

Executive

25 January 2018

Report of the Assistant Director, Planning and Public Protection

Portfolio of the Executive Leader (incorporating Finance & Performance) and Deputy Leader

City of York Local Plan

Summary

1. This purpose of the report is:
 - (i) To provide a background summary of the previous iterations of draft policies and the circumstances which led to the rationale of the Executive decision to approve the Pre-Publication Draft Local Plan for consultation;
 - (ii) To provide a summary of the present national policy and legislative context, including the “soundness” requirement and potential for Government intervention;
 - (iii) To report responses to the Autumn 2017 Pre Publication Draft Local Plan Consultation;
 - (iv) To provide Officers’ advice regarding appropriate responses to the Consultation outcomes; and
 - (v) To seek Member approval of the next steps in the York Local Plan making process.

These issues were considered at Local Plan Working on 23rd January 2018 and the minutes will be circulated to Executive.

Recommendations

2. Members are asked to:

- (i) Consider any potential changes to the pre publication draft Local Plan (Regulation 18) based on the information included within this report and associated annexes and confirm the basis on which the Local Plan should be progressed to the Regulation 19 stage including a city wide consultation.

Reason: So that an NPPF compliant Local Plan can be progressed.

- (ii) Following decisions on the matters referred to in (i) above authority be delegated to the Assistant Director of Planning and Public Protection in consultation with the Leader and Deputy Leader to approve all policies necessary for the production of a composite Local Plan for the purposes of public consultation.

The Leader and Deputy Leader to keep Group Leaders informed through Group Leaders meetings.

Reason: So that an NPPF compliant Local Plan can be progressed

- (iii) Delegate to the Assistant Director of Planning and Public Protection in consultation with the Leader and Deputy Leader the consideration and approval of further technical reports and assessments to support the Local Plan including, but not limited to the SA/ SEA, HRA, Viability Study and Transport Assessment.

The Leader and Deputy Leader to keep Group Leaders informed through Group Leaders meetings.

Reason: So that an NPPF compliant Local Plan can be progressed.

- (iv) Delegate authority to the Assistant Director of Planning and Public Protection in consultation with the Leader and Deputy Leader to approve a consultation strategy and associated material for the purposes of a city wide consultation and to undertake consultation on a composite plan in accordance with that agreed strategy.

The Leader and Deputy Leader to keep Group Leaders informed through Group Leaders meetings.

Reason: So that an NPPF compliant Local Plan can be progressed.

Background

3. Officers produced a publication draft Local Plan in Autumn 2014. This process, however, was halted by Council resolution on the 9th October 2014. Following the Local Government Elections in May 2015 the agreement between the Conservative and Liberal Democrat Groups, to establish a joint administration for City of York Council from May 21st 2015 states that:

'We will prepare an evidence-based Local Plan which delivers much needed housing whilst focusing development on brownfield land and taking all practical steps to protect the Green Belt and the character of York.'

4. In 2016 a Preferred Sites Consultation was undertaken. It began on 18th July 2016 and ended on 12th September 2016. 1,766 individual responses were received from members of the public, developers and statutory consultees. After the Preferred Sites Consultation concluded the Ministry of Defence (MOD) announced as part of its Defence Estate Strategy on 7th November 2016 the release of three substantial sites in York:

- Imphal Barracks, Fulford Road;
- Queen Elizabeth Barracks, Strensall; and
- Towthorpe Lines, Strensall.

Technical work was carried out which established that the sites represented 'reasonable alternatives' and, therefore, should be considered as part of the Local Plan process.

5. At the Executive in July 2017 Officers sought approval to undertake a full consultation on a Pre publication draft Local Plan (Reg 18). To support this process the report included a Strategic Housing Market Assessment (SHMA) which made a recommendation on the level of housing growth

for York, an Employment Land Review (ELR) and a series of sites to meet the related arising demand. It also included recommendations on non sites related policies.

6. The Local Plan Preferred Sites Consultation (2016) included an annual housing figure of 841 dwellings pa. The SHMA produced by GL Hearn suggested increasing this figure to 867 dwelling and including an uplift of 10% to the baseline household projections for York to allow for market signals (lifting it to 953 dwellings per annum). Members accepted the higher baseline figure, but not the 10% uplift on the basis that the figure of 867 dwelling represented a significant step change in past delivery. They considered Hearn's conclusions were speculative and arbitrary, rely too heavily on recent short-term unrepresentative trends and attached little or no weight to the special character and setting of York and other environmental considerations. The employment land requirements included in the ELR were agreed.
7. A city-wide consultation on the Local Plan Pre Publication Draft (Reg 18) commenced on the 18th September 2017 and finished on 30th October 2017. It was carried out in compliance with the Council's adopted Statement of Community Involvement (2007). The consultation included contacting individuals and organizations on the Local Plan database, public exhibitions, meetings, a special edition of 'OurCity', and information provided via conventional and social media.

