

Local Plan Working Group

5 December 2016

Report of the Assistant Director of Planning and Public Protection

City of York Local Plan – Update on Preferred Sites Consultation and Next Steps

Purpose of the Report

1. The purpose of this report is to provide an update on the Local Plan following the Preferred Sites consultation July – September 2016. It highlights other factors that have arisen since the consultation and sets out next steps for the consideration by Members.

Background

2. Following approval at Executive on 30 June 2016 the Preferred Sites Consultation 2016 took place for a period of eight weeks from Monday 18 July 2016 to Monday 12 September 2016. The headline issues arising from this consultation are detailed below. Responses received will be made available to coincide with the publication of this report. In addition two further factors have arisen that require consideration.
3. First, on 12 July 2016 the Department of Communities and Local Government (CLG) released the Sub National Household Projections (SNHP) which update the May 2016 release of the Sub National Population Projections (SNPP). This release indicates a higher demographic starting point for York.
4. Secondly, the Ministry of Defence (MOD) announced on 7 November that they would be disposing of a number of military sites across the country as part of their Strategy – A Better Defence Estate (MOD, 7 November 2016).

Local Plan Preferred Sites Consultation

5. The Local Plan Preferred Sites consultation was undertaken in accordance with the Council's adopted Statement of Community Involvement (2007). The consultation strategy was produced working alongside colleagues in the Council's Communications Team and Neighbourhood Management Team. The consultation included:
- a press release to advertise consultation and how to respond issued 15 July along with key media interviews including Radio York, Minster FM and York Press;
 - all documents and response forms made available online at www.york.gov.uk/localplan and on the main City of York website consultation finder;
 - hard copies of all the consultation documents, exhibition boards and response forms were placed in West Offices Reception;
 - hard copies of all the consultation documents and response forms were placed in Council libraries for the duration of the consultation;
 - city wide distribution via Our Local Link of an 'Our City Special' with area based maps and free post response form delivered to every household;
 - email or letter to all contacts registered on Local Plan database (circa 11,500) including members of the public, statutory consultees, specific bodies including parish councils and planning agents, developers and landowners;
 - staffed drop-in sessions/public exhibitions at venues across the City;
 - exhibition Boards and consultation documents including response forums available at ward committee meetings;
 - meetings with all statutory consultees¹ and neighbouring authorities;
 - presentation and question and answer session with York branch of the Yorkshire Local Council Association (attended by Parish Councils), York Property Forum/Chamber of Commerce and the Environment Forum; and
 - targeted social media campaign via Facebook and Twitter running for the duration of the consultation.

¹ Statutory consultees are Historic England (HE), Environment Agency (EA), Natural England (NE) and Highways England (HEng).

6. The Council received 2,309 responses from members of the public, interest groups and organisations and developers and landowners. In conjunction with this report all representations received will be published online via the Council's website, will be accessible online in local libraries and 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. The representations raised a range of issues some of which are complex in nature. These are provided in summary below:

- support for the reduction in the amount of Greenfield land allocated since previous Publication Draft Local Plan;
- support for both the increase in brownfield land and the phasing of brownfield land before Greenfield land;
- support for the balance between meeting future housing need and protecting the historic character and setting of York;
- concern, particularly from the public, about the impact on the character or infrastructure of a particular area or specific site;
- criticisms of the level of growth for both housing and employment with developers and landowners in particular stating that the figures should be higher linked to their view of market signals in York;
- developers and landowners expressed a view that any adopted Green Belt should last longer than twenty years;
- developers and landowners in some cases criticised phasing and delivery rates suggesting they are overly ambitious; the overall levels of development flexibility within the plan and the reliance on windfalls;
- some respondents highlighted lack of certainty and evidence to support the allocation of York Central;
- potential issues regarding the 5 year housing supply were highlighted particularly regarding the lack of smaller Greenfield sites included in the Plan;
- it was also suggested by developers and landowners that there is an over reliance on a few large sites including ST15 (Land West of Elvington Lane), ST5 (York Central) and ST14 (Land West of Wigginton Road);
- developers of Strategic Sites suggesting boundary revisions to the sites (although not seeking return to the 2014 position); and
- Significant technical evidence submitted in support of the 'removed sites' & new sites submitted.

