

City of York Council

HESLINGTON NEIGHBOURHOOD PLAN: POST- EXAMINATION DECISION STATEMENT

Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended)

This document is the decision statement required to be prepared under Regulation 18(2) of the Neighbourhood Planning Regulations 2012 (as amended). It sets out the Council's response to each of the recommendations contained within the Report to City of York Council of the independent examination of the Heslington Neighbourhood Plan ("the Plan") by independent Examiner Mr Andrew Ashcroft, which was submitted to the Council on 24th March 2021.

This decision statement, the independent Examiner's Report and the submission version of Heslington Neighbourhood Plan and supporting documents can be viewed on the Council's website: www.york.gov.uk/neighbourhoodplanning in line with the current arrangements in the Councils update Statement of Community Involvement.¹

1.0 BACKGROUND

- 1.1 Under the Town and Country Planning Act 1990 (as amended), City of York Council ("the Council") has a statutory duty to assist communities in the preparation of neighbourhood (development) plans and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6, Chapter 3) sets out the Local Planning Authority's responsibilities under neighbourhood planning.
- 1.2 This statement confirms that the modifications proposed by the Examiner's Report have been considered and accepted and that subject to making the recommended modifications (and other minor modifications) the Plan may now be submitted to referendum.
- 1.3 The Heslington Neighbourhood Plan relates to the area that was designated by the Council as a Neighbourhood Area on 22nd November 2016. This area is coterminous with the boundary of the parish of Heslington and is entirely within the Local Planning Authority's area.
- 1.4 Heslington Parish Council undertook a pre-submission consultations on the draft Plan in accordance with Regulation 14. Consultation on the Pre-Submission Version took place between 29th January to 12th March 2019.

¹ [statement-of-community-involvement \(york.gov.uk\)](http://statement-of-community-involvement.york.gov.uk)

- 1.5 Following the submission of the Heslington Neighbourhood Plan to the Council on 2nd October 2019, the Council publicised the draft Plan for a six-week period and representations were invited in accordance with Regulation 16. The publicity period ended at on 11th December 2019.

2.0 INDEPENDENT EXAMINATION

- 2.1 The Council appointed Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI, with the consent of Heslington Parish Council, to undertake the independent examination of the Heslington Neighbourhood Plan and to prepare a report of the independent examination.
- 2.2 The Examiner examined the Plan by way of written representations supported by an unaccompanied site visit of the Neighbourhood Plan Area on 15th January 2020.
- 2.3 The Examiner's Report was formally submitted on 24th March 2021. The Report concludes that subject to making the modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to referendum. The Examiner also recommends that the referendum area should be the same as the designated Neighbourhood Area, which is the same as the administrative boundary for Heslington Parish.
- 2.4 Following receipt of the Examiner's Report, legislation requires that the Council consider each of the modifications recommended, the reasons for them, and decide what action to take. The Council is also required to consider whether to extend the area to which the referendum is to take place.

3.0 DECISION AND REASONS

- 3.1 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, the Council, has decided to accept all of the Examiner's recommended modifications to the draft Plan. These are set out in Table 1 below.
- 3.2 The Council considers that, subject to the modifications being made to the Plan as set out in Table 1 below, the Heslington Neighbourhood Plan meets the basic conditions mentioned in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) is compatible with the Convention rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).
- 3.3 As a consequence of the required modifications, the Council will modify the Heslington Neighbourhood Plan accordingly, for it then to proceed to referendum.

- 3.4 The Examiner recommended that the Neighbourhood Plan should proceed to a referendum based on the designated Neighbourhood Area. The Council has considered this recommendation and the reasons for it, and has decided to accept it. The referendum area for the final Heslington Neighbourhood Plan will therefore be based on the designated Heslington Parish Neighbourhood Area.
- 3.5 This decision will be made at a meeting of the Council's Executive on 20th May 2021.
- 3.6 This decision statement will be dated 20th May 2021.

Other information:

The Neighbourhood Plan document will be updated to incorporate all the modifications required and re-titled Referendum Version. The date for the referendum and further details will be publicised shortly once a date is set by the Council.