National Policy Context

8. On 7th February 2017, the Department for Communities and Local Government (DCLG) published a Housing White Paper. As part of which, DCLG also consulted on changes to planning policy and legislation in relation to planning for housing, sustainable development and the environment. It is anticipated that the outcomes of the consultation will involve amendments to the National Planning Policy Framework (NPPF) and regulations. This is likely to be before the end of Summer 2018.
9. Following on from the White Paper on 14th September 2017 the Department for Communities and Local Government (DCLG) released 'Planning for the right homes in the right places: consultation proposals'.

These focused on streamlining the planning system and were primarily concerned with how local housing need is assessed. The consultation ran for eight weeks and closed on 9th November 2017. The Government indicated that after reviewing the responses to this consultation along with responses to the Housing White Paper it would publish a draft revised National Planning Policy Framework (NPPF) in 2018.

10. The DCLG November 2017 consultation included a proposed methodology for calculating housing need. This is based on three principles: simplicity, using publicly available data and producing realistic targets. The document applies this methodology to City of York and indicated a minimum of 1,070 dwellings p/a for the period 2016 to 2026. It should be noted that this methodology was the subject of consultation and formal changes to the NPPF have not yet been incorporated by the Government.
11. In addition, it should be noted that the figure of 1070 dwellings is based on 2014 sub-national population projections (released in 2016) which are due to be replaced with the 2016 sub-national population data in May 2018. The National Population Projections released in October 2017 (on which the 2016 sub-national population figures will be based) suggest slower growth than the previous (2014-based) projections. This is because of lower assumptions about future levels of fertility and international migration, and an assumption of a slower rate of increase in life expectancy.
12. A key change is that the proposed methodology put forward by DCLG is forward looking; conversely the current target included in the Pre-publication Local Plan involved considering under delivery from 2012 – 2017 and meeting this by adding to the future supply.
13. The consultation on the proposed new methodology made explicit reference to protecting Green Belt and acknowledged it as a constraint. It also highlights the extent of York's Green Belt. It is not however completely clear about the effects of this constraint and how it would effect York in setting Green Belt Boundaries for the first time.
14. It is proposed by DCLG that in the absence of an up-to-date local strategic plan that after 31st March 2018 the new method for calculating

housing need would be adopted. However, should the revised national planning policy framework be published after this date, subject to the outcomes of consultation, it will be introduced at that later date. Given the Government haven't yet responded to this consultation and the potential timeframe for the publication of the revision to NPPF the 31st March adoption date seems unlikely. For the purposes of this report we will continue to use the methodology reported to Members in July 2017.

15. The National Population Projections were published by the Office for National Statistics on 26th October 2017. We anticipate that the Sub-National Population Projections will be released in May 2018 in accordance with previous releases. The Sub-National Household projections to be released by the DCLG, which use the population ONS data, are likely to follow in July/August 2018. This reflects the nature of changing data sets that surround the plan making process.
16. On 16th November 2017 the Secretary of State for Communities and Local Government wrote to the Council. The letter emphasised the importance of up-to date local plans. He then expressed concern about the lack of progress City of York has made on plan-making. The last adopted detailed plan for the city was produced in 1956. The Council is asked to respond by 31st January 2018.
17. The Council is currently preparing a response to the Secretary of State emphasising the importance of responding through the Local Plan process to the release of the MOD sites in November 2016 and including a commitment to submit at the end of May 2018.

Local Plan Pre Publication Draft Consultation Response

18. During the autumn 2017 consultation period we have received responses from circa 1,295 individuals, organisation or interest groups. In response to the Preferred Sites Consultation (2016) held in July - September 2016, we received 1766 responses from individuals and organisations.
19. In conjunction with this report all representations received will be published on line via the Council's website and will be available both electronically and in hard copy at West Offices reception. Those

representations received from members of the public will have personal information redacted to comply with the Data Protection Act 1998.

20. The representations received as a part of the consultation raise a range of issues some of which are complex in nature. These are provided in summary in Annex A to this report along with potential changes for Members' consideration.
21. Given the historical and national policy context associated with the development of the City of York Local Plan Members' attention is particularly drawn to the following key issues :
 - Housing Need and Land Supply; and
 - Employment Land Supply.

