

Local Plan Working Group

20 October 2020

Report of the Assistant Director for Planning and Public Protection

Portfolio of the Executive Member for Finance and Performance

York Local Plan Update

Summary

1. The purpose of this report is to update members on the Local Plan examination and progress made in relation to the schedule of further work submitted following the Local Plan Phase 1 hearing sessions in December 2019. The report also provides an update in relation to subsequent correspondence received from the appointed Planning Inspectors.

Recommendation

2. Members of Local Plan Working Group are asked to note the progress on the Examination of York's Local Plan.

Background

Submission to Phase 1 Examination

3. As Members are aware the Local Plan was submitted for examination on 25th May 2018. The Council has been appointed two Inspectors, Simon Berkeley and Andrew McCormack, to undertake the examination. We also have an independent Programme Officer, Carole Crookes, who manages correspondence between the Council and the Inspectors as well as publication of any reports on to the Council's Examination Library (Annex A)¹ (see [reference]). The Examination Library references and links to submitted documents post submission of the plan.

¹ Published on the Council's webpage: www.york.gov.uk/localplanexamination

4. The Inspectors wrote to the Council on 24th July 2018 [EX INS 1] setting out their initial observations in relation to the Plan. Key issues raised were in relation to Objectively assessed housing need (OAN), green belt and infrastructure delivery. Officers reported an update on the response to LPWG on 20th September 2018 following the release of revised sub-national household projections by Office for National Statistics (ONS).
5. The Council responded to the Inspectors in detail on 13th November 2018 [EX CYC 7] and advised that since the publication of new national evidence on population and household projections in September, which showed a marked downward trend in forecast growth for York, we had been in dialogue with the Ministry of Housing, Communities and Local Government (MHCLG) regarding the assessment of housing need. Specifically the letter set out the intention of the Council to commission an update to the OAN to look at any potential implications of the new evidence with the suggestion to Inspectors that they should consider allowing early hearings on this matter specifically. The letter also confirmed the Council's approach to greenbelt and the delineation of greenbelt boundaries and confirmed that we would produce an addendum to Topic Paper 1 (Approach to York's Greenbelt) providing the additional clarification that the Inspectors have requested.
6. The Inspectors wrote back to the Council on 14th December 2018 [EX INS 2] confirming that the York Local Plan would be examined under transitional arrangements applying the 2012 NPPF, acknowledging the provision of additional evidence and agreeing to a phased approach to hearing sessions, with the first phase dealing with Duty to Co-operate, legal matters, OAN and Greenbelt principle.
7. Following this clarification, the Council commissioned a Housing Needs Update [EX CYC 9] from consultants GL Hearn. This analysed the 2016 based household projections to understand whether there has been a '*meaningful change*' to the submitted housing requirement of 867 dpa. Using a series of assumptions including consideration for affordability, York's economic aspiration and market trends, the HNU (2019) concluded that an economic-led housing need of 790 dwellings per annum would be sufficient to respond to market signals, including affordability adjustments as

well as making a significant contribution to affordable housing needs.

8. Additionally, the Council updated its submitted Habitat Regulation Assessment (HRA)²³ following an objection raised by Natural England in June 2018 [EX CYC 1]. In response to this [EX CYC 2], the Council commissioned visitor surveys at Strensall Common Special Area of Conservation (SAC), Lower Derwent Valley Special Protection Area (SPA) and Skipwith Common SAC (the latter in conjunction with Selby District Council). This evidence reported on the likely effects as a result of development in the plan.
9. The purpose of the Habitat Regulations Assessment (HRA) is to identify any aspects of the Local Plan that would have the potential to cause a likely significant effect on the Natura 2000 network of European designated sites including SACs, SPAs and Ramsar sites, either alone or in combination with other plans and projects and to identify appropriate avoidance and mitigation strategies where such effects are identified.
10. The Habitats Directive applies the precautionary principle to protected areas. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. The process for assessing the potential effects on European protected sites included a screening stage, where an assessment of whether likely significant effects exist. Following that, an appropriate assessment (AA) is undertaken to establish whether adverse effects on the integrity of protected sites would occur and if so, whether mitigation could rule out adverse effects on the integrity of the site.
11. Following consideration of the survey outcomes in the Appropriate Assessment, the key recommendation from the HRA (2019) [EXCYC14c] was to remove site allocations ST35 'Queen Elizabeth Barracks, Strensall' and H59 'Howard Road, Strensall' and the associated site specific policy SS19 on the basis that adverse effect on the integrity of Strensall Common SAC could not be ruled out.