Table 1: Examiner’s Recommended Modifications

Heslington Neighbourhood Plan Policy	Examiner’s Report Reference	Recommended Modification	CYC Consideration/ Justification
<p>Policy HES:1 Main Street Change of Use</p>	<p>Paragraph 7.17-7.21</p>	<p>After Main Street area add ‘as shown on Map [insert number]</p> <p>In the opening part of the policy replace ‘for change of use.... other community facilities (D1)’ with ‘for change of use to commercial, business and service uses (Class E), to pubs and other drinking establishments, or to Learning and non-residential uses (Class F1)’</p> <p>In the initial part of the policy replace ‘subject to’ with ‘subject to the following criteria:’</p> <p>Replace a) with ‘they do not generate unacceptable impacts on traffic safety or the capacity of the local highway network; and’</p> <p>Replace b) with ‘they do not have an unacceptable impact on the residential amenities of the immediate local area’</p> <p>Replace c) with a free-standing paragraph of the policy to read: ‘Proposals which would involve the loss of Class E, Class F1 and pubs and other drinking establishments in the Main Street area will not be supported unless the applicant can demonstrate that no other similar business uses would be commercially viable’</p> <p>Reposition d) (without modifications) to a free-standing part of the policy. In doing so delete the preceding ‘In addition’</p> <p>In the final part of the policy replace ‘In the event.....use, any’ with ‘Insofar as planning permission is required all’</p>	<p>Agree with the modifications for the reasons set out in the Examiners Report.</p>

		<p><i>Replace the policy title with: 'Sustaining the vitality and the viability of Main Street'</i></p> <p><i>Show the Main Street area on a map in the Plan.</i></p>	
Policy HES: 2 New Business and Employment Development	Paragraph 7.22-7.25	<p>In c) replace 'providing.... adverse impact' with 'where there would be no unacceptable adverse impacts'</p> <p>In the final element of the policy (sports development) incorporate d) directly into the preceding wording - losing the d)</p> <p>In this final and consolidated part of the policy replace 'significant' with 'unacceptable'</p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 3 Agriculture and Rural Enterprise	Paragraph 7.26-7.28	<p>After 'proposals' add: 'for rural enterprise and rural diversification'</p> <p>In a) delete 'and acknowledge'</p> <p>Replace b) with: 'provide safe vehicular access points to the highway network and ensure that existing and the proposed new traffic generated by the wider use of any farm/rural enterprise can be safely accommodated in the local highway network'</p> <p>Replace c) with: 'ensure the compatibility between the proposed new uses and any existing agricultural activities on the site concerned'</p> <p><i>In the Interpretation replace 'Applications.... ensures' with 'This policy has been designed to facilitate rural diversification projects whilst ensuring'</i></p> <p><i>Replace the policy title with: 'Rural enterprise and rural diversification'</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 4 Sustainable Design	Paragraph 7.29-7.33	<p>At the beginning of the policy add: 'As appropriate to the nature, scale and location of the proposed development'</p> <p>In the opening part of the policy replace 'use' with 'are of a'</p>	Agree with the modifications for the reasons set out in the Examiners

		<p>In the opening part of the policy replace ‘sustainable urban design principles. This includes’ with ‘the following sustainable urban design principles’</p> <p>In principle a) replace ‘the surrounding character areas’ with ‘the character of the surrounding area’</p> <p>Reposition principle g) so that it is a free-standing element of the policy (without the g))</p> <p>In the final part of the policy replace ‘are welcomed’ with ‘will be particularly supported’</p>	Report.
Policy HES: 5 Crime Prevention and Reduction	Paragraph 7.34 -7.35	No modifications proposed.	N/A
Policy HES: 6 Urban Character	Paragraph 7.36 -7.40	<p>At the beginning of the policy add: ‘As appropriate to the nature, scale and location of the proposed development’</p> <p>In a) add at the end ‘of existing buildings’</p> <p>In h) replace ‘practical’ with ‘practicable’</p> <p>In i) add ‘and insofar as planning permission and/or listed building consent is required’</p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 7 Conversion of Existing Buildings	Paragraph 7.41-7.43	<p>Replace the opening part of the policy with: ‘Proposals for the conversion, extension or alteration of existing buildings will be supported where they:’</p> <p><i>In the title replace ‘Conversion’ with ‘The conversion, extension or alteration’</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 8 New Housing	Paragraph 7.44-7.46	<p>Delete ‘Beyond thecampuses’</p> <p>In the body of the policy delete ‘Development proposals.... if they’</p> <p>In c) add ‘where practicable’ before ‘enhance’</p>	Agree with the modifications for the reasons set out in the Examiners Report.