Housing Need and Land Supply

22. The historical approach taken to housing need and the related changing national policy context is detailed above. In addition comments received during consultation on this matter are included in Annex A and provided in summary below.
 - Support was received for the principle of council meeting their entire objectively assessment housing need (OAHN).
 - Some parish representations supported the 867 dwellings per annum figure particularly in comparison to the Government's proposed standardised methodology.
 - In respect of housing numbers responses, particularly planning agents and developers, objected to using 867 dwellings per annum; the reasons for this included: the failure to comply with the Strategic Housing Market Assessment (2017) and the lack of conformity with both existing and emerging national policy.
 - Some respondents objected to the approach taken to backlog, student housing and windfalls.
 - The majority of responses from the public were in objection to proposed sites.

23. It is important to recognise that the proposed methodology included in the document produced by DCLG was for the purposes of consultation and may be subject to change (although at present it indicates the direction of travel anticipated for national policy). The methodology differs from that applied by the Council in reaching the housing need figures, and thus cannot be compared without further analysis. The reasons for this are outlined below.
24. As previously highlighted the Government's proposed methodology is forward looking and unlike the Council's methodology, does not add in any additional amounts for previously unmet demand. The City of York Local Plan has an effective start date of the 1st April 2012 in terms of population and housing. This is to fit with the position taken by Government in terms of their demographic projections. Using the Council's methodology, any under delivery against the housing target between 2012 – 2017 is accommodated over the life time of the plan.
25. In July the Executive agreed a figure of 867 dwellings per annum for the duration of the City of York Local Plan and Green Belt (until 2033 and 2038 respectively). As the Council's methodology includes provision to meet previous under supply within the 2012 to 2017 period, this means the plan as produced for the autumn 2017 consultation includes a sufficient overall supply to meet both these requirement.
26. Members must be satisfied that they consider the Submission Draft Plan meets the test of "soundness". This is a statutory duty. Officer's advice is that the direction of travel in national policy indicates that if the site proposals previously consulted on were increased this would be a more robust position. However, this is not to say that the proposals previously consulted on would be unreasonable; It is a matter for Members to determine the degree of risk they wish to take.
27. In Officer's opinion, an increase in the supply of housing would place the Council in a better position for defending the Plan proposals through the Examination process. However, Members will be aware of the counter arguments in particular the community responses to consultation. In addition in potentially increasing supply Members will also be mindful of

the time required for achieving this more robust position in line with legislative requirements. An important issue to consider is whether changes can be made to the plan without undertaking additional consultation. This is a critical issue if the Council is to meet the May 2018 deadline for submission.

28. In response to developer proposals submitted during the Pre Publication Draft Local Plan Consultation (details of which are included in Annex A), potential options for increasing the housing supply are set out in tables 1 to 4 below along with the potential risk in terms of the need for additional consultation. The table also highlights a small reduction on the Queen Elizabeth Barracks Site. This reflects outcomes from the Habitats Regulation Assessment.

Table 1: Potential changes to housing sites allocated in the Pre Publication Draft Local Plan in response to developer proposals (With minor or no boundary changes)

Allocation Reference	Site Name	No. Included in PPLP	Potential Revised Figure
ST5	York Central	1500	1700 - 2500
ST35	Queen Elizabeth Barracks, Strensall	578	500

29. Following consultation discussions have been held with representatives from the York Central Partnership. This has indicated that York Central is capable of accommodating between 1700 – 2400 residential units and that the higher figure of 2500 units could be achieved through detailed applications by developers for individual plots and / or flexibility to increase residential at the margins of the commercial core. The figure of 1700 reflects land currently under the partnerships control; the higher figure includes land in private ownership or currently used for rail operations.
30. The higher number is proposed to be part of the partnerships planning application anticipated in summer 2018.

Table 2: Potential changes to housing sites allocated in the Pre Publication Draft Local Plan in response to developer proposals (With boundary changes)

Allocation Reference	Site Name	No. Included in PPLP	Potential Revised Figure
ST 7	Land East of Metcalfe Lane	845	975
ST 14	Land West of Wiggington Road	1348	1,672
ST 15	Land West of Elvington Lane	3,339	3,901

31. Table 1 & 2 relates to increasing the capacity and extending existing site allocations. It is a matter of judgment as to whether the changes to the existing sites are “material”. However, in the context of the large strategic allocations, it is considered arguable by your officers that the additional land is not a material change. However, this is a matter of judgment, and there is a residual risk that the Examiner will take a different view and require the Council to undertake further consultation on this issue following submission.