7. Officers are undertaking work to consider and evaluate the points raised. To date all responses have been read, logged and all personal information has been redacted. All the representations received will be uploaded to the Council's website in order that they can be viewed electronically by members of the public and other interested parties. The representations will be split between representations received from members of the public (which will be redacted to remove personal information) and those received from statutory bodies and organisations, including developers and landowners, which will be made available in full.
8. Further work is currently underway to analyse and summarise all the responses received and make clear recommendations for Members. This includes large volumes of technical evidence submitted by developers/landowners relating to ecological appraisal, visual and landscape appraisal, archaeological assessment, transport assessments and flooding and drainage assessments. This information relates not only those sites included in the Preferred Sites Consultation but also to those sites not included in the Preferred Sites Consultation but that have been previously considered as part of the emerging Local Plan process to date and also entirely new sites submitted for the first time through the Preferred Sites Consultation.
9. All of this technical information needs to be analysed in full and discussed with relevant technical officers across the Council as part of the technical officer group set up to support the local plan site selection process to date. This group comprises Council officers across various specialisms including ecology, archaeology, landscape and transport. The Group has already met several times to start to assess and discuss the submissions received including suggested boundary changes to sites.
10. In addition all the revised boundary submissions and new sites submitted need to be mapped on GIS and run through the site selection methodology in order to assess whether the sites represent 'reasonable alternatives' that need to be considered in further detail including as part of the Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA). Any new sites which meet the Site Selection Criteria will then need to be assessed by the technical officer group to determine whether they should be included as potential allocations within the emerging Local Plan.

11. Following discussions as part of the technical officer group officers will then need to feed back to developers and landowners and request any additional technical evidence required.
12. The work described above will lead to recommendations by Officers on the next stage of the development of the Local Plan. However, before this stage can be reached it is important to consider the two further substantive issues raised in this report. These are highlighted below.

DCLG Sub National Household Projections

13. As part of the Preferred Sites Consultation 2016 the Strategic Housing Market Assessment (SHMA) and the SHMA Addendum produced for the Council by consultants GL Hearn were released as supporting documents. This work updated the Objective Assessment of Housing Need (OAN) previously undertaken to support the emerging Local Plan. The OAN in the SHMA of 841 dwellings per annum uses the 2014 based Sub National Population Projections (SNPP) as the demographic starting point which was released by the Office for National Statistics on 25 May 2016.
14. On the 12 July 2016 the Department of Communities and Local Government (DCLG) released the Sub National Household Projections (SNHP) which update the previous May release. In addition over ten alternative OAN reports produced by consultants on behalf of landowners/developers have been submitted as part of the Preferred Sites Consultation.
15. It is important that both the CLG update and the alternative OAN are considered in full. This requires further technical analysis and GL Hearn have been commissioned to update the SHMA and to analyse the specific relevant representations that have been received through the Preferred Sites Consultation. This work is underway and will be reported back to Members.

Ministry of Defence (MOD)

16. The Ministry of Defence (MOD) announced on 7 November that they would be disposing of a number of military sites across the country as part of their Strategy – A Better Defence Estate (MOD, 7 November 2016). Previous dialogue with the MOD in relation to their land interests in York has been inconclusive about potential asset disposal; effectively raising the potential of sites for redevelopment or the intensification for

military use. This was reflected in the Defence Infrastructure Organisations (DIO) response to the Preferred Sites Consultation.

