

**Earswick Parish Neighbourhood
Development Plan
2017-2037**

**A report to the City of York Council on the Earswick
Parish Neighbourhood Plan**

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Executive Summary

- 1 I was appointed by the City of York Council in October 2018 to carry out the independent examination of the Earswick Neighbourhood Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 29 November 2018.
- 3 The Plan proposes a series of policies and seeks to bring forward positive and sustainable development in the plan area. Its focus is on retaining the status and role of the York green belt. It also includes positive policies for the natural and built environment. It proposes the designation of a series of local green spaces.
- 4 The Plan has been significantly underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood plan area.

Andrew Ashcroft
Independent Examiner
7 January 2019

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Earswick Neighbourhood Plan 2017-2037 ('the Plan').
- 1.2 The Plan has been submitted to the City of York Council (CYC) by Earswick Parish Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework in 2012 and which continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted plan has been designed to be distinctive in general terms, and to be complementary to the development plan in particular. It seeks to be complementary to the emerging City of York Local Plan (2017-2033).
- 1.6 Within the context set out above this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the plan area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by CYC, with the consent of the Parish Council, to conduct the examination of the Plan and to prepare this report. I am independent of both CYC and the Parish Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral System.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

The Basic Conditions

- 2.5 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
 - contribute to the achievement of sustainable development; and
 - be in general conformity with the strategic policies of the development plan in the area; and
 - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations; and
 - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7).

I have examined the submitted Plan against each of these basic conditions, and my conclusions are set out in Sections 6 and 7 of this report. I make specific comments on the fourth and fifth bullet point above in paragraphs 2.6 to 2.11 of this report.

- 2.6 Since February 2015 the Neighbourhood Plan regulations require one of two reports to be an integral part of a neighbourhood plan proposal. Either an environmental

report should be submitted or a determination from the responsible body (in this case CYC) that the Plan is not likely to have significant environmental effects.

- 2.7 In order to comply with the Basic Condition relating to European obligations the Parish Council and CYC have carried out screening exercises on the need or otherwise for strategic environmental assessment. The screening report is detailed and well-constructed. It concludes that the plan is unlikely to have significant environmental effects and that SEA is not required. It helpfully reproduces the responses received from the consultation bodies. I am satisfied that the correct processes have been followed in this regard.
- 2.8 At the same time a Habitat Regulations Screening Report (February 2018) was produced. It assesses whether there are likely to be any significant effects on the qualifying features of European sites as a result of the policies in the submitted Plan that would necessitate the production of a full Habitat Regulations Assessment. In doing so the screening report considered the effects of the submitted Plan on the following European sites: the Earswick Meadows SINC and the River Foss Corridor Site of Local Interest in the neighbourhood area and Strensall Common SAC outside the neighbourhood area. Other non-designated, local interest sites were also taken into account. All the proposed policies and site allocations in the submitted Plan were appraised against the features and vulnerabilities of the identified sites. Cumulative effects are also considered to understand whether the Plan would be likely to have significant effects in combination with other plans or programmes. The report concludes that none of the policies in the Plan are likely to have any significant effects on the identified European sites. In addition, no cumulative effects are identified. The Screening Report is very thorough and provides the appropriate assurances that this important matter has been properly addressed.
- 2.9 The Habitats Regulations Assessment Screening Report was produced in good faith at that time. Since that time a case in the European Court (People Over Wind and Peter Sweetman, April 2018) has changed the basis on which competent authorities are required to undertake habitats regulations assessments. CYC has given this matter due consideration and has produced an updated report. It comments about the significance of the identified sites and ongoing assessment work on the emerging Local Plan. In this context CYC concluded that the recent Sweetman judgement does not affect the integrity of its early screening work on this important matter. I am satisfied that full and proper attention has been given to this issue.
- 2.10 Having reviewed the information provided to me as part of the examination I am satisfied that a thorough, comprehensive and proportionate process has been undertaken in accordance with the various regulations. The various reports set out a robust and compelling assessment of the relevant information. They have been prepared and presented in a very professional fashion. The Habitat Regulations Screening Report and its recent update are particularly impressive. None of the statutory consultees have raised any concerns with regard to either the neighbourhood plan or to European obligations. In the absence of any evidence to the contrary I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.

2.11 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Other examination matters

2.12 In examining the Plan I am also required to check whether:

- the policies relate to the development and use of land for a designated neighbourhood plan area; and
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
- the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.13 Having addressed the matters identified in paragraph 2.12 of this report I am satisfied that all of the points have been met subject to the contents of this report.