Table 3: Potential new housing site allocations , in response to developer proposals (previously rejected housing sites)

Site Reference	Site Name	Potential Revised Figure
H28	Land North of North Lane, Wheldrake	88 dwellings / 3.15 ha
H2b (132)	Land at Cherry Lane	18 dwellings / 0.44 ha
H37 (6)	Land at Greystone Court Haxby	34 dwellings / 3.47 ha
SF10 (874)	Land North of Riverside Gardens Elvington	102 dwellings / 4.15 ha
H2a (33)	Racecourse stables off Tadcaster Road	98 dwellings / 2.44 ha (years 16-21)
964	Galtres Farm	1575 dwellings / 75 ha (years 16-21)

32. Table 3 includes sites that have in the past been assessed against the site selection criteria and rejected, but now given further work Officers feel should be considered. These could potentially be included in the Publication Draft without the need for a further additional consultation, as they have already been the subject of public scrutiny through previously published Local Plan evidence or SA/ SEA. There is however

a higher risk than tables 1 & 2 that the Examiner may find further consultation is needed.

Table 4: Potential completely new housing site allocations in response to developer proposals

Site Reference	Site Name	No. Included in PPLP	Potential Revised Figure
956	Milestone Avenue, Rufforth	n/a	9 dwellings / 0.37 ha
959	Land at Kettlestring Lane, Clifton Moor	n/a	92 dwellings / 3.2 ha (years 16-21)

33. Table 4 includes new sites that have emerged during the Autumn 2017 Consultation. Although they do meet the requirements of the site selection methodology and therefore potentially represent reasonable alternative, they have not been included in any previous consultation. If any of these sites were to be included in the next stage of the Local Plan the lack of consultation creates a risk to process and the Examiner could require further consultation before the Examination could proceed. Carrying out further consultation now about proposing to include these new sites would mean that the May 2018 date for submission could not be met.

Employment Land Supply

34. The Employment Land Review (ELR) July 2016 published as part of the Preferred Sites Consultation used projections by Oxford Economics (OE) dated May 2015 as the forecast for employment land demand over the Local Plan period. These forecasts provided the starting point for determining the amount and type of employment land required to be identified in the Plan. The projections by Oxford Economics presented a baseline scenario for York forecasting a job growth of 10,500 jobs over the period 2014-2031. Two further scenarios were considered by OE; scenario 1 – higher migration and faster UK recovery, which identified an additional 4,900 jobs above the baseline over the same period and scenario 2 – re-profiled sector growth which identified 500 additional jobs above the baseline. Scenario 2 was endorsed as it reflected the economic policy priorities of the Council to drive up the skills of the workforce and encourage growth in businesses which use higher skilled staff.

35. To sensitivity test the original 2015 OE projections, the latest Experian economic forecasts within the Regional Econometric Model (REM) were used. The conclusion was that the original forecasts were still robust. At the Executive in July 2017 Members endorsed this position.

36. During the consultation a range of points were raised. These are provided in summary below:

- general support for the Local Plan as positively and proactively encourage sustainable economic growth, including tourism and leisure;
- the approach to focusing retail development in the City Centre and reducing / limiting future development at out of town locations was also supported;
- some representations recognised the uncertainties inherent in long term economic forecasting and therefore suggested that the using the baseline forecast to inform the employment land requirements of the Plan was over cautious;
- it was also suggested that housing and employment policies are restrictive and the employment land supply will not cater for York's future needs;
- the cost of housing impinging on companies and public services abilities to recruit staff was raised;
- a perceived conflict was highlighted relating to acknowledging the universities importance for growth but failure to allocate land for expansion; and
- a few members of the public were opposed to, or questioned, economic growth as a goal in of itself saying it is incompatible with sustainability.

37. Given comments made about economic growth Members may wish to consider increasing the employment land supply. The sites included in tables 5, 6 and 7 provided potential options. As with housing supply above it is important that this is balanced against whether changes can be made to the plan without undertaking additional consultation, a critical issue if the Council is to meet the May 2018 deadline for submission.