² Submitted document CD012 in May 2018 on Core document and evidence base list:

<https://www.york.gov.uk/downloads/download/420/local-plan-submission-documents-1>

³A requirement of the Conservation of Habitats and Species and Planning (various amendments) (England and Wales) Regulations 2018 ("HRA Regs"). It is therefore a legal requirement for the preparation of the Local Plan.

12. Following the completion and submission of this evidence to the Inspector's, they instructed the Council to undertake consultation on the proposed modifications to the Local Plan, including the change of the OAN to 790 dpa and the removal of site allocations at Strensall Common in their letter 7th May 2019 [EX INS 6]. They also instructed consultation on the Green Belt Topic Paper Addendum (2019), which set out in more detail the methodology and justification for the detailed green belt boundaries, as previously requested.
13. Consequently, the Council undertook the Proposed Modifications Consultation in June-July 2019 and the received representations were duly submitted to the Inspectors for their consideration [EX CYC 18-24c].
14. In October 2019, the Inspectors confirmed that they had considered the representations made and that the first phase of hearing sessions would commence addressing matters of Legal Compliance, Housing Requirements and the principle of York's Green Belt.

Phase 1 hearing sessions

15. The phase 1 hearing session were held for 5 days between 10th – 18th December 2019 at York Racecourse. The sessions were open to the public to attend and filmed, with the sessions uploaded on to the Council's YouTube channel.
16. The Inspectors issued matters, issues and questions (MIQs) in October 2018 [EX INS 7 & 11] to be answered in advance of the sessions to which the Council and interested parties could submit statements of response. These hearing statements are referenced in full in Annex A. The MIQs were used to inform the programmed sessions and direct discussions with participants [EX CYC 14].
17. The hearing sessions were well attended by participants registered to speak (some on behalf of multiple clients). Participants had registered their interest to speak with the Programme Officer prior to the meeting and were only allowed to speak in sessions of registered interest. Registered attendance against each matter was as follows:
 - Matter 1: Legal Compliance - 26 participants
 - Matter 2: The housing strategy:

- The housing market area – 23 participants
- The objectively assessed housing need – 28 participants
- The housing requirement – 28 participants
- Spatial distribution – 24 participants
- **Matter 3 – The Green Belt:**
 - Principles – 34 participants
 - The approach to defining the Green Belt boundaries – 36 participants
 - Exceptional circumstances – 34 participants
 - The approach to identifying land to be ‘released’ from the Green Belt for development – 38 participants.

Schedule of Further work resulting from Phase 1 hearing sessions

18. As part of the hearing sessions the Inspectors instructed and/or agreed to a number of modifications and further work to be submitted as a result of discussion. A schedule of further work was published in January 2020 [EX CYC 33] (Annex B). The following documents have so far been submitted for consideration:

- **Confirmation of documents** submitted during the examination [EXCYC34];
- **York Central Application** (18/01884/OUTM) decision notice [EXCYC35];
- **Affordable Housing Note** (February 2020) [EXCYC36]
This note confirms the approach to and likely delivery of affordable housing during the plan period specifically in relation to:
 - The number of affordable homes to be provided through proposed allocations and sites with consent applying policy H10;
 - Information on other sources of affordable homes including through the Council’s Housing Delivery Programme;
 - Affordable housing delivery from 2012; and
 - Right to Buy.
- **Audit trail of sites submitted and assessed between 35-100 hectares** [EXCYC37]
The audit trail confirms that all sites submitted had been

assessed objectively in the Local Plan process;

- **A joint position statement between City of York Council and Selby District Council** regarding the Housing Market Area (April 2020) [EXCYC38]

The Joint position statement agrees the extent of the housing market area as well as the authorities approach to delivering identified housing requirements;

- **Green Belt Clarification Note** (June 2020) [EXCYC39]
This clarifies the Council's rationale for pursuing a Green Belt boundary extending to approximately 6 miles from the city.
- **Appendix 1 High Court Judgement:** 'Christopher Wedgewood v City of York Council Group [2020] EWHC 780 (Admin)' [EXCYC39a]

This Judgement clarifies that, in advance of the adoption of the Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes will be taken in accordance with the approach supported in the case of Christopher Wedgewood v City of York Council Group [2020] EWHC 780 (Admin). This means that such decisions will take into account the RSS general extent of the Green Belt, the draft Local Plan (April 2005), the emerging Local Plan, insofar as can be considered against paragraph 48 of the NPPF (2019) and site specific features in deciding whether land should be regarded as Green Belt in advance of the adoption of the Local Plan.