3 Procedural Matters

- 3.1 In undertaking this examination I have considered the following documents:
- the submitted Plan.
 - the Basic Conditions Statement.
 - the Consultation Statement.
 - the Strategic Environmental Assessment.
 - the Habitats Regulations Screening Report.
 - the CYC addendum to the HRA Screening Report (August 2018)
 - the representations made to the Plan.
 - the responses of the Parish Council to the Clarification Note.
 - the saved elements of the Regional Strategy for Yorkshire and Humber.
 - the City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005).
 - the submitted City of York Local Plan 2017-2033.
 - the National Planning Policy Framework (March 2012).
 - Planning Practice Guidance (March 2014 and subsequent updates).
 - Relevant Ministerial Statements.
- 3.2 I carried out an unaccompanied visit to the Plan area on 29 November 2018. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My site inspection is covered in more detail in paragraphs 5.9 to 5.16 of this report.
- 3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised CYC of this decision early in the examination process.
- 3.4 On 24 July 2018 a revised version of the NPPF was published. Paragraph 214 of the 2018 NPPF identifies transitional arrangement to address these circumstances. It comments that plans submitted before 24 January 2019 will be examined on the basis of the 2012 version of the NPPF. I have proceeded with the examination on this basis. All references to paragraph numbers within the NPPF in this report are to those in the 2012 version.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. This statement is both detailed and proportionate to the Plan area and its range of policies. It also provides specific details on the consultation process that took place on the two pre-submission version of the Plan. The Statement helpfully sets out how the emerging plan took account of the various comments and representations. Within the context of the extensive details contained within the Statement its paragraph 3.4 underpins the ethos of the consultation process (and the resulting Consultation Statement). It describes the early and full engagement process, holding events at critical times, providing timely feedback and approaching consultation in an open, honest and transparent way. In working to these ideals, the Parish Council has delivered best practice in this important aspect of the plan-making process.
- 4.3 Section 5 of the Statement sets out details of the wider consultation events that has been carried out as part the evolution of the Plan. Details are provided about:
- The use of letter drops and leaflets to all households;
 - The use of a website and a dedicated e-mail address;
 - The use of public meetings;
 - The use of notices and posters;
 - The use of two community questionnaires;
 - The organisation of five community drop in events throughout the plan making process; and
 - Ongoing engagement with CYC in general, and on the emerging Local Plan in particular.
- 4.4 The Consultation Statement provides very useful information on the consultation exercise on two pre-submission version of the Plan organised in November 2016/January 2017 and December 2017/February 2018. Sections 8 and 9 helpfully summarise all the comments received and the extent to which they were addressed in the submission Plan.
- 4.5 It is clear that consultation has been an important element of the Plan's production. Whilst the process has been lengthy by involving two pre-submission versions of the Plan this has taken account of the emerging Local Plan. It has also contributed to the overall robustness of the submitted plan. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. Consultation and feedback have been at the heart of the Plan throughout the various stages of its production.

- 4.6 Consultation and engagement has been maintained into the submission phase of the Plan. This is reflected in the limited number of representations received to the submitted plan (see 4.8 below).
- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive and comprehensive approach to seeking the opinions of all concerned throughout the process. There is a very clear and transparent relationship between the consultation process and the Plan itself. CYC has carried out its own assessment to the extent that the consultation process has complied with the requirements of the Regulations.

Representations Received

- 4.8 Consultation on the submitted plan was undertaken by the City Council for a six-week period and which ended on 15 November 2018. This exercise generated comments from various persons and organisations as follows:
- Bellway Homes
 - City of York Council
 - Coal Authority
 - Highways England
 - Historic England
 - Martin and Deborah Lumley-Holmes
 - Trevor Beaumont
 - Nick Frieslaar
 - North Yorkshire County Council
 - Natural England

5 The Plan Area and the Development Plan Context

The Neighbourhood Area

- 5.1 The Plan area covers the parish of Earswick. Its population in 2011 was 876 persons living in 346 houses. It was designated as a neighbourhood area on 9 December 2015. The neighbourhood area is located to the immediate north of York. A significant proportion of its area is rural in character and is largely in agricultural use.
- 5.2 The neighbourhood area is particularly sensitive. In addition to its proximity to the northern extent of the York built-up area to the south it is well-connected to the York Ring Road (A1237) to the immediate south of the village. The area lies within the general extent of the York Green Belt. The village of Earswick is located in the south western corner of the neighbourhood area. The village sits within the setting of the River Foss to the west
- 5.3 Earswick accounts for the majority of the population of the neighbourhood area. As the plan helpfully describes in Section 2 it was originally a collection of farm buildings which has evolved into a village. This transition accelerated significantly in the last 60 years. As the Plan comments in paragraphs 55 and 56 the development of houses in Shilton Garth Close, Stablers Walk and Rowley Court and then in the Fosslands estate has resulted in a doubling of the size of the village. These phases of development remain clear within the urban form of the village. The Fosslands estate is characterised by its green spaces in general, and that to its west running down to the River Foss in particular.