Table 5: Potential changes to employment sites allocated in the Pre Publication Draft Local Plan in response to developer proposals (With minor or no boundary changes)

Allocation Reference	Site Name	No. Included in PPLP	Potential Revised Figure
ST5	York Central	60,000 sqm	100,000 sqm

Table 6: Potential changes to employment sites allocated in the Pre Publication Draft Local Plan in response to developer proposals (With boundary changes)

Allocation Reference	Site Name	No. Included in PPLP	Potential Revised Figure
ST27	University of York expansion	21.5ha	26ha
ST26	Elvington Airfield Business Park	10 ha/	15 ha / 33,000sqm

38. Table 5 and 6 relates to increasing the capacity and extending existing site allocations. It is a matter of judgment as to whether the changes to the existing sites are “material”. In the context of the large strategic allocations, it is considered arguable by your officers that the additional land is not a material change. However, this is a matter of judgment, and there is a residual risk that the Examiner will take a different view and require the Council to undertake further consultation on this issue following submission.

Table 7: Potential new employment site allocations , in response to developer proposals (previously rejected employment sites)

Site Reference	Site Name	Potential Revised Figure
795	Greenacres Murton Lane	1.95ha / 6,000 sqm
864	Extention to Elvington Industrial Estate	5.4ha / 17,820 sqm
940	Remaining Land at Bull Commercial Centre	3ha/ 10,000 sqm

39. Table 7 includes sites that have in the past been assessed against the site selection criteria and rejected, but now given further work Officers

feel should be considered. These could potentially be included in the Publication Draft without the need for a further additional consultation, as they have already been the subject of public scrutiny through previously published Local Plan evidence or SA/ SEA. There is however a higher risk than tables 5 & 6 that the Examiner may find further consultation is needed.

Transport Assessment

40. To support the Local Plan Pre Publication Draft (Reg 18) Consultation, future year forecasting of the transport impacts of potential residential and employment allocations together with the inclusion of a number of infrastructure improvements that can realistically be expected to be put in place within the Plan period was undertaken. This is contained in the Transport Topic paper, 2017. This is important background to any further decision on sites.
41. The main outcome of this forecasting shows that from 2016 to 2032/33 on the network as a whole:
 - Total trips increase by approximately 20%
 - Total travel time increases by approximately 30%
 - Total delay increases by approximately 55%
42. More detailed mapping of the forecast changes in traffic volume, traffic speeds and changes in traffic speed from the baseline year (2016) to the end of the plan period (2032/33) show that the main parts of the network to be impacted on are:
 - The A64
 - A1237 Clifton Moor to A64 Hopgrove
 - A59/A1237 Roundabout /A59 / Wetherby Road
 - Malton Road
 - A19 / Fulford Road
 - Hull Road
 - Tadcaster Road
43. Although the more detailed mapping referred to in the preceding paragraph shows the changes in traffic volumes and vehicle speeds across the network they may not necessarily give the information that would be of direct relevance to road users undertaking journeys into, around, or through York. To provide a more relevant indication of how a

typical journey will be affected in the future year the changes on travel time on the fifteen routes that could be deemed to be representative of 'typical' trips on the network are shown in Table 8.

Table 8 Comparison of future year modelled travel times with baseline year travel times

