appointing and removing directors;
  - arrangements for board meetings, including their frequency and quorum;
  - appointment of the company secretary;
  - future profit sharing arrangements;
  - arrangements for resolving disputes;
  - exit arrangements for one or more shareholders;
  - information which the company will be required to supply to each shareholder.
- 13 It is proposed that the new company will continue to use the existing office accommodation provided by each district council on a 'like for like' basis and that the cost of such accommodation will not be passed on to VNY but will continue to be met by each council (as a client responsibility). To facilitate this arrangement, VNY will enter into premises licences with each council for fully serviced accommodation.

Company Formation

- 14 It is proposed that the new company will be limited by shares, with a nominal share capital of 1,000 £1 shares. 500 shares will be issued in total with each district council holding 50 shares and Veritau Limited holding 250. The company will have share capital of £20,000. Each district council will therefore be required to provide capital of £2,000. Veritau will invest £10,000. The company will be formed and the shares issued prior to the planned transfer date of 1 April 2012.
- 15 The future liability of each shareholder will be limited to the value of the issued share capital. Future profits will be distributed to each shareholder in proportion to the issued share capital (assuming that the company decides to pay a dividend). In the event that the company is wound up then the residual value of any assets will also be distributed in proportion to the issued share capital.



**VERITAU LIMITED - Business Case for expansion**

- 16 The company's Articles of Association will be prepared in accordance with the Companies Act 2006, and follow a standard format for this type of private company.
- 17 VNY will be a regulated company under the terms of the Local Authorities (Companies) Order 1995. Regulated companies are those classed as either being 'controlled' or 'public sector influenced' by a local authority. The subsidiary company falls within the definition of a 'public sector influenced' company and must therefore comply with a number of specific governance and accountability rules, including;
- identifying the relevant local authorities on business documents;
  - limiting directors' remuneration;
  - removing directors who are disqualified as councillors;
  - prohibiting party political publicity;
  - requiring the provision of certain information to the local authority's Members, officers and auditors.
- 18 It is proposed that VNY will have a board of directors consisting of:
- the Director of Finance (or equivalent) from each of the district councils;
  - two directors appointed by Veritau.
- The VNY board of directors will be responsible for the strategic management and direction of the company. The directors of VNY will waive their right to any remuneration but will be entitled to claim mileage and subsistence expenses in line with the rates payable to the staff of VNY.
- 19 Since April 2008, private limited companies have no longer been required to have a company secretary. However, as a 'public sector influenced' company it is felt appropriate that VNY should have a company secretary to act as a formal point of communication between the board of directors and the company's shareholders, and be responsible for:
- organising and preparing the agendas for meetings of the board and the annual general meeting (AGM);

**VERITAU LIMITED - Business Case for expansion**

- maintaining the company's statutory books, including the registers of members, directors and secretaries;
- ensuring that statutory returns are submitted to Companies House and other regulatory bodies;
- contributing to meeting discussions;
- liaising with the external auditors, and other regulators and advisers, if required.

It is proposed to appoint an employee of Veritau to act as the company secretary of VNY. Training will be provided to the appointee and further support will also be available from Veritau's existing company secretary.

- 20 As the company is likely to be classed as a 'small company' it would only need to prepare abbreviated annual accounts for submission to Companies House. Similarly, the company would be exempt from audit as its turnover, balance sheet value and number of employees are likely to remain below the current thresholds. However, it is recognised that the company's shareholders would probably wish to elect for an audit to be undertaken. It is therefore proposed that Veritau's existing external auditors (Barron & Barron) should be appointed to provide audit services to VNY. An indicative quotation will be obtained for this additional work.
- 21 It is proposed to use Veritau's existing registered office at Douris House, Roecliffe Business Park as the registered office for VNY.
- 22 The new company would be a separate legal entity but, as far as possible, the Veritau 'group' would operate as a single entity with common systems, working practices and one overall management structure. Specific governance rules will also be established to ensure that the two companies in the Veritau 'group' operate and take decisions in the context of a common understanding and shared vision. To ensure effective communication between the two boards of directors, copies of agendas and minutes of meetings will be circulated between each. In addition, at least one of the directors appointed to the board of VNY will also be a director of Veritau Limited (see paragraph 18 above).

**VERITAU LIMITED - Business Case for expansion**

- 23 The Veritau management team will be responsible for all aspects of VNY's operational management. The specific responsibilities of the board of directors and the management team will be set out in a scheme of delegation (similar to the one adopted for Veritau). Transfer pricing arrangements will need to be established between the two companies to reduce the risk of challenge by HMRC but these will be kept simple to avoid any unnecessary additional administrative burden.