Development Plan Context

- 5.4 The development plan context is both complex and unusual. The development plan consists of two saved policies from the Regional Spatial Strategy for Yorkshire and Humber as follows:
- Policy YH9: Green Belts – the definition of the inner boundaries of the Green Belt around York
- Policy Y1: York sub area – the definition of detailed boundaries of the outstanding sections of the green belt and the inner boundary and the protection and enhancement of the historical and environment character of York
- These saved policies will apply in the neighbourhood area until they replaced by the emerging City of York Local Plan.
- 5.5 The CYC does not have a formally adopted Local Plan. The City of York Draft Local Plan incorporating the Fourth Set of Changes Local Plan (April 2005) was approved for development management purposes. Its policies are capable of being material planning considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. This has proved to be particularly useful in the application of Green Belt policy.

- 5.6 The Basic Conditions Statement highlights the policies in the development plan and how they relate to policies in the submitted Plan. This is good practice. It also explains the complicated context within which the neighbourhood plan has been prepared
- 5.7 The emerging City of York Local Plan (2017-2033) was making good progress at the time of this examination. It was submitted for its own examination in May 2018. Since July CYC has been responding to initial matters raised by the appointed Planning Inspectors. Hearings related to housing need, the Duty to Cooperate and Green Belt principles are due to take place in the early part of this year.
- 5.8 The submitted Plan has been designed to run concurrently with (and slightly beyond) the emerging York Local Plan. This follows important national advice in Planning Practice Guidance.

Site Visit

- 5.9 I carried out an unaccompanied visit to the neighbourhood area on 29 November 2018. I approached the area along the A1237 from the south. This helped me to understand its strategic position within the City area in general, and its position within the Green Belt in particular.
- 5.10 I initially looked around Earswick. I walked along the road called Earswick Village down to the River Foss and then over the footbridge to the west bank of the river. I stretched my legs as I walked back to the A1237. This helped me to understand how the neighbourhood area sits in its wider landscape setting. I then traced my steps back to the village.
- 5.11 I then walked around Stablers Way, Rowley Court and Shilton Garth Close. I saw that the houses were well-maintained and had largely retained their original design integrity.
- 5.12 I then looked around the Earswick Chase development. In doing so I saw the Village Hall and the very impressive Scented Garden. It remained closed following the long hot Summer. In these circumstances it had helpfully received a much-welcome spell of rain earlier that morning.
- 5.13 Throughout my visit I looked at the proposed local green spaces in the village. A key element of their attractiveness was their connectivity to the village in general, and with each other in particular. They were being enjoyed by a series of local residents walking their dogs.
- 5.14 I then took the opportunity to drive to Strensall to the north of the neighbourhood area so that I could see its setting in that direction. In returning to the neighbourhood area I drove along Towthorpe Moor Lane to the Golf Range. This helped me to form a fuller understanding of the significance of the Green Belt in the eastern part of the neighbourhood area.

- 5.15 In order to get a full impression of the Plan area I walked along several footpaths that run to the east of Strensall Road. This gave me a further opportunity to understand the Green Belt context and setting of the village. Its sense of openness was obvious.
- 5.16 I left the neighbourhood area by driving along the A1237 to the north so that I could understand more of its wider landscape setting and its relationship to the wider City.

6 The Neighbourhood Plan as a whole

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has been helpful in the preparation of this section of the report. It is an informative document and addresses the relevant details in a very professional way.
- 6.2 The Plan needs to meet all the basic conditions to proceed to referendum. This section provides an overview of the extent to which the Plan meets three of the five basic conditions. Paragraphs 2.6 to 2.10 of this report have already addressed the issue of conformity with European Union legislation.