19. There has been issues with working arrangements following the Covid-19 pandemic and consequently, unavoidable delays regarding certain aspects of the examination. Whilst officers had previously indicated that they would be able to submit the agreed evidence in accordance with the schedule by 27 March 2020, the Council, along with the majority of the country, have experienced a great number of difficulties in trying to work as normal following lockdown on 23rd March 2020. Officer's have continued to make progress on the preparation of outstanding items from the schedule, as follows.
20. It was agreed that a further revision to the Habitat Regulation Assessment (2019) was required. This was to ensure the report was

fully compliant with relevant caselaw⁴ and took consideration of new evidence documents submitted in hearing statements in November 2019 (prior to the commencement of hearing sessions) by the Defence Infrastructure Organisation (DIO) in relation to their site ST35 'Queen Elizabeth Barracks' and Strensall Common SAC. The Inspector instructed that a review and update of the HRA should be undertaken and that consultation with Natural England and the DIO should ensue to agree a Statement of Common Ground.

21. The revised draft HRA has now taken into consideration the points raised and evidence provided. In line with the regulations, we are currently consulting with our statutory body, Natural England, to understand their view on the conclusions reached prior to finalising the report and its submission. Following submission, we have confirmed that we will be commencing engagement with interested parties, including the DIO, to produce statements of common ground pertaining to outcomes in the report.
22. It is also anticipated that a proposed modification schedule will be submitted alongside the HRA. This will contain modifications proposed through the hearing sessions pertaining to clarifying the housing requirement, the plan period and the key diagram to more accurately depict the spatial strategy. It will also include modifications required as a result of the HRA, subject to the outcome of consultation with Natural England.
23. The clarification note regarding flexibility of land uses beyond the plan period (2017-2033) will be dealt with alongside the clarification to the Green Belt Topic paper following the Inspectors letter in June 2020.

Further correspondence from the Inspectors

Inspector's letter – 12th June 2020

24. The Inspectors Letter (June 2010) [EXINS15] provided feedback on the phase 1 hearing sessions acknowledging the aspects covered and setting out their concerns, principally in relation to the Green Belt Topic paper Addendum.

25. In our response to this letter (22 June 20) [EXCYC40] we welcomed the conclusions that the Local Plan:
- (1) does not establish any new Green Belt;
 - (2) does not alter any Green Belt boundaries; and
 - (3) does not need to demonstrate exceptional circumstances for any of the proposed Green Belt boundaries, including those relating to the proposed housing allocations
 - (4) that (subject to the issue I address below) the proposed delineation of the outer boundaries is in general conformity with Regional Spatial Strategy.
26. We acknowledged their concerns about the evidence underpinning the approach taken to defining the boundaries and understood that those concerns relate primarily to how the “shapers” within the Plan have then been applied to considering the purposes of including land in the Green Belt - as set out within the strategic element of the assessment in the Green Belt Topic Paper Addendum (“Addendum”).
27. We were grateful however for the recognition that:
- (1) the emphasis placed on the fourth purpose (preserving the setting and special character of historic towns) is regarded as appropriate in the context of York; and
 - (2) the delineation of the Green Belt boundaries proposed on the Policies Map “*may be a positive indication that appropriate planning judgment has been applied to the analysis*”.
28. The Council confirmed that time was required to consider fully and to respond to the options for the way forward outlined by the Inspectors. Based on preliminary work, our provisional view was that there is a strong prospect of the Council being able to pursue option (b)(demonstrating that the boundaries are justified notwithstanding your methodological concerns), potentially with an element of option (a)(explain any misunderstandings in the methodology).
29. Work on clarifying the Inspectors concerns related to this paper continues. We are updating the Green Belt Topic Paper Addendum and its Annexes to simplify and clarify the methodology as previously outlined. That work has not at this stage revealed any need for significant changes to the proposed Green Belt boundaries.