Trip		2016 Base year modelled peak hour trip time (min : sec)		Future Year (2032/33) Forecast					
				Modelled peak hour trip time (min : sec)		Increase from baseline year (min : sec)		Percentage increase in time from Baseline year	
Route No.	Description	AM	PM	AM	PM	AM	PM	AM	PM
1	A1237 (Northbound)	26:38	34:46	28:03	32:34	01:25	-02:12	5.3	-6.3
	A1237 (Southbound)	26:28	25:55	28:26	28:34	01:58	02:39	7.4	10.2
2	A64 (Northbound)	14:05	14:06	16:06	16:06	02:01	02:00	14.3	14.2
	A64 (Southbound)	14:07	14:47	15:42	17:15	01:35	02:28	11.2	16.7
3	Inner Ring Road (Clockwise)	22:15	25:48	24:11	27:39	01:56	01:51	8.7	7.2
	Inner Ring Road (Anti-clockwise)	19:03	21:38	20:40	23:27	01:37	01:49	8.5	8.4
	A1036 Tadcaster Road (Inbound)	12:55	12:32	13:24	12:40	00:29	00:08	3.7	1.1
	A1036 Tadcaster Road (Outbound)	11:24	10:27	11:54	11:08	00:30	00:41	4.4	6.5
5	A19 Fulford Road (Inbound)	15:46	14:18	19:31	18:49	03:45	04:31	23.8	31.6
	A19 Fulford Road (Outbound)	13:25	23:16	14:16	24:22	00:51	01:06	6.3	4.7
6	A1079 Hull Road (Inbound)	17:46	15:17	19:40	16:59	01:54	01:42	10.7	11.1
	A1079 Hull Road (Outbound)	12:11	14:47	12:37	18:18	00:26	03:31	3.6	23.8
7	A1036 Malton Road (Inbound)	07:40	08:12	08:04	9:04	00:24	00:52	5.2	10.6
	A1036 Malton Road (Outbound)	07:21	07:29	07:30	7:49	00:09	00:20	2.0	4.5
8	B1363 Wigginton Road (Inbound)	14:08	13:35	13:56	15:05	-00:12	01:30	-1.4	11.0
	B1363 Wigginton Road (Outbound)	13:59	13:34	13:40	20:39	-00:19	07:05	-2.3	52.2
9	A19 Shipton Road (Inbound)	14:23	09:57	12:30	09:55	-01:53	-00:02	-13.1	-0.3
	A19 Shipton Road (Outbound)	10:49	09:19	09:54	09:02	00:55	-00:17	8.5	-3.0
10	A59 Boroughbridge Road (Inbound)	18:10	17:13	18:19	18:39	00:09	01:26	0.8	8.3
	A59 Boroughbridge Road (Outbound)	15:50	19:20	17:16	19:58	01:26	00:38	9.1	3.3
11	B1224 Wetherby Road (Inbound)	08:07	08:09	08:35	08:31	00:28	00:22	5.7	4.5
	B1224 Wetherby Road (Outbound)	07:53	07:53	08:03	08:12	00:10	00:19	2.1	4.0
	Haxby Road (Inbound)	15:24	11:29	14:45	12:13	-00:39	00:44	-4.2	6.4
	Haxby Road (Outbound)	11:18	11:41	11:21	14:23	00:03	02:42	0.4	23.1
13	Water End (to northeast)	05:12	03:26	05:13	03:37	00:01	00:11	0.3	5.3
	Water End (to southwest)	03:38	03:40	03:35	03:37	-00:03	-00:03	-1.4	-1.4
14	Leeman Road (Inbound)	05:11	03:38	05:11	03:37	00:00	-00:01	0.0	-0.5
	Leeman Road (Outbound)	03:25	05:41	03:25	05:40	00:00	-00:01	0.0	-0.3
15	Bishopthorpe Road (Inbound)	09:52	08:38	09:53	08:40	00:01	00:02	0.2	0.4
	Bishopthorpe Road (Outbound)	08:34	08:42	08:40	09:08	00:06	00:26	1.2	5.0

44. If the housing supply for the Publication Draft Plan is increased from that in the Pre Publication Draft Local Plan it is likely that the transport impacts will be exacerbated. For example, if the level of growth is increased by the order of 10% it can reasonably be assumed that the impacts will increase by a similar scale. More detailed modelling will have to be undertaken to support the regulation 19 consultation.

Viability

45. Ensuring sites are viable and deliverable in the context of planning policy is a requirement of national guidance. Thus, 'The City of York Local Plan and Community Infrastructure Levy Viability Assessment, 2017', was undertaken and issued for consultation alongside the Local Plan Pre-Publication Draft (Regulation 18).

46. For residential development policy testing was undertaken for each typology and strategic site. The policy testing comprised testing a series of policy layers. For each policy layer, the impact of those policy considered to have a notable impact on viability is then considered through adding policy 'layers' to judge the cumulative impact of these policies. These are:

- Policy layer 1 – This is a base layer, which includes open space and design cost allowances but no policy layer applied;
- Policy layer 2 – This layer adds a S106 contribution at £3,300 per unit to the Policy layer 1;
- Policy layer 3 – Policy layer 2 plus the policy requirement for affordable housing (Policy H10)
- Policy layer 4 – Policy layer 3 plus the requirement for meeting sustainable construction standards (Policy CC2)
- Policy layer 5 – Policy layer 4 plus an allowance for Gypsy and Traveller pitches where required (Policy H5).

47. The Viability testing for residential development shows that there is viability across all residential site typologies with the imposition of the average S106 contributions (i.e. policy layer 2). But at cumulative policy layer 3, when affordable housing is also applied, some of the smaller sites (delivering less than 10 units) are unable to meet the full policy requirements beyond the average S106 contribution per unit. All the

other tested typologies, including all sites within the urban area and all sites with 10 or more units in all locations (including the bespoke-tested Strategic Sites), are shown to be able to fully meet the Pre Publication Draft Local Plan Policy requirements (i.e. at cumulative policy layer 5).

