

**Local Plan Working Group**

**23 January 2017**

**Portfolio of the Leader and Deputy Leader**

**Report of the Assistant Director of Planning & Public Protection**

**City of York Local Plan – Update Report**

**Purpose of the Report**

1. This report provides an update on the emerging Local Plan and in particular on the initial consideration of the newly submitted Ministry of Defence (MOD) sites against the Local Plan Site Selection methodology following the report to Executive on 7 December 2016. It highlights initial appraisal work completed to date to consider whether the sites represent ‘reasonable alternatives’ for potential inclusion in the Local Plan and further technical work that will need to be completed in order to assess whether the sites can be included within the final Plan. The minutes of this meeting will be circulated to Executive on 26 January 2017.

**Background**

2. At the Executive on 7 December an update was provided on the Local Plan following the Preferred Sites consultation July – September 2016. It highlighted other factors that have arisen since the consultation and set out next steps for the consideration by Members. A significant aspect of this was the announcement by the MOD on the 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. The announcement made on 7 November effectively confirmed 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).
3. The report indicated that technical work needed to be carried out to assess if the sites represented 'reasonable alternatives' and if they did they would need to be considered as part of the Local Plan process. Any site identified as a 'reasonable alternative' in the context of the SEA Regulations would need to be subject to public consultation. Not doing so would constitute a significant level of risk both in terms of the Local Plan Examination and potential legal challenge.

### **MOD Sites – Initial Technical Assessment**

4. Following the Executive in December officers have been progressing work as quickly as possible. This has included meeting with the MOD to discuss the sites and ascertain any technical work completed to date for the sites. A further programme of meetings has been scheduled with the MOD to ensure that work progresses as quickly as possible and that existing work and evidence for the sites can be utilised to assess any issues raised through the technical officer assessment. Based on the information provided to date officers have considered the sites against the Local Plan Site Selection Methodology which is based on the emerging Plan's spatial strategy. The full methodology is set out in the Preferred Sites Document (2016). The sites have been tested against this methodology which is based on a four stage criteria approach as follows:
- Criteria 1: Protecting environmental assets (including Historic Character and Setting, Nature Conservation assets and functional floodplain);
  - Criteria 2: Protecting existing openspace;
  - Criteria 3: Avoiding areas of high flood risk (Greenfield sites in flood zone 3a);
  - Criteria 4a: Sustainable access to facilities and services; and
  - Criteria 4b: Sustainable access to transport.
5. The outcomes of this assessment for criteria 1 to 3 are summarised below for each site.

### **Imphal Barracks, Fulford (Gross Site Size 29.6ha):**

- the site boundary includes part of a Green Wedge important in terms of the historic character and setting of York which may potentially reduce the site size;
- the site is adjacent to Walmgate Stray with its eastern boundary open to the Stray; and
- it includes areas of existing open space including sports pitches and public open space at Broadway which may potentially reduce the site size.

### **Queen Elizabeth Barracks, Strensall (Gross site size 31ha):**

- the site is adjacent to area preventing coalescence between Strensall and Haxby, a key part of the character and setting of York;
- the site includes part of and is adjacent to Strensall Common Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC); and
- it includes areas of designated openspace which may potentially reduce the site size.

### **Towthorpe Lines, Strensall (Gross site size 4.6ha)**

- the site includes part of, and is adjacent to, Strensall Common SSSI and SAC which may potentially reduce the site size.

6. The sites have been assessed against criteria 4a and 4b (access to services and transport). In summary this shows that the Imphal Barracks and Queen Elizabeth Barracks sites both pass for residential use. The Towthorpe Lines site currently fails criteria 4 not meeting the minimum scoring threshold for residential sites. However, further technical work will be required to look at the overall site boundary for the Strensall sites including the relationship between the two and the potential for additional community facilities to be provided.
7. As highlighted in paragraph 6 of this report both the Imphal Barracks site and the Queen Elizabeth Barracks sites pass criteria 1 to 4 of the site selection methodology and are therefore considered to represent 'reasonable alternatives' for the purposes of the emerging Local Plan. In terms of the test of soundness set out in the National Planning Policy

Framework (NPPF) it is critical that the Council can demonstrate that the plan is 'justified' by demonstrating with clear evidence that the plan is the most appropriate given all the reasonable alternatives, demonstrate that the reasonable alternatives have been considered and that there is a clear audit trail showing how and why the Council has arrived at the preferred approach. Any new site that is considered a 'reasonable alternative' should be subject to public consultation prior to inclusion in the final plan. To not do so would constitute a significant risk both in terms of the Examination and potential legal challenge.

