

Local Plan Working Group

2nd May 2018

Report of the Assistant Director of Planning and Public Protection
(The Local Plan is the portfolio of the Leader and the Executive
Member for Economic Development and Community Engagement)

City of York Local Plan - Submission

Summary

1. The purpose of the report is to report to Members the responses received to the Publication Draft Local Plan Consultation (Regulation 19) and to ask Members to recommend that Full Council approve the Submission Draft (the Publication Draft) together with representations received thereon for submission for Examination.

Recommendations

2. The LPWG request Members of Executive to:
 - I. Consider the representations received on the Publication Draft Local Plan (Regulation 19)

Reason: to consider whether to recommend to Full Council to progress to submission of the Plan for examination.
 - II. Recommend to Full Council that the Submission Draft Local Plan (Publication Draft) as attached at Annex A to this report and the Policies Map as attached at Annex B to this report be approved for submission to the Secretary of State for examination.

Reason: So that an NPPF compliant Local Plan can be progressed in accordance with the Council's Local Development Scheme.

- III. Following decisions on the matters referred to in (i) and (ii) above authority be delegated to the Director of Economy and Place in consultation with the Leader and Executive Member for economic development and community engagement to make non-substantive editorial changes to the Submission Draft and other supporting documents proposed to be submitted alongside the plan.

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

- IV. The Director of Economy and Place be authorised to ask the examining Inspector to recommend modifications where necessary under Section 20(7C)¹ of the Planning and Compulsory Purchase Act 2004.

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

- V. The Director of Economy and Place in consultation with the Leader and the Executive Member for Economic Development and Community Engagement be authorised to agree any further or revised responses or proposed changes during the examination process, prior to consultation and a final decision on adoption.

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

¹ (7C)If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that—

(a)satisfies the requirements mentioned in subsection (5)(a), and

(b)is sound.”

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. Following approval of the Executive on 30th June 2016 a Preferred Sites Consultation (PSC) 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.
5. 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.

Initial 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.

6. On 7th December 2016 Executive considered updates on the Local Plan following the PSC, the changes in sub-national household projections (July 2016) and the MOD announcement (November 2016) in relation to land release. Executive recognised the significance of the MOD announcement and determined that the Local Plan work programme should be extended to allow further technical site work to be undertaken,
7. On 13th July 2017 the Executive considered a report on the Local Plan which provided an update to Members on the work undertaken on:
 - The MOD sites highlighted in previous reports to LPWG and Executive;

- Seek the views of Members on the updated evidence in relation to future housing and employment growth (SHMA and ELR)
 - Seek the views of Members on the most appropriate way of accommodating this future growth including the consideration of strategic and non-strategic sites
 - To ask for Members approval of non-housing and employment policies; and
 - To request the approval of members for officers to produce a draft plan based on the recommendations of the Executive for the purposes of Regulation 18 Pre-Publication Draft consultation.
8. On 13th July 2017 the Executive considered issues relating to future housing and employment provision in the emerging Local Plan and the balance with other objectives in relation to the special character and setting of York. The Executive agreed that a composite draft Plan based on the recommendations of the Executive in relation to housing and employment growth and the portfolio of sites to meet that growth should be produced and consulted upon
9. A city-wide consultation on the Local Plan Pre-Publication Draft (Regulation 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). Responses from circa 1295 individuals, organisations and interest groups were received during the consultation.
10. At Executive on the 25th January 2018 Members approved the Local Plan Publication Draft for the statutory Regulation 19 consultation prior to its submission to the Secretary of State for the purposes of examination.
11. The report to Members presented a summary of consultation responses received on the Pre-Publication Draft Plan along with officer recommendations relating to site boundaries and quantum. Members resolved to accept changes detailed in tables 1 and 5 of the report which increased the number of dwellings on the York Central site to a minimum of 1700 dwellings and the commercial floorspace to 100,000 sqm, along

with a small reduction in the Queen Elizabeth Barracks site to 500 dwellings to reflect the emerging Habitat Regulations Assessment. Overall these changes made a modest increase in housing provision in the plan.