National Planning Policies and Guidance

- 6.3 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in March 2012. Paragraph 3.4 of this report has addressed the transitional arrangements which the government has put in place as part of the publication of the 2018 version of the NPPF.
- 6.4 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Earswick Neighbourhood Plan:
- Being genuinely plan-led to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. In this case there is a particular significance to the relationship between the submitted Plan and the emerging Local Plan;
 - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
 - Promoting the vitality of main urban areas;
 - Protecting the Green Belt around the main urban areas (in this case York);
 - proactively driving and supporting economic development to deliver homes, businesses and industrial units and infrastructure;
 - Conserving heritage assets in a manner appropriate to their significance; and
 - Seeking to secure high quality design and good standards of amenity for all existing and future occupants of land and buildings
- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 16 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and relevant ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has regard to national planning policies and guidance in general terms. It sets out clear ambitions for its future based on maintaining the attractiveness and settings of the village in its agricultural context and its proximity to the York urban area. Within the context available it safeguards the general extent of the Green Belt. It proposes detailed policies to protect local green spaces within the village itself.
- 6.8 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Several of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies to promote new infill residential development (ENP1). In the social role, it includes a policy on community facilities (ENP10) and on Housing Mix (ENP2). In the environmental dimension the Plan positively seeks to protect the natural, built and historic environment of the parish. In particular, it proposes a policy to protect the general extent of the Green Belt (ENP4). It also includes a policy for local green spaces (ENP5) and ecology/biodiversity (ENP6).

General conformity with the strategic policies in the development plan

- 6.11 I have already commented in detail on the development plan context in the wider City of York area in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the development plan. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan subject to the modifications recommended in this report.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the range of policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is thorough and distinctive to the Plan area. The wider community and the Parish Council have spent considerable time and energy in identifying the issues and objectives that they wish to be included in their Plan. This gets to the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20170728) which indicates that neighbourhood plans must address the development and use of land. In some cases, I have concluded that elements of certain policies are not land use based. I have recommended that they are identified as such in the Plan. They would not form part of the development plan in the event that the neighbourhood plan is 'made'.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. In some cases, there are overlaps between the different policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial sections of the Plan (sections 1-3)

- 7.8 These introductory elements of the Plan set the scene for its range of policies. They do so in a concise and proportionate way. The Plan is well- presented and arranged and it is supported by maps and diagrams. It makes a careful use of photographs to reinforce its key elements. There is a clear distinction between the policies and the supporting text.
- 7.9 The Introduction (Section 1) set out some detail on the production of the Plan and its planning policy context. It describes how a made neighbourhood plan would sit within the wider planning system. It also comments about the pre-submission versions of the Plan and the associated consultation exercises. It then comments in considerable detail about the wider planning policy context in York, and the relationship that the

Plan has sought to achieve with the emerging Local Plan. Its final elements on consultation overlap with the contents of the Consultation Statement

- 7.10 Section 2 provides helpful information on the parish/neighbourhood area. It describes the relatively recent significant increase in its population. It also clarifies that, somewhat uniquely, the parish has never had a church, a school or a public house. Its final sections comment about the very high rates of economic activity and home ownership levels in the neighbourhood area
- 7.11 Section 3 helpfully describes the Plan's Vision – 'Earswick Parish will be a desirable place to live for all residents based on its distinctive, semi-rural character and open space, safe and secure environment and community spirit'. It then identifies five objectives for the neighbourhood plan.
- 7.12 Thereafter Section 4 provides detailed commentary on a series of policies that arise from the Vision and Aims of the Plan. On this basis the remainder of this section of the report addresses each policy in turn in the context set in paragraphs 7.5 to 7.7 in this report.

Policy ENP 1: Windfall Housing Development

- 7.13 This policy establishes a basis against which proposals for windfall development can be assessed. It does so in two ways. In the first instance it identifies that windfall development is either small scale infill development or for the reuse of brownfield land or buildings. In the second instance it sets out a series of environmental criteria against which proposals would be assessed.
- 7.14 The approach adopted by the policy in general terms meets the basic conditions. Nevertheless, within this supporting context I recommend a series of modifications as follows:
- the deletion of the first sentence. It is supporting text that is already adequately addressed in paragraphs 99-111 of the Plan;
 - to ensure that any proposal needs to comply with all the criteria in the policy (as appropriate to its detail/location); and
 - to clarify the Green Belt component of the policy

Delete the first sentence.

At the end of criteria a) to f) replace the full stop with a semi-colon. At the end of criterion g) replace the full stop with ' ; and'.

In criterion h) replace 'Green Belt' with 'national Green Belt policy'.