8. The Towthorpe Lines site does not currently pass criteria 1 to 4 based on its current boundary as it does not meet the minimum requirement for access to services and transport based on the information submitted to date. It is therefore not considered to represent a 'reasonable alternative' at this stage. However, further technical work will need to be undertaken to assess the site and its boundary in the context of the larger Queen Elizabeth Barracks site and any proposals.
9. Following the assessment against Site Selection Criteria 1 to 4 a technical officer Group meeting has been held to assess the evidence provided by the MOD to date and to consider any further work required. This group includes specialist officers covering areas such as ecology, archaeology, transport and landscape.
10. The technical officer group highlighted a number of potential issues and the need for some further evidence to be submitted to be able to conclude whether there are any 'showstoppers' that would prevent the sites being considered as potential allocations in the emerging Local Plan. It would also allow the establishment of key development principles to be established in site specific policies in the plan which would need to be taken into account as part of any development. This process of assessment follows the same path as for all the other potential sites included in the emerging Plan to date and is designed to ensure that we can demonstrate to an Inspector at Examination that sites are viable and deliverable in the context of the NPPF. These issues are summarised below.

## **Imphal Barracks, Fulford Road**

11. The appraisal work submitted to date by the MOD identifies that heritage values will play a leading role in determining future development of this site. The site was established as a cavalry barracks in 1725 and represents a significant association of military activity in the city of York. The site contains designated heritage assets, but these are largely confined to the Fulford Road boundary of the site.
12. In order to fully assess the significance of the cultural heritage it will be necessary to undertake some further work including desk based archaeological assessment and geophysical surveys, a heritage assessment of both the buildings on site and of the conservation area and its boundary. It will also be important to consider the site in its national context as a military site. Discussions with Historic England have been programmed to consider this further.
13. In terms of ecology and landscape considerations the site opens onto Walmgate Stray on its eastern boundary and there is a significant hedgerow which should be retained and buffered. The sensitivities of Walmgate Stray also need to be assessed including impacts on its hydrology and the impacts of increased recreational pressure. It may also be necessary to consider the potential cumulative impacts of increased recreational pressure arising from this site along with other draft Local Plan allocations should they progress on the Heslington Tillmire Site of Special Scientific Interest. There are mature trees within the site, particularly within the Conservation Area, which will need to be retained with appropriate buffering. In order to fully assess the potential ecological impacts it will be necessary to undertake an Extended Phase 1 Habitat Survey.
14. Further discussions are required regarding the existing open spaces within the site and their retention and enhancement. The site includes a number of sports fields, a gymnasium and public open space including along Broadway and appropriate discussions will be needed with Sports England. It will be important to retain open space within the site both in terms of its heritage value to the setting of the site and also to reduce recreational pressure on Walmgate Stray.

15. A transport scoping assessment should be undertaken in consultation with the Council to fully assess the potential transport impacts of this site. Fulford Road is one of the city's most congested routes at peak hour and innovative solutions will be required to ensure existing congestion is not exacerbated. Part of Fulford Road is also an Air Quality Management Area so further detailed assessments will be required with appropriate mitigation measures.

### **Queen Elizabeth Barracks, Strensall**

16. Further assessment of the archaeological and heritage potential of this site is required. In order to fully assess the significances of the cultural heritage it will be necessary to undertake some further work including desk based archaeological assessment and geophysical surveys, a heritage assessment of both the buildings on site and of the conservation area and its boundary. It will also be important to consider the sites in their national context as military sites. Discussions with Historic England have been programmed to ensure the work can progress as quickly as possible.
17. It is currently unclear how the wider Strensall Camp including the area of Strensall Common that is used as a military training area will be used in the future and how this may impact on the re-development of the Queen Elizabeth Barracks site. The area of Strensall Common that forms part of the MoD Estate could potentially in the future be taken out of military use and transferred to an appropriate natural environment organisation that can manage the ecological and heritage values of the site and increase public understanding and where appropriate, access to the site. This will however need to be discussed in more detail with the MOD.
18. The site lies within the Impact Risk Zone<sup>1</sup> of Strensall Common Special Area of Conservation (SAC) and SSSI and this extends partially into site boundary. The Site is designated for the heathland habitats it supports.