48. Overall, for residential development the viability testing results imply that the cumulative policy requirements identified in the Pre Publication Draft Local Plan (2017) do not adversely affect the majority of development in most parts of the City of York area. The recommendations included within Annex A seek to address the outcomes of this work.
49. It should be noted however that allowing an increase in site size could in some cases allow the delivery of an increased level of planning gain relating to facilities and services for future residents.
50. For Non- residential development two policy layers were tested:
 - Policy layer 1 – This is a base layer, where no policies are applied; and
 - Policy layer 2 – This layer includes the requirement for achieving a BREEAM ‘excellent’ delivery in line with Policy CC2: Sustainable Design and Construction.
51. The viability assessment determined that all non-residential uses are unable to show viability with or without meeting proposed policy CC2 Sustainable Design and Construction with the exception of retail. However, the viability of non-residential uses is not necessary for supporting such allocations in the Local Plan, principally because non-residential development is generally more speculative than residential .

Sustainability Appraisal

52. When producing Local Plans, authorities are required to consider, at each stage of production, the impacts their proposals are likely to have on sustainable development. The emerging Local Plan is subject to ongoing Sustainability Appraisal incorporating the requirements of Strategic Environmental Assessment (SA/SEA) as required through NPPF. SA/SEA is a means of ensuring that the likely social, economic

and environmental effects of the Local Plan are identified, described and appraised to identify how they support the Council's sustainable development objectives.

53. At the Pre publication stage of the Local Plan a SA/SEA was undertaken. 'The Sustainability Appraisal Summary 2017' is a detailed technical document; and is an important background paper to this report to inform Members decisions. It has also been used to inform the recommendations in Annex A and will be updated following Members decisions on this report. It will be made available as a part of the Local Plan Publication (Reg 19) consultation.

Duty to Cooperate

54. The Localism Act 2011 introduced the Duty to co-operate (the Duty) that requires local planning authorities and other prescribed bodies to 'engage constructively, actively and on an on-going basis' to maximise the effectiveness of local plan preparation in relation to strategic matters.
55. The Act also extended the purposes of the plans Examination to include determination as to whether the Duty has been complied with. National Planning Practice Guidance makes it clear that Inspectors testing compliance with the duty at examination will assess the outcomes of co-operation rather than the process of dialogue. Failure to demonstrate compliance with the duty at the examination cannot be corrected after the local plan has been submitted for examination.
56. As it has developed the Local Plan has been subject to on-going and constructive engagement with neighbouring authorities and relevant organisations. This has included:
- the preparation and updating of a Duty to Cooperate Matrix (that has been generally circulated to the officer level groups for subsequent discussion and comment);
 - regular one-to-one officer meetings;
 - making representations, as appropriate, to other authorities Local Plan documents, and vice versa; and
 - regular technical discussions at regional sub-regional Member and officer groups.

57. Through the meetings highlighted Officers have sought to gauge the appetite of neighbouring authorities for a sub-regional approach to delivering housing within the context of the Duty to Cooperate. Whilst this wasn't supported for the current round of Local Plans there may be some support to consider this in the future.
58. Details on how the Council has fulfilled the requirements under the Duty was contained in the 'Demonstrating the Duty to co-operate (Interim Statement)' that is part of the supporting evidence base for the Pre Publication Draft Local Plan.
59. Several Prescribed Bodies including many of York's neighbouring authorities, the Local Enterprise Partnerships and Highways England returned representations during the Pre Publication Draft Local Plan consultation. These have been considered in coming to the recommendations included in Annex A. In addition they are summarised in Annex B to inform Members consideration of the recommendation associated with this report. The comments provided are broadly supportive of ongoing engagement and alignment with economic objectives, but stress the importance of an appropriate land supply for housing and the need for joint working on issues such as transport.
60. Post consultation reports on the City of York Local Plan have been considered at the following meetings:
 - Leeds City Region - Heads of Planning – 8th December 2017;
 - Leeds City Region Planning Portfolios Board 15th December 2017;
 - York, North Yorkshire East Riding and Hull - Directors of Development – 07th December 2017; and
 - North Yorkshire and York Spatial Planning and Transport Board 17th January 2018.

Options

61. Officers request that Members consider the following options to enable a composite Local Plan Publication (Regulation 19) document to be produced for statutory soundness consultation prior to submission:

Option 1: *The additions of further housing sites from tables 1 – 4;*

Option 2: *The additions of further employment sites from tables 5 – 7;
and*

Option 3: The proposed policy changes highlighted in Annex A.