Policy ENP2: Housing Mix

- 7.15 This policy sets out to ensure that new housing development meets the identified need for smaller homes. It does so in a non-prescriptive way. It also is designed to be future proofed throughout the Plan period by the use of 'an up to date assessment of housing need'.
- 7.16 I am satisfied that the policy meets the basic conditions. It is underpinned by local evidence collected as part of the plan-making process. In supporting the policy CYC

comment that the associated text should make explicit reference to work that it has carried out which overlaps with and confirms the local work. I am happy to address this matter by way of a recommended modification.

At the end of paragraph 114 add: 'This information is also underpinned by evidence in the Strategic Housing Market Assessment produced by the City of York Council'.

At the end of paragraph 116 add: 'This requirement is captured in Policy ENP 2. Its reference to 'an up to date assessment of housing need' relates both to parish-based evidence and to wider evidence in the City of York Strategic Housing Market Assessment'

Policy ENP3: Flood Risk and Climate Change

- 7.17 This policy addresses flood risk issues in the neighbourhood area. I saw the significance of the River Foss in the local environment as part of my visit.
- 7.18 The policy has two related parts. The first seeks to provide a local dimension to the sequential approach set out in national policy. Map 2 indicates the extent of land within the neighbourhood area within Flood Zone 3. The second part sets out a range of measures which the Plan would encourage in order to reduce emissions/air quality and to reduce flood risk.
- 7.19 I am satisfied that with appropriate modifications that the first part of the policy adds value to national policy and therefore meets the basic conditions. Some of the recommended modifications update the referenced documents. The second part of the policy takes on a more promotional role in 'encouraging' certain types of development and/or mitigation. I recommend that this part of the policy is recast so that it offers support to the specified types of development. The 'encouragement' of certain types of development has little if any weight in the context of a planning policy which has been designed to form part of the development plan.

In the first part of the policy:

- **insert '(as shown as Flood Zone 3 on Map 2) between 'areas' and 'should'**
- **replace 'City Council' with 'the City of York Council's Strategic Flood Risk Assessment'**
- **delete 'and Environmental.... assessments.'**
- **replace 'consider' with 'address'.**
- **replace 'PPG25' with 'paragraph 103 of the NPPF (2012)'.**

In the second part of the policy:

- **delete the first sentence;**
- **replace the remaining part of the opening section of this part of the policy with 'Developers should address the relationship between climate change and potential flood risk in any proposals which have the ability to impact on the flood capacity of Flood Zone 3 in the neighbourhood area. The following types of development and/or mitigation will be supported:**

At the end of the supporting text in paragraph 117 add:

'The second part of the policy recognises that climate change has the ability to increase flood risk. It sets out a range of initiatives that the Plan supports to reduce the potential impacts of climate change.'

Policy ENP 4: Green Belt

- 7.20 This policy sits at the very heart of the Plan. It reflects the significance of the Green Belt in the neighbourhood area. It also reflects the importance of the Green Belt to the preparation of the Plan and to the wider community.
- 7.21 The policy has been designed in challenging circumstances. CYC is in the process of preparing a Local Plan whilst at the same time the submitted Plan needs to be in general conformity with the strategic policies of the development plan. These are two saved policies from the Regional Spatial Strategy for Yorkshire and Humber as follows:
- Policy YH9: Green Belts – the definition of the inner boundaries of the Green Belt around York
- Policy Y1: York sub area – the definition of detailed boundaries of the outstanding sections of the green belt and the inner boundary and the protection and enhancement of the historic and environment character of York
- 7.22 The two saved policies from the RSS are instructive policies and set out how the Green Belt boundaries are to be defined in the development plan. This process is now well underway. The environmental assessment process for the RSS abolition highlighted that York did not have a local plan in place at that time. It also indicated that revocation of York Green belt policies before an adopted local plan was in place could lead to a significant negative effect upon the special character and setting of York. As such the government concluded that the York Green Belt policies that were part of the RSS should be retained.
- 7.23 As identified in Section 5 of this report whilst significant progress has now been made the CYC does not yet have an adopted Local Plan. The City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005) was approved for development control purposes. Amongst other things this draft local plan provides a spatial context for the Green Belt. What is now the draft Local Plan was placed on deposit in May 1998. A very tight Green Belt was put forward on the basis that there would be a need for an early review in the light of new information at that time on development requirements after 2006. The Council subsequently published two sets of proposed changes, one in March 1998 and one in August 1999. Neither set of changes had any significance for the general extent of the Green Belt. The Council published its third set of changes in February 2003 after receiving the Planning Inspector's provisional findings. It then approved a fourth set of changes for development control purposes.