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<sup>1</sup> The Impact Risk Zones (IRZs) are a GIS tool developed by Natural England to make a rapid initial assessment of the potential risks posed by development proposals to: Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites. They define zones around each site which reflect the particular sensitivities of the features for which it is notified and indicate the types of development proposal which could potentially have adverse impacts.

Any development of the site therefore needs screening as required by the Habitat Regulations<sup>2</sup> for potential to adversely affect the site both on its own and 'in combination' with other potential sites. The sensitivities of Strensall Common include (but are not limited to) hydrology, air pollution and increased recreational pressure. A meeting has been arranged with Natural England to help progress the assessment.

19. The site itself also includes woodland, trees, scrubland and semi natural grassland, standing water and ditches. In order to fully assess the potential ecological impacts it will be necessary to undertake an Extended Phase 1 Habitat Survey which will inform the need for targeted surveys which are likely to be required for bats and great crested newts.
20. A transport scoping assessment will need to be undertaken in consultation with the Council. This should assess any cumulative impacts of this site in combination with other potential development sites, including impacts on the A1237.

### **Towthorpe Lines**

21. As highlighted in paragraph 7 of this report the site does not currently pass criteria 4 of the site selection methodology and further assessment is required of the site boundary in the context of the larger Strensall site and the potential for additional community facilities. The site is located adjacent to the Strensall Common SSSI/SAC and therefore the ecological issues that will need to be addressed are as per the Queen Elizabeth site, as detailed above.
22. A further meeting took place on 4 January with the MOD Defence Infrastructure Organisation (DIO) in which officers outlined the results of the initial site selection work, to scope out the technical information that already exists for the sites. We have confirmed a further meeting for the 31 January.

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<sup>2</sup> Regulation 61 of the *Conservation of Habitats and Species Regulations 2010* (as amended) (the 'Habitats Regulations').

## **Next Steps**

23. As highlighted in this report further public consultation will be necessary. This will allow the opportunity for consultation with the appropriate groups including the Parish Councils, statutory consultees and members of the public and will be carried out in conformity with the Council's Statement of Community Involvement (SCI).
24. Officers will undertake further work relating to the MOD sites. This work will be considered in conjunction with the analysis of all consultation responses and the update to the Strategic Housing Market Assessment (SHMA). Ultimately this will lead to the development of a draft portfolio of sites. As part of this work it is important that all sites have been subject to appropriate consultation i.e. for new sites that haven't been previously publicised for comments an additional sites consultation will be required before progressing to the Publication Stage. The form of any consultation will need to be the subject of future legal advice.
25. It is anticipated that the work outlined to evaluate new sites and to undertake an additional sites consultation prior to reaching publication stage will add around 6 months to the Local Plan timetable and require an adjustment of its key milestones. A further report will be brought back to members highlighting the implications to the Local Development Scheme (LDS), including any budget implications.

## **Options**

26. 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**

27. 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 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.

28. Failure to undertake the steps outlined in paragraph 27 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**

29. 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**

30. 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. This extension of time would require maintaining existing staffing levels for 17/18 and 18/19 and additional funding to cover consultation and technical work. The costs in 2016/2017 can be contained within the current Local Plan budget however the impact of additional costs of finalising the plan will need to be considered as part of future budget processes.
  - **Financial (2)** - Managing the planning process in the absence of a Plan will lead to significant costs to the council in managing appeals and examinations.
  - **Human Resources (HR)** – 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.

31. 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.

32. 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.

33. The Council also has a legal duty to comply with the Statement of Community Involvement in preparing the Plan. (S19 (3) 2004 Act).

34. 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**

35. 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

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

## **Recommendations**

36. In accordance with Option One, that the LPWG request that the Executive:
- (i) Note progress on the consideration of the identified MOD sites for housing land within the context of the Local Plan
  - (ii) Instruct Officers to produce a report highlighting detailed implications to the Local Development Scheme, including any budget implications.
  - (iii) Note the impact of the additional costs that will arise and the requirement to consider as part of the future years budget process.

Reason: To produce an NPPF compliant Local Plan.

## Contact Details

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### Executive Member Responsible for the Report:

Cllrs D Carr & K Aspden

Report  
Approved



Date 13/01/2017

### Specialist Implications Officer(s):

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**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

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;  
SHLAA – Strategic Housing Land Availability Assessment;  
SHMA – Strategic Housing Market Assessment;  
SNHP - Sub National Household Projections;  
SCI – Statement of Community Involvement;  
SSSI – Site of Special Scientific Interest; and  
SAC – Special Area of Conservation.

Annex A – Community Impact Assessment