Analysis of Options

62. Members are being asked to consider amendments to the plan previously consulted upon and approve a Publication Draft Local Plan which ultimately will be subject to examination by a member of the Planning Inspectorate. They must therefore, when considering the options above, be aware of the procedures which the Council is required to follow when producing a Local Plan. These are derived from the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012. 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.

63. Members must consider whether in light of the consultation responses and changes in the national policy context the proposed Publication Draft Local Plan meets the above tests and is 'sound'. This includes the approach to both housing and employment need and supply.

Next Steps

64. Following the Executive, if Members agree, Officers will produce a composite draft Plan and a city-wide proposals map. In addition this

document will be accompanied by a range of technical documents which will need to be prepared after the Executive. These will include (but not be limited to):

- SA/SEA;
- Habitat Regulation Assessment (HRA);
- City-wide transport model;
- Viability Assessment;
- Strategic Housing Land Availability Assessment (SHLAA);
- Any technical addendums necessary arising from the recommendations of this report relating to growth and sites.

65. Following the Regulation 19 consultation, Officers will report the responses received to Local Plan Working Group, Executive and Council seeking approval to submit a plan for public examination before the end of May 2018. Legislation requires that Full Council, having had regard to any consultation responses, determines whether the plan is 'Sound' to enable submission for independent examination under Regulation 20. The timetable highlighted is in conformity with the Council's published Local Development Scheme (LDS).
66. Officers will continue to seek dialogue with key partners including neighbouring authorities, the County Council and both LEPs. In addition dialogue will also be sought with both DCLG and the Planning Inspectorate.

Impacts

67. **Financial (1)** – The work on the Local Plan is funded from specific budgets set aside for that purpose. Over the last four 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 do not occur.
68. **Financial (2)** - It should also be considered that if the approach taken is subsequently judged to be non compliant with Government Guidance either before or after submission this could lead to further technical work

and additional consultation adding to the identified costs and creating delay.

69. **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.
70. **Human Resources (HR)** – The production of a Local Plan and associated evidence base requires the continued implementation of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within EAP.
71. **Better Decision Making Tool** – Attached as annex C.
72. **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.
73. 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.
74. 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).
75. In addition the Council also has a legal “Duty to Co-operate” in preparing the Plan. (S33A 2004 Act).

76. In due course Council will be asked to approve the publication draft Local Plan for submission to the Secretary of State. It will then be subject to examination by a member of the Planning Inspectorate before being finally adopted. If the draft Local Plan is not prepared in accordance with legal requirements, fully justified and supported by evidence, the draft Local Plan is likely to be found unsound at examination and would not be able to proceed to adoption.
77. **Crime and Disorder** – The Plan addresses where applicable.
78. **Information Technology (IT)** – The Plan promotes where applicable.
79. **Property** – The Plan includes land within Council ownership.
80. **Other** – None

Risks

81. The main risks in failing to progress a Local Plan for the City of York in compliance with laws, regulations and guidance are as follows:
- the plan is found ‘unsound’ at examination leading to ‘withdrawal’ or further work;
 - direct interventions by Government into the City’s Local Plan making;
 - inability to steer, promote or restrict development across its administrative area;
 - potential damage to the Council’s image and reputation if a development plan is not adopted in an appropriate timeframe; and
 - financial risk associated with the Council’s ability to utilise planning gain and deliver strategic infrastructure.

Measured in terms of impact and likelihood, the risks associated with this report have been assessed as requiring frequent monitoring.

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Executive Members Responsible for the Report:

Cllrs D Carr & A Waller

Report
Approved



Date 15/01/18

Specialist Implications Officer(s):

Finance Manager
Senior Solicitor, Planning

Wards Affected:

All

Annexes

Annexe A: Pre Publication Draft Local Plan (2017) Consultation
Response Summaries & Recommendations

Annex B: Duty to Cooperate Responses

Annex C: Better Decision Making Tool

Background Papers

Transport Topic paper, 2017.

https://www.york.gov.uk/downloads/file/14278/transport_topic_paper_2017

The City of York Local Plan and Community Infrastructure Levy Viability Assessment, 2017.

https://www.york.gov.uk/downloads/file/14273/local_plan_and_community_infrastructure_levy_viability_assessment_2017

The Sustainability Appraisal Summary, 2017.

https://www.york.gov.uk/downloads/file/14276/sustainability_appraisal_summary_2017