Service Provision

- 24 It is proposed that each district council will enter into separate Service Agreements with VNY. The Agreements will be for the same duration and, as far as possible, contain standard terms and conditions. It is also proposed that the Service Agreements will be identical or similar to those which Veritau currently has with the council and NYCC.
- 25 The length of the new Service Agreements will be coterminous with Veritau's existing Service Agreements (ie they will run for 7 years from 1 April 2012). There will also be an option for each district council to extend their Agreement for a further period of 5 years. Each Service Agreement will also include an option for the relevant council to terminate the arrangement, subject to providing written notice. The notice period will be a minimum of 12 months.
- 26 As well as providing the core internal audit and counter fraud service, VNY will provide other audit and governance related services (including risk management and benefit fraud investigation) on request. Whilst any contract would be with VNY, the actual services may be delivered by staff employed by Veritau Limited. Any additional work will be charged at the standard daily rate for additional work specified in the relevant Service Agreement.
- 27 The district councils will be required to grant VNY an exclusive right to supply internal audit and counter fraud services, except in specified circumstances (for example, for specialist assignments where the company does not have the necessary technical skills, where the company has insufficient capacity to undertake the work in the required timescales, and/or where there is a potential conflict of interest).

**VERITAU LIMITED - Business Case for expansion**Financial Implications

- 28 As noted in paragraph 14 above, Veritau will invest £10,000 in VNY. The funding for this will be taken from the company's reserves.
- 29 A draft budget has been prepared for the Veritau 'group'. The budget reflects the economies of scale which will be possible by operating an expanded business and cost savings which will accrue from the decision not to replace the existing NYAP Head of Internal Audit when he retires. For 2012/13, VNY is expected to achieve a profit of approximately £25k based on a turnover of approximately £400k.
- 30 For 2012/13, proposed daily fee rate for internal audit and counter fraud services to the district councils will be £225. The fee represents a reduction of 4.3% on the existing fee rate chargeable by NYAP. It is also proposed that the daily fee rate charged by Veritau to the council and NYCC will be reduced to £225 in line with this revised rate. This will represent a saving to the council of approximately £13k pa (2.0%) on existing fees.
- 31 Veritau has a contract with PricewaterhouseCoopers (PWC) for the provision of specialist computer audit services. These services will be made available to the district councils on request but would be recharged at cost.
- 32 Set-up costs will be incurred as a result of the creation of VNY and the transfer of services from NYAP. These costs will include the provision of legal advice, additional licences for IT applications and support to staff through the change process. It is estimated that these costs will be approximately £16k. It is proposed that the actual set-up costs will be shared 50/50 between Veritau and NYAP. Veritau's share of the set-up costs together with the initial capital contribution of £10k (see paragraph 14 above) will be met from the company's reserves. It is also recognised that NYAP will incur some expenditure in winding up the partnership. These costs will be met from the partnership's reserves.

**VERITAU LIMITED - Business Case for expansion**

- 33 Veritau will not be taking on any liabilities from the existing NYAP business. All current debts will be retained and settled by NYAP as part of the winding up process for the partnership. The existing pension deficit (for past service) is being retained by Ryedale District Council although this liability is likely to be shared with the other district councils. VNY will only be responsible for paying for pension service post transfer. The intention is for NYAP to complete all 2011/12 work before 31 March 2012 thereby minimising the value of work in progress. Veritau will also be seeking an indemnity from Ryedale District council to cover any potential employee related liabilities relating to service before the date of transfer.
- 34 It is expected that VNY will be profitable however Veritau will be able to take advantage of consortium relief for any future tax losses made by VNY in the future (to the extent that the losses cannot be offset against VNY's own profits).
- 35 The existing support service arrangements (legal, IT, finance, HR and payroll) which are currently provided to Veritau by the council and NYCC will be extended to include VNY.

**Project Management**

- 36 A detailed action plan has been prepared to complete the implementation process. Subject to approval, a project board comprising officers from Veritau and NYAP will oversee the set up of VNY and complete the transfer of services and employees to the new company.

**BENEFITS**

- 37 The key benefits of the proposal to the council and NYCC as shareholders in Veritau are that it will:
- help achieve greater critical mass and hence provide scope to further improve the resilience and capacity of the existing services provided by Veritau;
  - deliver cost savings to the council and NYCC. These cost savings will be achieved by sharing overheads, reducing unproductive time and greater economies of scale;
  - allow access to a new market to sell audit related services;

**VERITAU LIMITED - Business Case for expansion**

- further enhance the focus on service delivery, professionalism and quality;
  - further increase the opportunity for staff to specialise as well as enhancing career opportunities, resulting in greater staff satisfaction and retention;
  - further reduce reliance on key members of staff for service continuity;
  - enable the council and NYCC to retain full control of Veritau (whilst offering the district councils influence over VNY);
  - avoid the need for the council and NYCC to value their existing shareholding in Veritau and for the district councils to purchase a proportion of the shares;
  - avoid any risk to the council's investment in Veritau should VNY encounter future financial or operational difficulties. Veritau could continue trading even if the wider 'partnership' failed;
  - offer greater transparency since the different parts of the business will be trading as separate entities;
- 38 The proposed structure of the expanded business is considered less likely to be subject to challenge under EU public procurement legislation (Teckal) compared to granting the district councils a minority shareholding in Veritau itself. The approach also offers a model for any further expansion of the company, for example to accommodate other future public sector 'partner' organisations.