- 7.24 Whilst the Council decided not to proceed with the fourth set of changes it continues to use them for development management decisions. The effect of this process is that decisions on planning applications falling within the general extent of the Green Belt (as defined in the RSS) are taken on the basis that land is treated as Green Belt.
- 7.25 Within this context, the importance of retaining York's Green Belt is evident both in day-to-day development management decisions and in associated appeal decisions. Plainly these circumstances will be clarified once the emerging Local Plan is adopted. However, that Plan it is not at a sufficiently-advanced stage to provide any clarity or certainty for the examination of this neighbourhood plan. In particular the package of proposals for defining Green Belt boundaries and the strategic release of land for housing purposes has yet to be tested.
- 7.26 The submitted Plan has carefully translated this complicated backcloth into the Policy and the associated Map 3. Its effect is to safeguard the Green Belt as described in paragraph 7.22 to 7.24 above. This approach is entirely consistent with the development plan context. I recommend that the source of the detail in Map 3 is acknowledged for the avoidance of any doubt about its origin.
- 7.27 As part of the examination process CYC has provided me with a schedule of representations made to the emerging Local Plan on the definition of the Green Belt within the neighbourhood area. There is a degree of overlap between the representations to the Local Plan and those made to the submitted neighbourhood plan (see paragraph 4.8). Plainly the Local Plan representations have not yet been tested as part of the examination of that Plan.
- 7.28 I am satisfied that the submitted Plan has taken an appropriate approach that meets the basic conditions to this important matter. The definition of the Green Belt reflects that set out in the CYC's Fourth Set of Changes Development Control Local Plan (April 2005).
- 7.29 Policy ENP4 has five related sections. The first four identify the general extent of the Green Belt in the neighbourhood area and apply national policy to that area. The fifth paragraph comments that national policy identifies that certain types of development can take place within the Green Belt. It then goes on to comment that any such development which might take place in the neighbourhood area should still endeavour to preserve the openness of the general extent of the Green Belt.
- 7.30 I can understand the reasoning behind the inclusion of this part of the policy. Nevertheless, it is partly supporting text on the one hand and its use of 'should still endeavour' (to preserve the openness of the Green Belt) on the other hand has a slightly different approach from that set out in paragraph 90 of the NPPF. In these circumstances I recommend that the fifth part of the policy is relocated into the supporting text. Plainly this recommended modification does not affect either the integrity of paragraph 90 of the NPPF or its applicability to the neighbourhood area.
- 7.31 In its representations to the Plan CYC suggest that paragraphs 135-138 of the Plan are replaced with revised text which updates the position on the emerging Local Plan and provides a refined technical context to this important part of the Plan. I recommend modifications on this basis.

- 7.32 Paragraph 141 of the Plan correctly acknowledges that the Green Belt boundary will be determined in the emerging Local Plan. Nevertheless, it then goes on to suggest that there is a compelling case for the confirmation of the existing boundaries (and as shown on the Proposals Map). This may prove to be the case. However, it is not a matter for the examination of this neighbourhood plan. It will be determined by the Local Plan inquiry in due course. On this basis I recommend a modification to the text which takes on a more neutral tone.

Delete the fifth paragraph of the policy.

Insert the deleted element of the policy as a further element of supporting text at the end of paragraph 139.

In Map 3 sub title (Existing Draft Green Belt) add 'as defined in the City of York fourth set of changes Development Control purpose Local Plan (April 2005)'.

Replace paragraphs 135-138 with the following:

'135. The neighbourhood plan has been produced within the context of the preparation of the emerging City of York Local Plan (2017-2033). The Local Plan will establish detailed Green Belt boundaries.

136. This approach follows the advice in paragraphs 83-85 of the NPPF that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. At the same time the neighbourhood plan needs to be in general conformity with the strategic policies of the development plan. In this case these are policies YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy. These policies identify the general extent of the York Green Belt and set out its national significance.

137. Whilst not forming part of the development plan the City of York Draft Local Plan incorporating the fourth set of changes Development Control Local Plan (April 2005) was approved for development control purposes.

138. The effect of this process is that decisions on planning applications falling within the general extent of the Green Belt (as defined in the RSS) are taken on the basis that land is treated as Green Belt.'