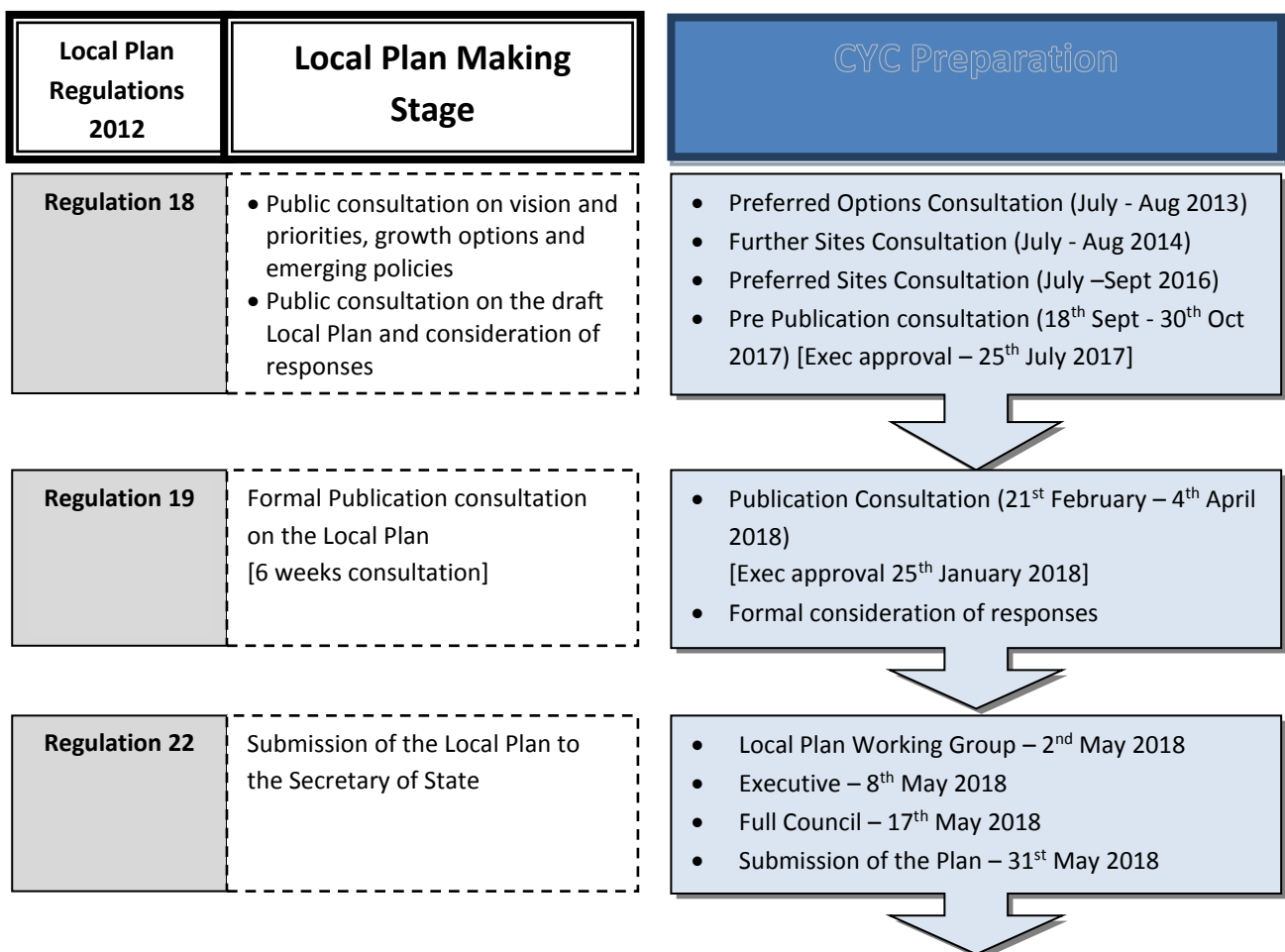
12. The Regulations required the Publication Draft to be made available for at least a six-week consultation period, and any representations made must be taken into consideration by Full Council when determining whether the Publication Draft should be submitted to the Secretary of State for examination in public under Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended).
13. The Regulation 19 consultation commenced on the 21st February 2018 and finished on the 4th April 2018. The consultation included contacting individuals and organisations on the Local Plan database, a city wide leaflet detailing how to respond to the consultation and information provided via conventional and social media. In line with the Regulations a statement of the consultation procedure was also released.
14. The Regulation 19 consultation on the Publication Draft Local Plan is different to those consultations undertaken during the earlier draft (Regulation 18) stages. The crucial aspect is that representations received at this stage are not considered by officers or the Council with a view to producing a further Publication Draft Plan, but instead the Council should decide whether the Plan is ready to proceed to examination, where those representations are considered by an independent Inspector. This means that it is not a completely open-ended consultation process but rather an objector must state why the plan is 'unsound' and what needs to be done to address the matter.
15. Objections must be based on legal compliance, duty to co-operate and/or one of the 'tests of soundness' as set down in legislation. Those 'tests', as set out in the National Planning Policy Framework (NPPF), are whether the plan is:

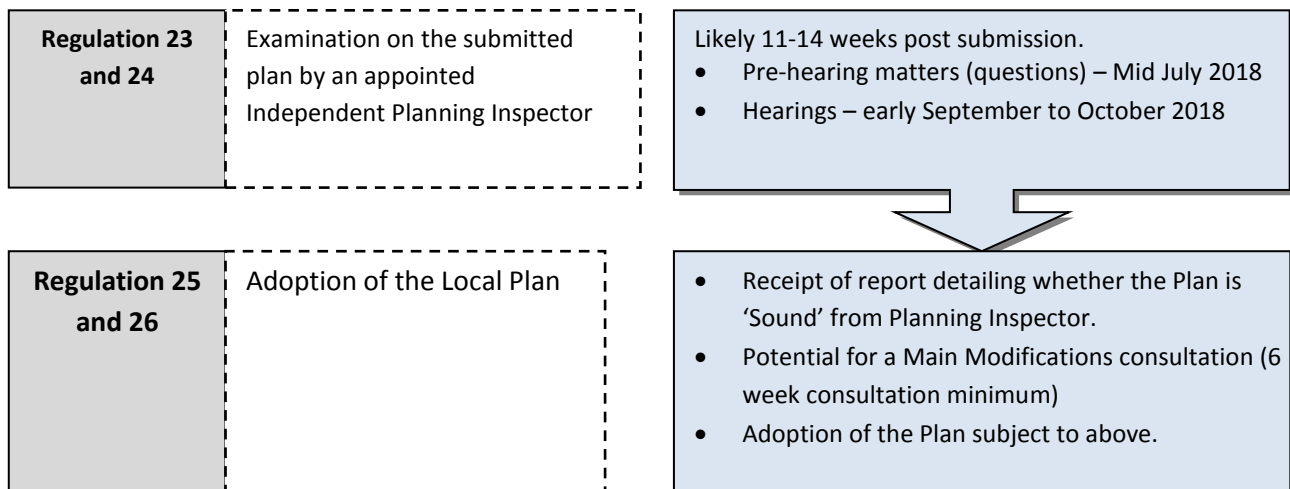
- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence base;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.

16. Legislation requires at this stage that all consultation responses received during this consultation are logged and submitted to the Secretary of State, alongside a summary of the main issues raised and the Submission Plan, Policies map and associated background supporting documentation. The Inspector will use this summary to help steer early discussions during the Examination.
17. An examination in public is the final stage in the process of producing a Local Plan prior to adoption. This report seeks authority for the Executive, having considered responses to the Publication consultation, to recommend to Full Council that the Submission draft Local Plan document be submitted to the Secretary of State and to allow for any non-substantive editorial changes to be made prior to submission. The report also seeks delegated powers for the Director of Economy and Place in consultation with the Leader and the Executive Member for Economic Development and Community Engagement the ability to agree any further or revised responses or proposed changes during the examination period.
18. Throughout the examination process there will be times when the Inspector will indicate that he/she is considering recommending a

particular modification and will normally ask officers whether it could offer a set of suggested wording to meet the concern. As such, Executive needs to recommend to Council to delegate authority to the Director of Economy and Place in consultation with the Leader and the Executive Member for Economic Development and Community Engagement to 'negotiate' such possible modifications with the Inspector during the examination process, to enable the smooth running of the examination.

19. If approved by Council on 17th May for submission to the Secretary of State the Plan and the supporting documents would be submitted to the Planning Inspectorate by 31st May 2018. Following submission, it is anticipated that an Inspector would be appointed by early June and would commence an early appraisal of the Plan. It is estimated that the examination would commence in early September. The diagram below sets out the Local Plan Regulations along with the key stages and dates.





National Policy Context

20. 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.
21. The Council responded to the Secretary of State in January 2018 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.
22. On 23rd March 2018 the Secretary of State for Communities and Local Government wrote to the Council. The letter notes the progress made since November 2017 and advises that the Council needs to continue to meet the published timetable (the Local Development Scheme) and that it will continue to monitor progress closely. The published timetable (LDS) requires submission of the Local Plan by 31st May 2018.
 - 1.
23. The Secretary of State's (SoS) Written Ministerial Statement (WMS) of 26th March 2018 reinforces the commitment to a plan led system and makes it clear that up to date plans are essential because they provide

clarity to communities and developers about where homes should be built and where not so that development is planned rather than the result of speculative applications. The statement makes it clear that the SoS will closely monitor and consider the case for intervention for those authorities who are not making sufficient progress on their plan-making and fail to publish a plan for consultation, submit a plan for examination or keep policies up to date.

24. The WMS also confirmed a step up in the intervention process for three local planning authorities (Castle Point, Thanet and Wirral) due to consistent failure and lack of progress to get a plan in place. A team of planning experts led by the Government's Chief Planner has been put in place to advise on the next steps in regards to intervention.
25. If the Council does not meet the published timetable for submission by 31st May 2018 there remains a substantial risk of direct interventions by Government into the City's Local Plan making with the consequential inability to steer, promote or restrict development across its administrative area in accordance with its Local Development Scheme.
26. The Ministry of Housing Communities and Local Government (MCLG) published the Draft revised National Planning Policy Framework (NPPF) on 5th March 2018 for consultation until 10th May 2018. The draft revised NPPF incorporates policy proposals previously consulted on in the Housing White Paper (February 2017) and the Planning for the right homes in the right places consultation (September 2017) including the housing delivery test and the introduction of a standard methodology for calculation housing need. The standard methodology is unchanged from proposals published in September 2017 and reported to Members in the January 2018 report to Executive.
27. The current expectation is for the Government to publish the final revised NPPF in Summer 2018. The transition period for plan-making would be for 6 months following publication.