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**Cabinet****10 January 2012**

Report by the Cabinet Member for Health, Housing and Adult Social Services

**The Review of City of York Council's Elderly Persons Homes****Background**

1. At its meeting on the 1 November 2011 and in the context of the positive public endorsement of the overall Elderly Persons Homes strategy, Cabinet decided that officers should:
  - (a) consult further and specifically on the possible closure of Fordlands and Oliver House residential care homes, and
  - (b) consult and develop further the overall implementation plan for the phased closure of the remaining City of York Council run care homes and the re-provision of new accommodation on the Fordlands, Haxby Hall and Lowfield sites
2. Cabinet also agreed to receive a further report on 10 January 2012 updating them on progress on the consultation work described above.

**Feedback from the Consultation****Consultation feedback from residents and relatives of Fordlands and Oliver House**

3. Council officers have met with all 28 of the residents at Fordlands (17) and Oliver House (11) and their relatives in one-to-one consultation meetings designed to hear their views on (a) the proposed programme of closures and developments, and (b) where they would prefer to move to should the Cabinet make the decision to close their homes. Independent Mental Capacity Advisers have been recruited where appropriate to act for those residents that have impaired mental capacity.

### Themes arising

4. The following themes emerged from conversations about the proposed closure of Fordlands and Oliver House:
  - everyone apart from a couple of residents understood the proposals and why they were being made
  - the majority of people agreed with the proposals and the need to upgrade facilities, but several people expressed understandable disappointment at their home being one of the first two to close. “We can see why it needs to happen but it’s not something we’d choose to happen”. “It would have been nicer to avoid two moves”
  - out of 28 families 4 did not agree with the proposals, feeling that the proposals were financially driven and being done in haste
  - a number of residents and relatives expressed understandable concern at the prospect of a move and the upheaval involved
  - the vast majority of people spoke very positively about the quality of care they currently received and hoped that the same quality would be maintained in the new homes
  - 6 people felt that the new care home should be built first (at Lowfield) so that residents would only need to move once. It is understandable that some people would express this view but it would delay the overall modernisation programme by two years

### Preferences if the proposed closures are agreed

5. Whilst there is an understandable sense of emotional upset and anxiety for residents and relatives around the proposed closures, the consultations have gone as well as could be expected. Several residents and relatives have visited other (mainly City of York Council) care homes as part of this process, to help them choose their preferences. As a result, Officers now have a relatively clear picture of where residents would prefer to move to should the closures be agreed.
6. It seems likely, at this point in time, that all apart from one or two would wish to move to other City of York Council care homes. Council officers are reasonably confident that, should the closures be agreed, that the council will be able to move all of our



Fordlands and Oliver House residents to their first preference home, and accommodate requests for specific friendship groups to stay together. Fordlands and Oliver House staff will also be transferring to most of the other EPHs which will help ensure a degree of continuity in care for residents.

### **Consultation feedback from Fordlands and Oliver House staff**

7. Council officers have completed one-to-one consultation meetings with all 48 members of staff at Fordlands (23) and Oliver House (25), to hear their views on the proposals and to discuss the options for where they might move to should their homes close. All of the staff understood and supported the transformation proposals whilst acknowledging apprehension about the proposed closures and upheaval for residents and themselves.
8. All staff have been allocated to indicative vacancies that have been held open in the other seven EPHs, on the basis of maintaining individuals' contractual hours and also taking into account some personal circumstances. For some posts, and in particular care assistants and care leaders, there was not a great deal of flexibility around the locations we could offer. However, the council has been able to offer all staff a post so there will be no compulsory redundancies. All staff have been offered a 'reasonable alternative' (ie their current post/salary and the same contractual hours) and the vast majority are happy with their proposed move. For the handful of staff that have not been allocated their preference, we have given a commitment that as vacancies arise in the future we will re-visit their situation.

### **Consultation feedback from residents, relatives and staff at the council's other seven Elderly Persons Homes (EPHs)**

9. Council officers wrote to all of our EPH residents, those who use our respite care services, and their relatives, and invited them to have their say on the longer-term programme of home closures and new developments. Each of the other seven EPHs also held a residents and relatives meeting to give everyone the opportunity to feed in their views as part of this phase of consultation. The feedback received was generally very positive. People understood the proposals and were comfortable with the proposed programme. The following themes came through. People:

- felt fully informed and consulted about the proposals
  - sought reassurance that the council will continue to invest in maintaining the EPHs appropriately (eg upkeep and decoration) all the time they remain open
  - are keen, when the time comes, for staff to move with the residents into the new builds and stay together
  - reiterated their preference for the council to run and staff the new care homes
  - wanted to know when the final plans for the new builds will be made public, and when the council will be making the decision as to who will operate the new care homes
10. Staff generally remain very positive about the proposals, their only concerns tending to be around:
- whether there will be enough jobs for everyone in the new developments. It is fully anticipate this will be the case
  - working in new homes/locations and the travelling involved
  - where residents will be relocated to
  - who they will be working for. Everyone wants to stay working for the council

### **Consultation with Day Care service users**

11. In late December, letters were sent out to the 40 people who are currently receiving day care in the council's EPHs outlining the timescale and approach for the transfer of their service to new providers in the community. A care manager has been assigned the task of reviewing these individuals and working with them to implement the changes. Day care for Fordlands and Oliver House customers will be in place by the end of March 2012 should a decision to close be made. It is expected that new arrangements for those attending the other homes will be also be in place at the same time.

## **Other Consultation Feedback**

12. The council has received very few additional comments on the proposed programme of closures and new developments from other interested parties or the wider public. This may reflect the scale of consultation undertaken previously and the level of positive support for the modernisation programme. The only two responses received have related to the wider issues of the accessibility of extra care housing options for older people in York, and the viability of private sector care homes. This relates in part to the public concern and media coverage over the viability of two large private sector residential care providers. These issues continue to be carefully monitored by the council's commissioning team as well as colleagues both regionally and nationally. A question was asked whether the council should pay top up fees for any resident that wishes to move to the private sector and that the starting fee should be at the cost of a care bed to the council. It was considered that top ups should not be paid so long as the council is able to provide alternative residential accommodation that can meet residents' needs within its other seven care homes.

### **13. Summary of Good Practice and Risk**

There is a substantial body of advice and information available to social work staff which would allow for a robust and detailed plan to be drawn up for any resident who has to move home. This plan will be underpinned by a full assessment of the individual which would involve families, carers, staff and, where appropriate, health professionals.

This is included in the Moving Homes Safely Protocol which was developed in accordance with good practice and local older people's representatives. (Annex B)

### **14. Balancing Competing Priorities**

In order to make a decision on the future of the residential homes, members must take into account a number of factors.

The following is a summary of matters which Members are asked to consider:-

- The views expressed in the consultation process by participants.

- Legal responsibilities such as those pertaining to the Human Rights Act and Equality Act.
- Potential impact on residents and families.
- Financial impact on the authority and its Council Tax payers.
- Responsibilities to staff.
- Future demand and needs as expressed through commissioning strategies.
- Research and knowledge about demand for older people's accommodation.
- Central Government policies, directives and financial targets.
- Value for money in service delivery.
- Current standards of care.
- Supply and demand for residential care in City of York
- Occupancy levels of each home.
- The estimated cost of maintaining or improving the buildings.
- The availability of alternative provision.
- The service development opportunities in that location.

All these issues have been considered extensively in the work to date on this review and covered in the three reports to Cabinet on the review in July, November 2011 and now January 2012.

### **Options/Analysis**

15. In the absence of any alternative options, the strength of support given following original widespread consultation and the views expressed through the more targeted consultation described above it is recommended that Oliver House and Fordlands should close. In making that recommendation the council is confident of its ability to mitigate the impact on current residents and relatives through following the "Moving Homes Safely" protocol along with Council's ability to offer suitable alternative accommodation in the Council's other care homes. Council officers would expect that residents will transfer to those alternative facilities identified by them and their care managers and that this would be completed by the end of March 2012.
16. Cabinet is asked to agree to the implementation of the overall programme of development for the modernisation of the council's residential care homes as shown in table 1.

**Table 1 Programme of Development**

<b>Phase 1 April 2012</b>	<b>Phase 2 April 2014</b>	<b>Phase 3 April 2015</b>
Oliver House closes Fordlands closes	Lowfield Village opens New Fordlands opens Haxby Hall closes Oakhaven closes Windsor House closes Morrell House closes Willow closes	New Haxby Hall opens Grove House closes Woolnough closes

17. The closure of Fordlands will allow the site to be demolished and prepared for the construction of a new 55 bed residential care facility. This is in line with feedback submitted to Cabinet after the wider consultation and the desire for the council to fund, build and operate the new care home. The closure of Oliver House reflects the very low occupancy and the welfare concern and impact that emerge from such a small number of residents living in a large and outdated care home.
18. Irrespective of any closure of Fordlands and Oliver House there will be no reduction in the total number of respite and winter pressure care beds currently provided which ensure that the council continue to support carers and hospital discharge.

### **Lowfield Care Village**

19. A working group has been established to consider how best to proceed with the proposed care village development on the Lowfield site. This group has carefully considered all aspects of this including the density and mix of accommodation and how it may be developed and funded. However, the group recognised that there were very many permutations around how the best development could be achieved. It has proved impossible to determine the most suitable solution for the council without engaging in dialogue with specialist developers and organisations that work in this area. It is therefore recommended that Cabinet agree to a soft market testing exercise that will be conducted throughout January and February 2012.