In paragraph 141:

- *replace 'which underpins its identification' with 'carried out as part of the preparation of this neighbourhood plan'.*
- *replace the second sentence with 'The retention of the Green Belt in the neighbourhood area is a top priority for local people'.*

Policy ENP5: Local Green Spaces

- 7.33 This policy reflects the very important role of open and green spaces within Earswick. In doing so it proposes the designation of Local Green Spaces (LGSs) as set out in paragraphs 76-78 of the NPPF. The analysis of the proposed LGSs against the criteria set out in the NPPF is included within Appendix A of the Basic Conditions Statement. It is a very compelling exercise. The Parish Council provided additional

reassurance over and above that within the Appendix (on the size of LGSs 2 and 7) as part of the Clarification Note process.

- 7.34 I am satisfied that the seven proposed LGSs relate comfortably to the three criteria in the NPPF. As such the policy meets the basic conditions.

Policy ENP6: Ecology and Biodiversity

- 7.35 This policy requires that development proposals should conserve, enhance and incorporate adjacent biodiversity. It identifies three locations within the neighbourhood area which are considered to be particularly important. The sites are identical to three of the sites proposed for designation as LGS in Policy ENP5. The supporting text highlights the potential designation of the three sites as ‘Sites of Local Interest’ in the emerging Local Plan. CYC has advised in its representation that it is not pursuing this approach in the Local Plan.
- 7.36 I sought advice from the Parish Council both on the approach taken and the overlap with the package of LGSs. I was advised that the overlap seeks to ensure a backstop in the event that Sites of Local Interest are not pursued in the emerging Local Plan. Whilst I recognise the difficulty of preparing a neighbourhood plan in the circumstances where a local plan is also being prepared it is important that the neighbourhood plan (if ‘made’) has the clarity required by the NPPF.
- 7.37 Through the Clarification Note process the Parish Council agreed with a potential remedy which would modify the policy so that it took on a more general form. Within that context the three areas concerned could be identified as particularly important ecological areas in a general sense. I recommend accordingly. I also recommended associated modifications to paragraph 153.

Replace the second sentence of the policy with: ‘In particular development proposals that would affect the three sites listed below and shown on Map 5 should conserve and enhance their ecological networks and features (including their waterways, hedgerows and trees)’.

Replace paragraph 153 (second sentence) with ‘Discussions have taken place with the City of York Council about the extent to which they are capable of specific ecological designation as part of the emerging Local Plan. Plainly this issue will be resolved as part of that process. On this basis the approach adopted in Policy ENP6 is one of a general nature towards ecology and biodiversity and within which the three sites concerned are identified as having a particular significance’.

Policy ENP7: Distinctive Views

- 7.38 This policy sets out to respect three views over agricultural land to the immediate east of Strensall Road. They are shown on Map 5.
- 7.39 I looked at the various views when I visited the neighbourhood area. I saw that they afforded an open aspect from the village into and across the Green Belt to the east. CYC comment in in a similar fashion in its representation. It suggests a modification that would ensure a focus on the open and rural nature of the landscape (and the associated views) rather than their distinctiveness. I agree with the suggested approach and recommend accordingly. Whilst the thrust of the policy remains

unchanged the sharper focus of the modified policy would be more practicable to deliver through the development management process.

Replace ‘distinctive views’ with ‘open character and rural setting as experienced in views eastwards from Strensall Road’

Policy ENP8: Trees and Hedgerows

- 7.40 This policy supports proposals that would enhance the coverage of trees and hedgerows. It also sets out to safeguard existing trees and hedgerows and that they are integrated into the design of development proposals where it is possible to do so.
- 7.41 I recommend a modification to the wording of the first sentence of the policy. This will ensure that it properly relates to the development management process. Otherwise it comfortably meets the basic conditions. Its implementation will do much to contribute to the delivery of the environmental dimension of sustainable development in the neighbourhood area.

Replace ‘Opportunities to’ with ‘Proposals that would’.

Policy ENP9: Buildings and Structures of Local Heritage Interest

- 7.42 This policy aims to protect important buildings and structures of local heritage interest. In the event it identifies a single type of structure (the Parish Signs). I looked at their significance when I visited the neighbourhood area. I understood why they had been selected for inclusion within the Plan.
- 7.43 I am satisfied that the Village Signs should be safeguarded as a structure of local interest. I recommend that the policy is modified so that it takes account of the single identified structure. I also recommended a modification to the detailed wording of the policy.

In the first part of the policy replace ‘the buildings and structures listed below’ with ‘the Earswick Parish Signs’

In the third part of the policy delete ‘including important views towards and from them. Development.... detail.’

At the end of the policy delete the bullet point.