Local Plan Submission Draft

28. This report and the annexes contain information that Members need to consider when determining whether the Plan should be submitted for Examination in Public. They are available from the author of the report and on-line. The report then briefly highlights relevant information for Members in the order of the annexes listed below.
- Annex A: Local Plan Publication Draft (available online);
 - Annex B: the Policies Map (available online);
 - Annex C: Draft Consultation Statement;
 - Annex D: Sustainability Appraisal / Strategic Environmental Assessment Addendum;
 - Annex E: Habitat Regulations Assessment
 - Annex F: Duty to Co-operate Statement
 - Annex G: Proposed minor modifications to the Local Plan Publication Draft
 - Annex H: Equalities Impact Assessment incorporating Better Decision Making Tool; and
 - Annex I: Local Development Scheme (2017).
29. Subsequent to consultation on the Publication Draft (Regulation 19), some supporting documents have been updated and are available on request as background papers, as identified at the end of this report.

The Proposed Submission Local Plan (Annex A) and Policies Map (Annex B)

30. The proposed Submission Local Plan (currently known as the Publication Draft Local Plan) is the culmination of a lot of hard work including the consideration of a comprehensive evidence base and many thousands of representations from the public. Those representations have been important in shaping the Plan presented. In summary the key themes of the Plan are:

Vision

31. The Local Plan's Vision and outcomes respond to the planning issues, challenges and opportunities facing York, and public consultation. The Vision and outcomes are described in terms of the following interconnected priorities:
- Create a prosperous city for all;

- Provide good quality homes and opportunities;
- Protect the environment; and
- Ensure efficient and affordable transport links.

32. The Local Plan aims to deliver sustainable patterns and forms of development to support the city's ambition to be a city whose special qualities and distinctiveness are recognised worldwide. The Local Plan aims to support this ambition by ensuring that the city's placemaking and spatial planning policies reflect its heritage and contemporary culture, contributing to the economic and social welfare of the community whilst conserving and enhancing its unique historic, cultural and natural environmental assets. The sections of the Local Plan support the delivery of these high level objectives whilst the spatial strategy responds to all of the main objectives.

Spatial Strategy

33. The Spatial Strategy is driven by the need to achieve economic and housing growth whilst identifying the key principles that will shape the future development of the city. In summary these include the following:
- Conserving and enhancing York's historic and natural environment. This includes the city's character and setting and internationally, nationally and locally significant nature conservation sites, green corridors and areas with an important recreation function.
 - Ensuring accessibility to sustainable modes of transport and a range of services.
 - Preventing unacceptable levels of congestion, pollution and/or poor air quality.
 - Ensuring flood risk is appropriately managed.
 - Where available and viable, the re-use of previously developed land will be encouraged.
34. In addition deliverability is a key consideration and an appraisal of potential development sites has been undertaken to establish realistic assumptions about the availability, suitability and economic viability of land to accommodate future development.

35. The Spatial Strategy includes policies on: the role of the Green Belt; York City Centre and bespoke policies for all of the strategic housing and employment sites in the Plan.
36. The Spatial Strategy also introduces the overall levels of employment and housing growth. It indicates that development during the plan period will be consistent with the priorities below:
- The provision of sufficient land to accommodate around 650 new jobs per annum new jobs that will support sustainable economic growth, improve prosperity and ensure that York fulfils its role as a key economic driver within both the Leeds City Region and the York, North Yorkshire and East Riding Local Enterprise Partnership area;
 - Deliver in excess of 20,000 market and affordable homes across the city to enable the building of strong, sustainable communities through addressing the housing and community needs of York's current and future population. This equates to 923 dwellings per annum based on a minimum annual provision of 867 new dwellings over the plan period to 2032/33 and the post plan period to 2037/38, inclusive of the backlog to 2012.

Provision of good quality homes and opportunities

37. Section 4 'Economy and Retail' of the plan identifies sufficient Employment Sites to meet the requirement set out in the spatial strategy.
38. Section 5 'Housing' provides sufficient housing sites to meet the requirements set out above including provision for gypsy and travellers and travelling showpeople, older persons accommodation and specialist housing along with the provision of affordable homes. It is anticipated that policies in this section will help to deliver approximately 4,000 affordable homes over the plan period.
39. Section 6 'Health and Wellbeing' sets out policies to protect existing and provide for new community facilities including the provision of built sports facilities, childcare provision and the provision of health care services. Section 7 'Education' sets out policies relating to the University of York,

York St John University, York College and Askham Bryan College and Pre-school, Primary and Secondary education.

Protect the environment

40. The Plan includes policies to protect and enhance York's heritage and culture and to ensure that new development is of the highest quality standards in urban design and public realm. The Green Infrastructure chapter recognises the need to protect and enhance York's biodiversity, open space and green corridors whilst promoting accessibility to encourage opportunities for sport and recreation and restore and recreate sites of priority species and habitats. The Plan will protect and preserve York's setting and special character by ensuring that inappropriate development is not permitted in the Green Belt.
41. The Plan seeks to safeguard the city's natural resources and ensure environmental protection. Flood risk will be reduced by ensuring that new development is not subject to flooding and where possible contributes to its reduction through sustainable urban drainage schemes. The climate change chapter will ensure that development generates renewable/low carbon energy, uses natural resources prudently and is built to high standards of sustainable design and construction. The policies are central to fulfilling the aspirations of One Planet Council in relation to environmental sustainability.
42. The importance of reducing waste levels through the reducing, reusing and recycling hierarchy, and identifying the general provision of appropriate sites for waste provision is addressed in the Local Plan. The need to safeguard natural mineral resources and maximise the production and use of secondary aggregates is also addressed.