20. This exercise will seek to determine the level of interest and gather ideas from organisations that have previous experience in designing and building innovative state of the art care villages. It will also seek to determine what range of funding arrangements might be available to support the development. The soft market testing exercise is not part of the formal procurement phase and as such does not commit the council to anything further. It is intended that Cabinet receive a report on the outcome from the soft market testing in April 2012. That report will contain sufficient information and financial detail to allow the Cabinet and the council to decide whether they issue a formal tender document. A decision in April would also allow enough time to undertake the planning and procurement stages and award any contract for the construction of the site in November/December 2012 with an aim to complete the residential care accommodation build by April 2014. Annex A provides more detail on the process and timeline for the soft market testing exercise.
21. Cabinet have already committed to delivering a modernisation programme to replace the existing nine residential care homes. A fully detailed analysis of the financial and operating options will be presented to Cabinet along with the results of the soft market testing for the Lowfields Care Village in April. This will enable Cabinet to decide on the best approach to deliver the overall modernisation programme. In the meantime officers will continue to engage a variety of stakeholders

### **Council Plan**

22. The protection of vulnerable people lies at the heart of the council's priorities. Over 7,000 vulnerable adults receive social care services in York. The council's overarching objective is to safeguard such adults, to promote their independence, enable them to make real life choices and give them control over their daily lives

### **Implications**

#### **Financial**

23. The capital cost of building a new care home at Fordlands and Haxby Hall is estimated to be £3.7m each. This figure includes build costs as well as planning, architect, quantity surveyor and

project management fees. The savings associated with the closure of Fordlands and Oliver House are expected to produce £1.1m in the full financial year 2012/13.

24. Due to the complexities involved in different bed provision costs a detailed financial analysis needs to be undertaken to ensure the savings estimated in later years can be realised. This work shall be undertaken over the coming months and will feed into the April report.
25. At this stage the estimated cost of building the 90 bed roomed residential care element of the care village has been calculated to be £6m, including project management associated fees and costs. The overall cost of the care village is not expected to be determined until the soft market testing exercise is complete and further more detailed financial modelling is undertaken and informs options for affording the modernisation programme in the April report.
26. The operating costs will be determined within the overall financial model and operating options will be included in the April report.

### **Human Resources (HR)**

27. Formal individual consultation has taken place with all staff at Fordlands Road and Oliver House. The closures of both of these homes can be achieved without the need to make compulsory redundancies, and we have identified a "suitable alternative" for each member of staff. We have been able to achieve this by taking forward a number of voluntary redundancies across the other seven homes, and the careful management of vacancies. It is anticipated that this process will be followed for the subsequent phases of the project.

### **Equalities**

28. Since the November Cabinet meeting, officers from the EPH Review project team attended the Equality Advisory Group's 'Help us to get it right' day on 10 November to discuss the second phase of consultation on the proposed programme of closures and developments, and the 'Moving Homes Safely' protocol (Annex B). The delegates who attended were supportive of the proposed approach to consultation, and welcomed the prospect of continued

involvement via a proposed Wider Reference Group that will act as a sounding board for the development of the specifications for the Fordlands and Lowfield Care Village developments. They also supported the 'Moving Homes Safely' protocol with only one minor addition being suggested, to reflect the need to capture resident's cultural needs as part of any re-assessment.

### **Legal**

29. Legal Implications are contained within Annex C

### **Property**

30. The Lowfield site has been identified for disposal and the anticipated capital receipt is being used to fund the overall capital programme. The use of this site for a care village could mean that the capital receipt will have to be found from elsewhere. One option currently being examined is to look at the development of the remainder of the Lowfield site, and relocating the playing field provision to an alternative location.

### **Other**

31. There are no Crime and Disorder or Information Technology implications at this stage.

### **Risk Management**

32. The council recognises that moving very elderly people can be detrimental to their health and well being but there is much that can be done to reduce the impact of a move. The council has a 'Moving Homes Safely' protocol - developed with input from Age UK York and Older Citizens Advocacy York - that builds on best practice identified in NHS Guidance and recently published national research. The protocol explains how the council would ensure that any move is well planned and carefully managed and how residents and their relatives would be involved in all aspects of the decision as to where they move.



## **Recommendations**

33. That Cabinet agree:
- a) to the closure of Oliver House and Fordlands residential care homes and that residents' moves to their new homes are carefully planned and managed in line with the "Moving Homes Safely" protocol
  - b) to the implementation of the overall programme of development for the modernisation of the Council's residential care homes
  - c) to receive a more detailed business case in April 2012 for the development of a new residential care home on the Fordlands site which shows the possible build and operating options
  - d) that officers undertake a soft market testing exercise for the development of the Lowfield site and report back to Cabinet with the outcome along with a financial model of the operating and design options in April 2012
34. Reason: The review highlighted the need for changes to the current provision and proposed options for consultation on how it could be replaced by modern facilities. There was overwhelming support in the consultation of the need for change and the vision of the new facilities in the city. These recommendations form the next steps toward implementing that vision.