17. The announcement made on 7 November by the MOD effectively confirms the disposal of the three York sites:
 - Imphal Barracks (estimated date of disposal 2031);
 - Queen Elizabeth Barracks (estimated date of disposal 2021); and
 - Towthorpe Lines (estimated date of disposal 2021).
18. Subsequent to the announcement Officers have met with the MOD to further understand the position. Based on this meeting and on the response received through the Preferred Sites Consultation officers believe that the MOD preference would be for re-development of the sites for residential uses with the MOD indicating that the potential residential capacity across all three sites could be around 1695 dwellings. Further dialogue with the MOD and other key stakeholders will be required along with technical work to assess the suitability and deliverability of the sites.
19. In addition to the issue of the loss of employment land there are a number of other constraints that would need careful consideration as part of the Local Plan process. Both Queen Elizabeth Barracks and Towthorpe Lines are washed over draft Green Belt and are also adjacent to Strensall Common a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). In addition Imphal Barracks includes draft Green Belt, Grade II listed buildings, is partly within a conservation area and is also adjacent to Walmgate Stray. There are also likely to be important issues of detail such as transport/access, archaeology etc. The technical work necessary will include:
 - detailed site assessments using internal expertise relating to landscape, ecology, archaeology, heritage, design, flood risk and transport;
 - SEA / SA (including Habitat Regs and Appropriate Assessment); and
 - Viability & Deliverability Work.
20. In addition if the sites represent reasonable alternatives they will need to be considered as part of the Local Plan process. Any new site that

represents a 'reasonable alternative' should be subject to public consultation if being considered for allocation in the Publication Draft Local Plan. Not doing so would constitute a significant level of risk both in terms of the Local Plan Examination and legal challenge.

Next Steps

21. Officers will undertake the necessary work to evaluate whether the MOD sites and other new sites represent reasonable alternatives. This work will be considered in conjunction with the analysis of all consultation responses and the update to the SHMA. This will allow the development of a draft portfolio of sites. If this includes new sites that haven't been previously publicised for comments additional consultation will be required before progressing to the Publication Stage. The potential changes to the LDS will be the subject of a future report to Members once the initial work has been carried out.
22. It is anticipated that the additional work described including any potential consultation will extend the Local Plan Timetable by around six months and would require a reconsideration of some of the key milestones. In addition following the development of a draft portfolio of sites and prior to the Publication Stage the work highlighted below will need to be completed and reported to Members:
 - completion of the city wide transport model;
 - viability and deliverability assessment of the Local Plan;
 - the Infrastructure Delivery Plan;
 - the Sustainability Appraisal/Strategic Environmental Assessment, Heritage Impact Assessment and Habitat Regulation Assessment; and
 - update the policies in the halted Publication Draft Local Plan to take account of national policy changes and local evidence base updates.

Consultation

23. If Members approve the recommendations at paragraph 34 to this report further consultation is likely to be necessary. Consultation will be carried out in conformity with the Councils adopted Statement of Community Involvement. Comments received as part of the consultation will then be considered by officers and reported to Members.

Options

24. Officers request that Members consider the following options:

Option 1: That the LPWG request that the Executive approve the recommendations set out below.

Option 2: That the LPWG request that the Executive instruct Officers to undertake additional work not highlighted within this report.

Analysis

25. National guidance currently indicates that for a plan to be 'sound' it must be 'justified'. This means a plan must be founded on a robust and credible evidence base. It also highlights the importance of undertaking and reflecting on public consultation and indicates that a plan must be 'effective', that is to say, 'deliverable' and 'flexible'. It is therefore important that all sites that are reasonable alternatives are fully considered and subject to consultation. That the OAN is up to date and robust and all consultation responses properly analysed.
26. Failure to undertake the steps outlined in paragraph 28 would create a significant level of risk to the 'soundness' of the plan at Examination and increase the risk of legal challenge. On this basis Option 1 is recommended.

Council Plan

27. The option outlined above accords with the following priorities from the Council Plan:
- **A prosperous city for all**
 - **A Council That Listens To Residents.**

Implications

28. The following implications have been assessed.
- **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. Further cost will have to be factored into future year's budget allocations.