Policy ENP10: Protecting Important Community Facilities

- 7.44 This policy aims to protect important community facilities. In the event it identifies a single facility (the Village Hall). I looked at the village hall when I visited the neighbourhood area. I saw that it was a well-maintained modern building in a very central and convenient location.
- 7.45 I am satisfied that the village hall should be safeguarded as a community facility. I recommend that the policy is modified so that it takes account of the single identified community facility. I also recommended a modification to the detailed wording of the policy.

Replace: ‘an existing community facility’ with ‘the Earswick Village Hall’ and ‘allowed’ with ‘supported’.

Delete the final sentence of the policy.

In paragraph 173 replace 'These buildings' with 'The Village Hall'.

Policy ENP11: Enhancements to Transport and Highways

- 7.46 The policy addresses a series of transport and highway-related matters. Its overarching context is that the Parish Council will actively seek to work with CYC and other bodies to encourage opportunities for enhancements to the transport and highway network in the neighbourhood area.
- 7.47 Some of the enhancements listed in the policy are land-use based. Others are not. In this context I recommend that, with contextual modifications, the former category is retained within the policy. I also recommend that the latter category is deleted from the policy and repositioned into a separate, non-land use section of the Plan. This matter was agreed with the Parish Council through the clarification note process.

Replace the policy with the following:

(Title) Traffic Capacity and sustainable transport

'Development proposals will be supported where they provide appropriate capacity and/or mitigation for the additional traffic which they generate. Development proposal should also identify how they will incorporate measures to ensure the safe movement of pedestrians and cyclists to the various services and community facilities in the neighbourhood area.

Proposals for the provision of a dedicated cycle route to Huntington will be supported'.

Reposition the submitted policy (introductory section) and items a), b) and c) to a separate, non-land use part of the Plan and with a revised Policy number to read 'Community Action 1'

At the end of paragraph 182 add:

'Policy ENP11 addresses a series of traffic capacity and sustainable transport issues. These will have a direct bearing on the determination of planning applications. Community Action 1 later in the Plan sets out how the Parish Council will work with the City of York Council and other bodies to improve the transport and highway network in the neighbourhood area in a more general sense'.

Policy ENP12: Protecting Footpaths/Bridleways and Cycleways

- 7.48 This policy sets out to protect footpaths/bridleways and footpaths. In addition, it also requires that new development should contribute to the improvement of the existing networks where it is appropriate for them to do so.
- 7.49 The policy takes a proportionate approach to this important matter. It meets the basic conditions.

Policy ENP 13: Safe and Secure Parish

- 7.50 This policy addresses safety and security in the neighbourhood area. These issues are addressed in national policy in a general sense.
- 7.51 However as submitted this policy reads more as a statement of intent rather than as a planning policy. The Parish Council acknowledged this issue in its response to my clarification note. In these circumstances I recommend a modification to its structure so that it would support proposals that ‘create attractive and safe public and private places’. This would bring the clarity required by the NPPF in general terms. It would also provide guidance for the operation of the development management system by CYC throughout the Plan period.

Replace the policy with:

‘Proposals that create attractive and safe public and private places as part of their design, layout and configuration will be supported’.

Policy ENP 14: Developer Contributions

- 7.52 This policy identifies the Parish Council’s priorities for its use of community infrastructure levy funding and/or section 106 agreements. The supporting text highlights how the City of York Council Community Infrastructure Levy (CIL) is being developed and its ability to be operative throughout significant parts of the Plan period.
- 7.53 I am satisfied that the policy is land use based. It identifies a series of land use matters that would be priority projects within the neighbourhood area in the event that CIL or Section 106 monies are forthcoming from new development. I recommend a modification that will ensure that the policy is more directive. As submitted, it reads in a rather loose fashion by ‘seeking’ to prioritise funding.

Delete ‘seek to’ from the policy wording.

Other Matters

- 7.54 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for CYC and the Parish Council to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

Modification of general text (where necessary) to achieve consistency with the modified policies.

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2037. It is thorough and distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Earswick Parish Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 This report has recommended a range of modifications to the policies in the Plan. Nevertheless, its structure and format remain largely unaffected.

Conclusion

- 8.4 On the basis of the findings in this report I recommend to the City of York Council that subject to the incorporation of the modifications set out in this report that the Earswick Parish Neighbourhood Development Plan should proceed to referendum.

Referendum Area

- 8.5 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view the neighbourhood area is entirely appropriate for the purpose of the referendum. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the City Council on 9 December 2015.
- 8.6 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner. The Parish Council's response to the Clarification Note was particular helpful.

**Andrew Ashcroft
Independent Examiner
7 January 2019**