Ensure efficient and affordable transport links

43. The Plan promotes sustainable transport as a means of achieving sustainable development and includes public transport, walking and cycling improvements. Nevertheless, it also recognises from evidence gathered there is a need for significant investment in transport infrastructure to deliver the growth ambition for the City.

Local Plan Publication Draft Consultation Statement – Annex C

44. During the Regulation 19 consultation period we have received responses from circa 850 individuals, organisation or interest groups, this equates to approximately 5,000 separate comments. Full copies of all comments made will be submitted to the Planning Inspectorate for examination and will be made available on line on submission of the Plan.
45. A draft consultation statement produced under Regulation 22 of planning legislation is provided at Annex C to this report which includes officer summaries of all comments received, set out in Plan order.
46. A short summary of the main issues, by Plan theme, raised at Regulation 19 is set out below.

General, Background, Vision and Development Principles

- A number of comments state that the plan is not considered sound or legally compliant as it does not comply with elements of the NPPF, particularly in regard to the approach to the green belt. (See ‘Spatial Strategy’ below for further detail).
- Those who consider the Plan sound offer additional points of clarification, particularly regarding aspects of policies relating to strategic sites. This includes:
 - Ryedale District Council
 - Selby District Council, noting that both authorities are committed to meeting their objectively assessed housing need;
 - Hambleton District Council;
 - York, North Yorkshire and East Riding LEP, which considers the plan to be both legally compliant and sound, noting the imperative to move to adoption quickly to allow housing and employment targets to be delivered;
 - Historic England support the approach to managing growth which limits impact on the special character and setting of

the City (note, EH raise several soundness issues re individual strategic sites);

- Huntington Parish Council
 - Earswick Parish Council
 - Strensall with Towthorpe Parish Council
 - Internal Drainage Board (noting specific issues regarding surface water drainage)
- Both Harrogate Borough Council and North Yorkshire County Council highlight the need for York's Plan to set an enduring green belt boundary and meet its full OAHN. NYCC further comments on need for the Plan's Mineral and Waste policies to reflect the North Yorkshire and York Minerals and Waste Joint Plan.

Spatial Strategy including Strategic Sites

- Many residents support the principle of a Plan establishing a permanent Green Belt boundary and the approach taken in removing identified areas of safeguarded land from the Plan. Planning agents and developers argue that the boundary is too tightly drawn and will not endure beyond the plan period, ie not provide permanence. They further comment that the Plan is overly reliant on development from a few strategic sites (notably York Central) which may not deliver as anticipated.
- Responses from planning/property agents tend to raise objection to the Plan's annual housing target of 867 units, which reflects neither the SHMA evidenced by independently appointed consultants nor the emerging DCLG methodology. Many believe the Plan to be unsound on this basis.
- The majority of the developers and landowners with interests in the strategic sites support the allocations in principle. However, several request amended boundaries and/or an increase in yield for their sites including ST4, ST7, ST8, ST14, ST15, ST16, and ST31.
- While supporting the general principle of a development strategy which limits peripheral growth to safeguard key elements of the City's special character, Historic England raise concerns regarding the impact of specific strategic sites (including York Central and University of York expansion) on the historic character and setting of

the City. Several other respondents question the soundness of including specific sites, the details of which are set out in Annex 22. This includes Osbaldwick Parish Council, Wheldrake Parish Council, Haxby Town Council, Fulford Parish Council, Elvington Parish Council, Heslington Parish Council, Upper and Nether Poppleton Parish Councils

- East Riding of Yorkshire Council question whether the scale of ST15 is sufficient to deliver necessary supporting infrastructure. On the whole, responses received from local residents in relation to strategic sites tend to raise soundness concerns relating to reasons of impact on surrounding roads, drainage, wildlife, schools and other infrastructure.
- Natural England identified concerns including the need for a final HRA, along with potential impacts on Strensall Common SAC and in relation to ST15.

Economy and Retail

- Most objections deem the amount of land allocated for employment use inadequate as it does not match the City's ambitions for economic growth, particularly in B1a terms.
- Concern that reliance on few large sites does not provide a variety of choice and or the allocated land will not provide sufficient employment for new residents over the course of the plan.

Housing including Housing Allocations

- Some alternative sites have been submitted and will be presented to the Inspector for consideration;
- Support for the overall soundness of the policy. Those opposing the general thrust of policy raise the following issues:
 - non-conformity with NPPF para 182;
 - the Plan is not able to demonstrate a 5-year supply upon adoption;
 - the methodology behind site selection is not sufficiently detailed;
 - the inclusion of off campus student housing commitments and completions is inappropriate in determining housing supply;
 - noting the above, that the inclusion of windfalls is not a plan led approach and could create uncertainty leading to under-delivery.