**Contact Details**

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	<b>Report Approved</b>	✓	<b>Date</b> 29 December 2011
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<b>Wards Affected:</b>			<b>All</b> ✓
<b>For further information please contact the author of the report</b>			

**Background Papers****Annexes**

Annex A - Process and timeline for soft market testing

Annex B - Moving Homes Safely Protocol

Annex C - Legal Implications

### Lowfield Care Village - Market Engagement Process and Timeline

		Start	End	Duration
<b>Market Engagement Phase</b>	Prior Information Notice (PIN) published in Official Journal of the European Union (OJEU).	11-Jan-12		1 Day
	Expressions of interest sought from organisations who have previous experience of designing and building (and running) care homes and care villages.	11-Jan-12	22-Feb-12	6 Weeks
	PIN will be clear regarding the aspirations for the site - short Expression of Interest (EOI) form requested from interested parties. Organisation to confirm experience of delivering various options.			
	Structured dialogue (set questions) to be explored and two way dialogue encouraged with a selection of the interested parties. Selection will be based on the organisations' previous relevant experience (EOI response) i.e. Organisations who can provide recent and relevant evidence of delivering the various options.			
	The results of the market testing dialogues will be evaluated and the anonymised information will be shared with the organisations who expressed an interest.	22-Feb-12	07-Mar-12	2 Weeks
	The results of the dialogue will be used to inform and guide the production of a draft specification which will be included in a report to Cabinet paper outlining the proposed option(s).	07-Mar-11	21-Mar-12	2 Weeks
<b>Cabinet</b>	Cabinet considers outline specification for Lowfield Care Village (drawn from the soft market testing exercise) and the financial options for funding the whole transformation programme.	03-Apr-12		
<b>Procurement Phase</b>	In accordance with the EU regulations - Process to be agreed	Estimated 6 month process - this will be dependant upon what is to be delivered		
<b>Implementation Phase</b>	Award contract	Nov-12		
	Lowfield Care Village opens	Apr-14		

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November 2011



A Protocol For

# Moving Homes Safely

How City of York Council will support the residents of registered care homes which are facing planned closure

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## Purpose of this document

This document describes the process that will be followed when a registered residential or nursing home (whether run by the council, private or independent sector) faces planned closure, and its residents need to be re-assessed and moved to a new home.

Once we know that a home is expected to close we will make sure we tell you as soon as we can. We know this will be worrying news for everyone concerned, and so we will make sure we tell you in a way which gives you as much support as possible. We will explain things clearly and simply. We will involve families and friends, and we will ensure that you know who to speak to if you have any questions.

Following this, there are four main stages within the process:

- Stage 1 – Re-assessment
- Stage 2 – Choosing a new home
- Stage 3 – Moving to a new home
- Stage 4 – Reviewing the move.

This document outlines what will happen at each stage of the process, and who will be involved in supporting you (the resident) along the way.

We recognise that moving home can be a stressful event for anyone. The aim of this document is to help reassure you and your family and friends that we plan to do everything possible to ensure that your move to a new home is well planned and carefully managed. You will be involved in all aspects of the decision as to where you move.

## Basic principles underpinning the process

There may be some occasions where a decision has to be made urgently but if we have to decide to close a home we will, wherever possible, consult with residents before a decision is taken.

We will make you aware of the reasons why a move is necessary.

When re-assessing your needs and planning your move to a new home we will ensure that:

- Your wishes, preferences and hopes are identified and considered.
- Your current support needs are taken into account, and that changing or future support needs are also considered.
- Discussions are conducted in your preferred language and in a way that suits you.
- You can have support from your family and friends and/or an independent advocate to support you if you wish (we talk more about advocates on page 6).
- All available options will be fully shared with you – we will be open and honest about the reasons if any preferred option is not available.
- Your re-assessment will be timely, efficient and comprehensive and will be carried out in a sensitive way.
- You will be kept up to date with what is happening.



## Stage 1 – Re-assessment

Adult Social Services will lead the process to re-assess your needs and help you move to a new home.

You will have a Care Manager allocated to you to co-ordinate your re-assessment and support planning. The Care Manager will work with you and with a number of other people and professionals, for example:

- Your family and friends
- An independent advocate
- Care home staff – and especially your key worker
- Occupational therapist
- District nurse
- GP
- Anyone else you want to be involved

You will have a detailed assessment of your needs including your mental health needs, your emotional needs, your cultural needs, your spiritual needs, and your physical needs.

The registered care home manager in your current home will be asked to complete a short Risk Assessment, which will highlight any areas of support where you may have specialist needs or be vulnerable.