30. Our intention is to submit the Addendum as soon as possible. The main body of the Addendum will explain fully what the clarified methodology is, and how it has addressed the issues raised. We will also be able to provide templates for each of the Annexes ahead of the detailed annexes themselves.
31. This approach is an attempt to avoid further delay, by combining the tasks of explaining how the methodology can be clarified to meet the Inspector's concerns, as well as confirming through revisions to the Topic Paper Addendum why the detailed boundaries proposed by the Council remain sound. We anticipate that this work will allow the Inspectors to consider whether the Council has made sufficient progress in resolving the issues helpfully identified in their letter, without prejudice to any final view they may take on the overall Addendum and the Annexes.
32. We have also reflected on how best to provide further clarification on the delivery of development beyond the plan period, as discussed at the Phase 1 Examination hearings. As this issue was raised in the context of Green Belt matters, in particular safeguarding and the permanence of the proposed boundaries, we consider that the most efficient approach would be to include this information in the updated Green Belt Topic Paper Addendum. Aspects of the evidence relating to this issue were already included in the 2019 Addendum and were to be included in the revised Addendum in any event.

Inspectors letter – 9th July 2020

33. The Inspectors letter of 9th July 20 [EXINS16] asked the council to consider the implications of the 2018-based household projections released by Office for National Statistics in July 2020. Specifically, the Inspectors wanted to ascertain whether the council considered there was a '*meaningful change*' when considered against the submitted plan and Housing Needs Update (2019), which proposed a modification of the submitted housing requirement figure of 867 dwellings per annum plus a shortfall in completions between 2012-2017 to 822 dpa (economic-led OAHN of 790 dpa + 32 dpa shortfall); This was based upon the previous 2016-based household projections.

34. To address this, the Council commissioned consultants, GL Hearn, have produce a Housing Need Update (“HNU”)(2020) in response to the release of the 2018-based household projections (SNHP) setting out their view on this matter, which has informed our response as follows. This is has considered the relevant guidance in the Planning Practice Guidance (PPG) on Housing and economic needs assessment relevant⁵ to under transitional arrangements, as previously followed.
35. In preparing the HNU (2020) GL Hearn have applied guidance in the PPG, which requires plan makers to consider how the economy might perform, having regard to the likely growth in job numbers based on past trends and/or economic forecasts as appropriate.
36. The submitted Local Plan relied on a scale of economic growth of 650 jobs, which was corroborated by the economic forecasting by Oxford Economics published in December 2019 [EX CYC 29]. It was previously calculated that would need to be supported by 790 homes per annum. The HNU (2020) examines the impact of newer data on this economic-led housing need.
37. The newer data includes updated assumptions around doubled-jobbing, as well as the impact of the 2018-based population projection and the latest 2019-based mid-year population estimates. The key input is the most recent age-profile for the City as well as the various assumptions around fertility, mortality and migration. The updated work on economic-led housing need produces a housing needs range of between 766 – 779 dpa for the plan period (2017-2033) (and 777 -788 dpa (2012-2037))(see paragraphs 3.2-10 and Tables 5 and 6).
38. The HNU (2020) concludes that the range of economic-led housing needs is comparable to the figure of 790 dpa as identified in the HNU 2019 (paragraph 3.11). Overall, GL Hearn conclude that: *“the housing need in the City has not changed materially since the last assessment in January 2019. The previous report identified a need for 790 dpa and the economic-led need within this report is as high as 788 dpa. There is, therefore, no need for the Council to move away from their current position based on this new data”* (paragraph 5.8).

⁵ National Planning Policy Guidance Paragraph 016: Ref ID:2a-016-20150227

39. The Council issued a letter (6 October 2020) [EXCYC43] and the HNU (2020) [EXCYC43a] to the Inspectors supporting the assessment and conclusions of the HNU (2020). This confirmed that we continue to support our proposed modification to the plan for a housing requirement of 822 dpa (790 dpa housing plus a shortfall of 32 dwellings per annum).

Next steps

40. In our recent correspondence with the Inspectors [EXCYC43], the Council reaffirmed their commitment to continue making progress through the examination towards the adoption of the Local Plan. We also asked the Inspectors for an indication on whether there are any other areas of concern relating to the matters considered at the Phase 1 examination hearings beyond those addressed in our correspondence this year.

41. The letter also confirmed the progress, outlined in this report, pertaining to the Green belt Topic Paper Addendum, HRA and consequential engagement with interested parties, which officer's continue to progress.

42. The examination timetable is determined by the appointed Inspectors and we currently await their consideration of this following the submission of work requested. Notification of future stages will be uploaded onto the Local Plan Examination webpage. Officer's will continue to prepare in anticipation of future phases of examination.