- Some respondents question how the proposed densities have been calculated. It is argued that high densities will result in flatted development which is not needed in York.
- Whilst some respondents support the flexibility provided in relation to housing mix, other suggest that greater flexibility is required on a site-by-site basis.
- Whilst many local communities support the approach to Gypsy and Traveller provision, some are concerned that the proposed policies fail to satisfy national policy in terms of deliverability through strategic sites and will therefore not fully meet the needs of the travelling community.
- Developers ask that clarification should be provided as to how the demand for gypsy and traveller pitches within new housing developments has been assessed. York Travellers Trust consider the Plan neither legally compliant nor sound in underestimating G+T need, and that it fails its duties under the 2010 Equality Act by not allocating sites.
- Respondents ask that the policies for student accommodation and HMOs are strengthened

Site comments:

- Generally, developers and landowners support the allocation of their sites in principle, although amended boundaries and/or yields and increased flexibility are suggested for H31, and H59.
- Some local residents wish to see lower densities on sites to reduce their impact on infrastructure and existing residents.

Health and Wellbeing

- The majority of respondents make reference to the fact that the issue of the retention and re-use of existing community assets is of the utmost importance in the delivery of the plan and that a strengthening of policy in respect of evidence underpinning their use or re-use is required.
- Several respondents feel that further clarification on the level of developer contribution required is needed.

Education

- Support for the Plan's recognition of the role of the city's Universities in delivering economic growth. Some concern that the Plan does not provide sufficient land for the University of York to grow.
- Some respondents feel that any proposals for development at the University of York should mitigate the effects of housing, traffic and parking to lessen the impact on local communities

Placemaking, Heritage, Design and Culture

- In general these policies are supported by respondents.
- Some developers feel that there is too much emphasis on developer contributions and that the responsibility for placemaking and culture lies with the Council.

Green Infrastructure

- Several developers feel that further detail and clarification on the level of developer contribution is required.
- Many responses related directly to the provision of new open space sites OS1-OS12 which are generally supported by local residents

Managing Appropriate Development in the Green Belt

- Whilst the Green Belt policies are generally supported, some respondents feel that they are overly restrictive and offer little opportunity for rural businesses.

Climate Change

- Some developers argue that energy requirements for new housing developments are solely the remit of Building Regulations and the Plan should not be imposing more onerous requirements on developments. In particular, several state that the requirements to achieve BREEAM 'excellent' rating is unduly restrictive and may render schemes unviable.

Environmental Quality and Flood Risk

- Some respondents consider that these policies are not strong enough in relation to air quality, flooding and drainage.
- Some developers state that further detail and clarification is required on the extent of developer contribution.

Waste and Minerals

- Detailed minerals and waste policies are contained in the Minerals and Waste Joint Plan. Any policies in the York Local Plan must ensure that they are consistent with strategic policies in the MWJP.

Transport and Communications

- Some respondents consider that the current upgrades to the A1237 outer ring road are inadequate and that the road needs to be dualled
- It was highlighted that the connectivity and capacity of the current cycle and pedestrian networks need to be addressed
- Comments about communications infrastructure refer to new development schemes needing to be future proofed to facilitate the provision of mobile, broadband and wireless communications infrastructure, including in the public realm and within private buildings.
- Overall, several respondents request further detail on policy implementation and required developer contributions.

Sustainability Appraisal (Annex D)

47. When producing Local Plans, authorities are required under law to consider the impacts their proposals are likely to have on sustainable development. The Local Plan has been subject to ongoing Sustainability Appraisal also incorporating the legal requirements of Strategic Environmental Assessment (SA/SEA) as required by the SEA Directive (Directive 2001/42/EC). The iterative process of SA/SEA has helped to inform the development of plan up to the Regulation 19 Publication stage.
48. 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. This is achieved using a framework of objectives against which all policies and sites are appraised for their effects over time and their significance. In addition, the SA/SEA

considers all reasonable policy and site alternatives to help understand the relative difference between options.

49. An SA/SEA of the Publication draft Local Plan was published at the Regulation 19 stage. Key results of this appraisal indicate:

- The Local Plan vision is compatible with the sustainability objectives although there is some room for uncertainty in relation to conflicts between growth, resources and environmental factors.
- The key development principles were found to have a positive effect on all SA objectives.
- The preferred housing and employment growth options have a positive effect in the short to medium term. In the longer term, housing growth is given a more negative score as the preferred housing figure meets the CLG baseline rather than the alternative SHMA OAHN.
- Strategic and general site allocations have a positive impact on social and economic objectives. This in some cases is balanced against potential negative impacts in relation to some environmental factors.
- Policies in the plan will cumulatively have a positive effect on the SA objectives. Where negative effects have been identified, suitable mitigation have been proposed cross referencing to other policies in the plan.

50. An SA Addendum prepared for Submission considers the outcome of the Habitat Regulation Assessment Report (2018). Updates to the baseline information, site and policy appraisals are referenced to address air quality and recreational pressure issues and effects on migrant species raised and mitigated. Appraisal of the policy modifications show that the impacts are likely to not significantly affect the appraisal outcomes set out in the SA Report published alongside the Regulation 19 Consultation. The updated SA does not have any material affect on the Publication Draft of the Plan and has no significant effect the previous assessment undertaken.