- **Financial (2)** –The report includes a recommendation to Officers to produce a further detailed report highlighting implications to the Local Development Scheme following the initial assessments of the work highlighted. It also indicates that there could be a six month delay to the programme. This extension would require maintaining existing staffing levels for 17/18 and 18/19 and approximately £85k of additional funding to cover consultation and technical work. The costs in 2016/17 can be contained within the current Local Plan budget however the impact of the additional costs of finalising the plan will need to be considered as part of the 2017/18 budget process.
- **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. In addition it may lead to the reduction of funding from government such as New Homes Bonus.
- **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 CES.
- **Community Impact Assessment** - A Community Impact Assessment (CIA) has been carried out as the plan has developed; including at this stage and is attached. This will be undertaken again at the next stage of production.
- **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.

29. 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.

30. 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.
31. The Council also has a legal duty to comply with the Statement of Community Involvement in preparing the Plan (S19 (3) 2004 Act).
32. The Council also has a legal “Duty to Co-operate” in preparing the Plan. (S33A 2004 Act). In due course Council will be asked to approve the publication draft Local Plan which will 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.
- **Crime and Disorder** – The Plan addresses where applicable.
 - **Information Technology (IT)** – The Plan promotes where applicable.
 - **Property** – The Plan includes land within Council ownership.
 - **Other** – None

Risk Management

33. In compliance with the Council’s risk management strategy, the main risks in producing a Local Plan for the City of York are as follows:
- The need to steer, promote or restrict development across its administrative area;

- The potential damage to the Council's image and reputation if a development plan is not adopted in an appropriate timeframe;
- Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and Strategic Environmental Assessment processes and not exercising local control of developments, increased potential to lose appeals on sites which may not be the Council's preferred development options;
- Financial risk associated with the Council's ability to utilize planning gain and deliver strategic infrastructure;
- Failure to progress a plan could lead to direct interventions by Government into the City's Local Plan making; and
- The Government has stated its intention to remove the New Homes Bonus in the case of an authority that has not submitted its Local Plan by early 2017.

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

Recommendations

34. In accordance with Option One, that the LPWG request that the Executive:
- (i) Note progress on the production of a sound Local Plan following the Preferred Sites Consultation, and the additional issues arising post consultation that require further consideration.

Reason: To produce an NPPF compliant Local Plan.

- (ii) Instruct Officers to produce a further report on housing need following the DCLG release of the Sub National Household Projections (SNHP) and the consideration of the alternative objective assessment of housing needs submitted through the Preferred Sites Consultation.

Reason: To produce an NPPF compliant Local Plan.

- (iii) Instruct Officers to produce a report highlighting the implications of the disposal of MOD land for the supply of housing land within the Local Plan.

Reason: To produce an NPPF compliant Local Plan.

- (iv) Request from Officers a further detailed report highlighting implications to the Local Development Scheme, including any budget implications.

Reason: To produce an NPPF compliant Local Plan.

- (v) Note the impact of the additional costs that will arise and to the requirement to consider as part of the future years budget process.

Reason: To ensure the costs of developing the Local Plan are clearly budgeted.

Contact Details

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Report
Approved



Date 24.11.16

Specialist Implications Officer(s):

Patrick Looker, Finance Manager
Alison Hartley, Senior Solicitor, Planning

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

All

For further information please contact the author of the report

Background Papers: None

Glossary of Abbreviations

DCLG – Department for Communities & Local Government

LPWG – Local Plan Working Group

MOD – Ministry of Defence

NPPF – National Planning Policy Framework

NPPG – National Planning Practice Guidance

OAHN – Objective Assessment of Housing Need

ONS – Office for National Statistics

SA/SEA - Sustainability Appraisal/Strategic Environmental Assessment

SHLAA – Strategic Housing Land Availability Assessment

SHMA – Strategic Housing Market Assessment

SNHP - Sub National Household Projections

SNNP - Sub National Population Projections