Consultation

43. Consultation on the draft Local Plan has been undertaken in accordance with the adopted Statement of Community Involvement (2007) as follows:

- Preferred Options (2013)
- Further Sites Consultation (2014)
- Preferred Sites Consultation (2016)
- Pre-Publication (Regulation 18) Consultation (2017)
- Publication (Regulation 19) Consultation (2018)
- Proposed Modifications (Regulation 19) Consultation (2019)

44. Prior to phase 1 hearing sessions in December 2019, the Inspectors also allowed interested parties to submit their response to the matters, issues and questions raised to the Council. This type of consultation is anticipated at future phases of the examination process.
45. Notification of future Local Plan hearing sessions/phases will be communicated by the Inspectors, via the Programme Officer. This will include a 6 week notification period in accordance with the Regulations specifying the matters to be discussed and meeting arrangements.

Implications

46. **Legal** – The procedures which the Council is required to follow when producing a Local Plan derive from the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012.
47. The legislation states that a local planning authority must only submit a plan for examination which it considers to be sound. This is defined by the National Planning Policy Framework as being:
 - **Positively Prepared:** based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;
 - **Justified:** the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
 - **Effective:** deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with national policy:** enable the delivery of sustainable development in accordance with the policies in the Framework.
48. In order for the draft Local Plan to pass the tests of soundness, in particular the ‘justified’ and ‘effective’ tests, it is necessary for it to be based on an adequate, up to date and relevant evidence base. The Council also has a legal duty to comply with the Statement of Community Involvement in preparing the Plan. (S19(3) 2004 Act).
49. In addition the Council also has a legal “Duty to Co-operate” in preparing the Plan. (S33A 2004 Act).

50. HRA's are a requirement of the Conservation of Habitats and Species and Planning (various amendments) (England and Wales) Regulations 2018 ("HRA Regs") and must assess the impacts of the Local Plan on sites designated under the EU Directive (92/431/EEC Habitats Directive).
51. **Financial (1)** – The work on the Local Plan is funded from specific budgets set aside for that purpose. Over the last five years, significant sums have been expended on achieving a robust evidence base, carrying out consultations, sustainability and other appraisals, policy development and financial analyses. Whilst this work remains of great value, it is important that progress is made to ensure that unnecessary additional costs and delays do not occur. Additional costs pertaining to resourcing, evidence base and examination must be supported to continue effectively.
- Financial (2)** - It should also be considered that if the approach taken is subsequently judged to be non compliant with Government Guidance could lead to further technical work and additional consultation adding to the identified costs and creating delay.
- Financial (3)** - Managing the planning process in the absence of a Plan will lead to significant costs to the council in managing appeals and examinations.

- **Human Resources (HR)** - none
- **One Planet Council / Equalities** - none
- **Crime and Disorder** - None
- **Information Technology (IT)** None
- **Property** - None
- **Other** – None

Contact Details

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**Report
Approved**



Date 12/10/2020

Wards Affected:

All

For further information please contact the author of the report

Annexes:

Annex A: Examination Library v51 (07 October 2020)

Annex B: Schedule of Further Work (January 2020) [EXCYC33]

Background documents

Inspectors letter 12 June 2020 [EXCYC15]

<https://www.york.gov.uk/downloads/file/5795/ex-ins-15-letter-to-lpa-12-june-2020>

Council's letter 22 June 2020 [EXCYC40]

<https://www.york.gov.uk/downloads/file/5794/ex-cyc-40-letter-to-inspectors-22-june-2020>

Inspectors letter 9 July 2020 [EXCYC16]

<https://www.york.gov.uk/downloads/file/5848/ex-ins-16-letter-to-cyc-re-2018-household-projections-2018>

Council's letter 6 October 2020 [EXCYC43]

<https://www.york.gov.uk/downloads/file/6096/ex-cyc-43-letter-to-inspectors-6-oct2020>

List of abbreviations used in this report:

OAN/ OAHN – Objectively Assessed Housing Need

PINS – Planning Inspectorate

HRA – Habitat Regulations Assessment

ONS – Office for National Statistics

MHCLG – Ministry for Housing, Communities and Local Government

NPPF – National Planning Policy Framework

SNPP – Sub-national Population Projections

SNHP – Sub-national Household Projections

DSP – Demographic Starting Point

NPPG – National Planning Practice Guidance

OBR – Office of Budget Responsibility

SHMA – Strategic Housing Market Assessment

SAC – Special Area of Conservation

EU – European Union

SPA – Special Protection Area

RAMSAR – Internationally important wetlands

AA – Appropriate Assessment

NE – Natural England

MOD – Ministry of Defence

DIO – Defence Infrastructure Organisation

AEOI – Adverse effect on integrity

LDV – Lower Derwent Valley

HNU – Housing Needs Update