Habitat Regulation Assessment (HRA) – Annex E

51. Habitat Regulation Assessments (HRA) is a requirement of the Conservation and Habitats and Species Regulations (2010, amended 2011) (“HRA Regs”). This requires that an assessment of the impacts of the Local Plan on sites designated under the EU Directive (92/431/EEC Habitats Directive) must be undertaken. For York, this requires assessment of ‘likely significant effects’ on Strensall Common Special Area of Conservation (SAC) and the Lower Derwent Valley Special Protection Area (SPA/ RAMSAR) as well as 4 sites within 15km of the authority boundary.
52. The HRA has been an iterative process throughout Plan production with the release of an HRA Screening Assessment (2017) for the Regulation 18 consultation concluding further work was required in relation to Strensall Common SAC and the Lower Derwent Valley (SPA). Through the consultation Natural England required further work to consider the impact of air quality on designated sites, which has been carried out.
53. Annex E to this report presents the final Habitat Regulation Assessment (2018) of the Publication draft Local Plan. This report considers the further air quality work and the policies included in the Plan and has sought to add. It concludes that the vast majority of policies can be screened out from further consideration but as regards those which are screened in, no adverse effects on the integrity of any European site would arise on the precautionary approach. Discussions will continue to take place with Natural England, however the updated HRA does not reach any conclusions which undermine the allocations as proposed in the Publication Draft Plan.

Duty to Co-operate – Annex F

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.

The duty is now incorporated into the Planning and Compulsory Purchase Act 2004.

55. The examination of a local plan includes consideration of whether the Duty has been complied with. National Planning Practice Guidance makes it clear that the Duty is not a duty to agree. But local planning authorities should make every effort to secure cooperation on strategic matters before Local Plans are submitted for examination. At examination Inspectors will assess the outcomes of cooperation and not just whether authorities have approached others. 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 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 was not supported for the current round of Local Plans there may be some support to consider this in the future.
58. The Duty requires active and constructive ongoing engagement which is expected to continue up to the point of submission. Details on how the Council has fulfilled the requirements under the Duty were included in the 'Demonstrating the Duty to co-operate (Interim Statement),

September 2017' published to support the Regulation 18 Pre-Publication Draft Consultation.

59. Both the Leeds City Region Planning Portfolios Board and the North Yorkshire and York Spatial Planning and Transport Board (SP&T Board) endorsed the approach taken by City of York Council in meeting the requirements of the Duty to co-operate in the plan making process.
60. The City of York Duty to co-operate Statement (Annex F) has been updated since previous consultation to reflect the process of continuous engagement. This statement contains the two regional bodies endorsement of the approach taken by City of York Council.

Proposed Minor Modifications to the Publication Draft Local Plan – Annex G

61. A list of proposed minor modifications is contained in Annex G. These are recommendations of a minor nature that, whilst not going to soundness, will improve the clarity and usability of the Plan. These modifications on the whole reflect the outcomes of the Habitat Regulations Assessment and add additional clarity to the mitigation measures already included in the Publication Draft Plan. These recommendations, if approved by Executive, will also be put before the Inspector for information as part of the submission documents.

Equalities Impact Assessment (incorporating Better Decision Making Tool) – Annex H

62. Officers have produced an equalities assessment to accompany each stage of the Local Plan called the 'Better Decision Making Tool' (BDMT). The BDMT helps the Council to consider the impact of proposals on social, economic and environmental sustainability, and equalities and human rights. The tool draws upon the priorities set out in the Council Plan and will help to provide inclusive and discrimination-free services. The purpose of this tool is to ensure that the impacts of every proposal are carefully considered and balanced and that decisions are based on evidence. Annex H to this report details the Equalities Impact Assessment incorporating BDMT for the Publication Draft Plan and the

annexes to the EIA include the BDMT completed for Regulation 18 (As reported to the Executive on January 13th July 2017), Regulation 19 consultation (Reported to Executive on 25th January) and for this report on the Local Plan submission.

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Submission for examination

64. Members must only submit a plan for examination which they think is ready for examination and if they have complied with any relevant requirements contained in the Regulations. The NPPF advises that authorities should submit a plan for examination which it considers is 'sound' (see above).
65. Regulation 18 and 19 consultations as required and the form and content of the Plan are consistent with Regulations 8 and 9. The procedural requirements for submission will be followed if the Executive and Council decide to proceed to submission. Members must consider whether in light of the consultation responses received through the Publication Consultation (Reg 19) and the main issues raised, as summarised in this report that 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 and the issues outlined in the July 2017 and January 2018 reports to Executive.