The manager and staff in your current care home know you well and will be heavily involved in supporting you through the whole process of re-assessment, choosing your new home, and moving into it.

**Advocacy** is a very important part of the moving home process. You may be happy for a friend, family member, or an organization who knows you to help you to think about what the move means for you. If you do want more advice and support you and your family/friends will have access to one of two independent information, support and advocacy services.

- Older Citizens Advocacy York (OCAY) is a local advocacy service, which offers support to people who are able to make their own choices but may find it helpful to have someone to talk things over with.
- Cloverleaf is a specialist advocacy service for people who do not have the mental capacity to make a reasoned choice, and an IMCA (Independent Mental Capacity Advocate) will be appointed to talk to the person and to try and understand how their wishes for the future can be met.

We will ask you if you would like this help. If you want help contacting an advocacy organisation, or another organisation that you would trust to help you, we will help you to do this. Please let either your Care Manager, or a member of staff know.

**Life Profile.** Many care homes already complete a 'Life Profile' with each resident as a means of recording personal aspects of them and their life. The content is decided by the person and can include such things as a personal history, likes and dislikes, relationships, education, memories, and interests and photographs both past and present. This profile can go with the person when they move. A member of staff at your current care home, probably your key worker, will work with you to ensure that you have such a Life Profile and that it is fully up to date before your move.

**Care Support Plan.** At the end of the re-assessment process, you will have been involved in producing your new and detailed Care Support Plan. This document will provide clear information on current and future support needs and the preferred way in which this care should be provided.

The Care Support Plan will need to be agreed and signed by you, and you and your family will be given a signed copy for your information and records. A copy of your re-assessment and new Care Support Plan will move with you to your new home so that the staffs there are clear about how they need to support you.

## Stage 2 – Choosing a new home

It is important for you to feel that you have choice and control over your future home and support arrangements. This means making sure that you are able to:-

- Consider all available options
- Make a positive choice about which future support service you prefer

The options for you to consider will include: –

- Another registered residential or nursing care home in York or an area nearer family and friends.

Some people may want to think about other options that can increasingly help people live with support in their own homes. If you are interested in thinking about other options these may include:

- Extra Care Housing, where you would have your own apartment with on site support and a flexible care team for residents
- Sheltered Accommodation with monitoring & support available
- Independent/supported living
- Living with family and others.

If you have friends in your current care home that you would ideally like to move with, it is important to discuss this with them and your Care Manager as you explore the various options. If you have a pet that you would like to move with you, you will need to make this known. It may affect the options open to you, as some homes may not be able to accept pets.

Once you have decided which option you want to pursue, your Care Manager will find out as much information as possible about what support and services are available. We will encourage and support, with the help of the current care home staff, opportunities to visit potential homes.

If we have any information that suggests some of the options may not be suitable we will discuss this with you. For some people we recognise the number of choices may be limited.

Adult Social Services will have up-to-the-minute information on vacancies in registered care homes and extra care/sheltered housing units and will try, as far as possible, to match people's preferred choices with available places.

We will be able to give you a list of all the registered care homes in York and other housing options. This information can also be accessed at <http://www.york.gov.uk>.

The Care Quality Commission is another source of information on the quality of care provided by different homes, see <http://www.cqc.org.uk/>. Your friends, family, or advocate may help you to get information you want, but we can also help you get information on the homes you are interested in.

**The financial implications** of the various options being considered will be discussed and, where necessary, welfare benefit checks and financial assessments can be done so that you have all the information you need about future costs before making a final decision about which is the best option for you.

## Stage 3 – Moving to a new home

Moving to a new home is a significant event for anybody, and needs to be carefully planned.

Staff at your current care home will work closely with you in the lead up to the move to ensure that everything that needs to be done is done. We have developed a series of checklists which will be worked through with you to ensure that everything is covered. For example, we will help notify everybody who needs to know about your move (e.g. GP, bank, pension).

We will make sure the new home has all the information they need to care for you properly and ensure continuity of care for you.

In terms of your own furniture and possessions, you will need to think about what you want and are able to take with you to your new home. We will provide opportunities for you to visit your new home before the move, and, wherever possible, involve you in choosing the decoration of your room, the date of your move, and the staff who will support you on the day of the move. We will also provide help with packing up your belongings and unpacking them in your new home.

The actual day of your move will be carefully planned so that the right staff support and transport is available, to ensure the move is managed as smoothly as possible.

Wherever possible, we will try to ensure that the manager and key worker from your old care home will visit you in your early days/weeks in your new home to help you to settle in. If you have any worries or problems we want to know about them as soon as possible so that we can try to sort them out.

## **Stage 4 – Reviewing the move**

A review of your new care arrangements will be co-ordinated by your Care Manager 28 days after you have moved into your new home. An earlier review can be arranged if required. A review can involve you, a relative or friend, your Care Manager, the manager from your new home, and anyone else you would like to involve (e.g. advocate, your key worker or manager from your old care home).