66. Development Plan documents must also be prepared in accordance with the Local Development Scheme; and in their preparation the authority must comply with the Statement of Community Involvement and comply with the Duty to Co-operate. The Duty to Co-operate Statement explains the discharge of this duty; and the Council has published and made available successive drafts of the Local Plan and background documents in association with those drafts. The Submission draft and supporting documents will be published and made available and will be considered through the examination process.
67. There are other requirements relating to the content of the Plan including the need to include policies which are designed to secure that development contributes to the adaption and mitigation of climate change. The Council must prepare the Plan having regard to national policies and guidance, and with the objective of contributing to the achievement of sustainable development. The draft plan has been prepared on this basis.
68. The Council has a duty to prepare and submit a plan and development plan documents must be prepared in accordance with the local development scheme. Members need to decide whether, having considered the representations made at Regulation 19 stage outlined in paragraph 32 of this report, that the Plan as it stands is ready for examination; and the NPPF advises that a local planning authority should submit a plan for examination which it considers is “sound”.
69. Having regard to the above background and representations received, it is considered that Members are able to conclude that the plan is ready for examination and is sound. This is reflected in Recommendation (ii).
70. It is not unusual, however, for modifications to the plan to be recommended by an Inspector, or the plan-making authority, in response to questions, discussions or potentially new issues and evidence which arise during and as part of the examination process. This risk is anticipated by the legislation which, as set out above, enables changes

to be recommended by the Inspector in order to make the Plan sound before the Council finally decides whether to adopt the plan. This is reflected in Recommendations (iv) and (v), which seek the appropriate authority to deal with proposed changes which may arise during the examination process.

71. If it is considered that having taken into consideration the representations made the appropriate option is to approve the Submission version of the Local Plan (Annex A), the Policies Map (Annex B) and the Schedule of minor modifications (Annex D) and allow it to be submitted for Examination as per Option 1 this would allow the Council to meet the required published timetable for submission by 31st May 2018.

Next Steps

72. If Members approve the attached Local Plan Submission Draft (Annex A) and Policies Map (Annex B) the document and supporting evidence will be prepared for submission for the public examination before the end of May 2018. The timetable highlighted is in conformity with the Council's published Local Development Scheme (LDS).
73. It is a requirement of the examination process to have a Programme Officer in place. Whilst appointed and paid for by the Council, the officers reports to and acts on behalf of the Inspector. The role is a mix of part and full time depending on the tasks set by the Inspector. All communication with the Inspector, whether by ourselves or any objector, must go through the Programme Officer. No direct communication with the Inspector is permitted, except of course during the formal 'hearing' sessions of the examination, which are chaired by the Inspector.
74. Officers have appointed a Programme Officer to support the examination process. The Programme Officer is working, initially on a part-time basis, to help process responses to the Publication draft consultation and to organise the examination library ready for examination.

Impacts

75. **Financial** – 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.
76. **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.
77. **Equalities** – An Equalities Impact Assessment, including the Better decision-making tool, is attached as annex H.
78. **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. The Council also has other legal duties as set out above, including compliance with the Duty to Co-operate.
79. 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. 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, subject to the potential for modifications to be made to ensure soundness under section 20 of the 2004 Act.
80. As described above, the HRA and SA have been updated since the Regulation 19 consultation, along with other documents. None of the updates materially affect the contents of the Publication Draft Plan or

significantly affect the previous assessments. These documents will be published in association with the submission version of the plan and the anticipated timeline for the examination may need to take into account any responses to these documents or other new matters arising through the examination process.

81. **Crime and Disorder** – The Plan addresses where applicable.
82. **Information Technology (IT)** – The Plan promotes where applicable.
83. **Property** – The Plan includes land within Council ownership.
84. **Other** – None

Risks

85. The main risks in failing to progress a Local Plan for the City of York in compliance with legislation, policy and guidance are as follows:
 - the plan in its current form is found 'unsound' at examination or other issues are raised which require further work and/or delay to the examination;
 - any further delay in the submission of the Plan would exacerbate ongoing concerns regarding the ability of the Council to steer, promote or restrict development across its administrative area in a plan-led planning system according to its Local Development Scheme, leading to planning by appeal.
86. If the approach taken is subsequently judged to be non-compliant with legislation or guidance either before or after submission this could lead to further technical work and additional consultation adding to the identified costs.
87. Managing the planning process in the absence of a Plan will lead to significant costs to the council in managing appeals.

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

Contact Details

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Chief Officer Responsible for the report:

Neil Ferris
Director of Economy and Place

Executive Members Responsible for the Report:

Cllrs I Gillies and K Aspden

Report
Approved



Date 26/04/2018

Specialist Implications Officer(s):

Finance Manager
Senior Solicitor, Planning

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

 All

Annexes

- Annex A: Local Plan Publication Draft (available online) ;
- Annex B: the Policies Map (available online);
- Annex C: Draft Consultation Statement;
- Annex D: Sustainability Appraisal / Strategic Environmental Assessment Addendum;
- Annex E: Habitat Regulations Assessment
- Annex F: Duty to Co-operate Statement
- Annex G: Proposed minor modifications to the Local Plan Publication Draft;
- Annex H: Better Decision-Making Tool; and
- Annex I: Local Development Scheme (available online).

Background Papers

Strategic Housing Land Availability Assessment

Transport Topic Paper

Local Plan Viability Assessment