The review will consider what went well with your move and what is working well in your new home, but it will also explore any difficulties that may have arisen. It will consider what you had hoped to experience in your new home and consider whether your actual experience has met these expectations. It will also identify whether there are new opportunities you would like to access in your new home, and how this might be achieved. Your Care Support Plan will be amended as necessary as a result of the discussion at the review.

Even if the first review does not raise any issues of note that need attention, your Care Manager will continue to be your allocated worker for a further 28 days to ensure consistency in case of any issues that arise. At the end of this period the responsibility for your case file will transfer back to the team responsible for reviewing placements.

Your ongoing needs will then be monitored on a regular basis by the home you live in, and reviewed by an Adult Social Services care manager every 12 months.

## For more information

For more information please speak to your current Care Home Manager in the first instance. He or she should be able to help you or advise you on who is best placed to deal with your specific query or concern.

If, however, you wish to speak to someone else please try the following contacts.

Care Management Team	(01904) 553818
Older Citizens Advocacy York (OCAY)	(01904) 676200

### Our complaints procedure

If you have not been able to sort out a concern or problem through talking to us, or you are unhappy about the service you have received please contact the Complaints Manager, who will agree with you how best to deal with your complaint - Tel: (01904) 554080 or email [haveyoursay@york.gov.uk](mailto:haveyoursay@york.gov.uk).



## **Annex C Legal Implications**

### **Equalities Act 2010**

The Council must have due regard to the need to eliminate discrimination and promote equality with regard to race, disability and gender, as well as promote good race relations. The Council needs to assess the potential equality impact of changes to policies, procedures, practices and changes in services. A full Equality Impact Assessment has already been carried out and the results were outlined in the November Cabinet Report.

Should the Members agree to close the homes, in the case of all residents a full multi-disciplinary assessment of their needs will be carried out to inform their care plan and they will not be offered alternative placements which do not meet those needs. That assessment process will also take into account their specific needs and be tailored to their disabilities. eg. mental capacity assessments and best interests assessment will be carried out where required and advocates used where required.

### **Human Rights**

If the Council decides to close any of its care homes, then it will need to demonstrate that it has considered the appropriate articles of the European Convention for the protection of Human Rights and Fundamental Freedoms. A number of articles have been considered by the courts as potentially relevant to the issue of potential home closures.

City of York Council is a public authority within the definition of the Human Rights Act 1998 and under Section 6 (1) of that Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right.

### **Article 2 “right to life”**

It is acknowledged that there is some risk in moving frail elderly people which can never be completely eliminated. Research suggests, however, that the risks can be minimised and managed. It has been stated in a recent judgement by the European Court of Human Rights “For the Court to find a violation of the positive obligation to protect life, it

must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk”.

The court further added “that the scope of any positive obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities, including in respect of the operational choices which must be made in terms of priorities and resources. Accordingly, not every claimed risk to life can entail for the authorities a Convention requirement to take operational measures to prevent that risk from materialising.”

The risk has been carefully considered by officers who can use a range of measures, based on a mixture of research and experience as described in the section on good practice, under the guidance of an experienced senior manager. These help to mitigate the risks involved to older people undertaking any move.

### **Article 3**

This article prohibits torture and inhuman and degrading treatment or punishment. This is referred to as there have been some instances of this article being raised in cases involving closure of homes, although without success as the line of court decisions on this matter highlight that Article 3 addresses a high degree of severity, usually where public officials positively behave in a manner which deserves a high degree of opprobrium and not to cases where policy decisions are made on the allocation of resources. By way of reassurance, members are referred to details of how the moves will be planned and the use of assessments. The needs, comfort, and safety of the residents will be at the core of any move.

**Article 8** - “provides a right to respect for one’s “private and family life, home and correspondence” Where residents regard a Council residential home as their home, closure of that home leads to consideration of Article 8.

The article reads in full :-

- Everyone has the right for his private and family life, his home and his correspondence.

- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

To close the home and move a resident may be considered to constitute an interference of the human rights of that resident. Article 8 does allow for such interference, but there must be a justification which is necessary, reasonable and proportionate.

A balancing exercise must be undertaken by the Council to determine that this action is justified while taking into account the human rights considerations of those affected by the decision to close that particular home.

Officers are acutely aware of the need to minimise disruption to residents and are anxious to ensure that should residents move, their family and friendship links will be preserved as far as reasonably practicable. The section on review of risk and good practice indicates how the Council have considered its responsibilities and outlines some of the factors that are taken into account when moving older people.

**Article 14.** This prohibits discriminations on any ground for example, sex, race, colour, language, religion, political or other opinion.

These proposals have been subject to a full equalities impact assessment and officers are satisfied that these proposals are not discriminatory and have at their heart the need to modernise care and ensure that resources are allocated appropriately to meet the needs of more older people in the way they would wish.

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