		<i>At the end of the first paragraph of the Interpretation add: 'Policy HES 8 comments about general development proposals for housing. It does not address the strategic development proposals arising from the emerging City of York Local Plan or development on the various campus sites of the University of York'</i>	
Policy HES: 9 Housing Mix and Affordability	Paragraph 7.47-7.49	<p>In the initial part of the policy replace 'the' with 'any' and after allocations add 'arising from the City of York Local Plan'</p> <p>Replace b) with: 'affordable housing is provided to the most recent standards published by the City of York Council. On sites of 15 homes and above on-site provision of the required level of affordable housing will be expected, unless offsite provision or a financial contribution of equivalent value can be robustly justified'</p> <p><i>In the second part of the Interpretation replace 'is not supported' with 'will not be supported unless offsite provision or a financial contribution of equivalent value can be robustly justified. This approach overlaps with the approach in the emerging City of York Local Plan'</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 10 Housing in Multiple Occupation	Paragraph 7.50-7.54	<p>At the beginning of the policy add: 'Proposals for a'</p> <p>In a) replace 'not harm' with 'not cause unacceptable harm to'</p> <p>In c) replace 'so as not to harm visual amenity' with 'and would not cause unacceptable harm to the visual amenity of the immediate locality of the property concerned'</p> <p>Delete the final paragraph of the policy.</p> <p><i>In the Interpretation replace 'Houses in Multiple Occupation Technical Paper (2011, updated 2014)' with 'Draft Controlling the Concentration of Houses in Multiple Occupation SPD (Approved 2012, Amended July 2014)'</i></p> <p><i>At the end of the Interpretation add: 'Proposals for the conversion of HMOs back to traditional dwelling houses are permitted development and therefore do not need planning permission. However, the Plan would encourage and support such proposals'</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 11 Housing and	Paragraph 7.55-7.57	Replace the opening element of the policy with: 'The development of any strategic sites in the neighbourhood area allocated in the	Agree with the modifications for the

Community Facilities		<p>emerging City of York Local Plan should:'</p> <p>In c) replace 'Submit.... incrementally, which includes' with 'prepare a masterplan design statement in circumstances where strategic sites are developed incrementally and which identifies'</p> <p><i>Replace the policy title with: 'Community and recreational facilities in strategic housing sites'</i></p>	reasons set out in the Examiners Report.
Policy HES: 12 Purpose Built Student Accommodation	Paragraph 7.58-7.61	<p>Delete the policy</p> <p><i>Delete the Interpretation</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 13 Local Green Spaces	Paragraph 7.62-7.68	<p>Replace the opening part of the policy with: 'The Plan designates the following green spaces as shown in Figure 4 as Local Green Spaces:' [List LGSs 1-6 and 8-13 numbers and descriptions]</p> <p>After the schedule of sites add: 'Development proposals that would affect the designated Local Green Spaces will only be supported in very special circumstances'</p> <p><i>In the Interpretation insert the following after the first sentence: 'CYC will assess any development proposals which may come forward within LGSs on their merit taking account of all the relevant material considerations. However small scale, ancillary development proposals on local green spaces may be supported where they meet each of the three following points: List a) to c) from the policy (as submitted)'</i></p> <p><i>Thereafter delete the second sentence of the Interpretation section.</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 14 Green Infrastructure	Paragraph 7.69-7.76	<p>In the opening part of the policy replace 'they can.....as a whole, including' with 'they are designed to respect the natural environment of the neighbourhood area and do not cause unacceptable harm to its integrity and longevity. Development proposals should take particular account of the following elements of the natural environment: [At this point include b) and c) from the submitted policy].</p>	Agree with the modifications for the reasons set out in the Examiners

		<p>Replace the second part of the policy with: ‘Development proposals will not be supported where significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for’</p> <p>Replace the third part of the policy with: ‘Development proposals which would bring about improvements to the integrity, the accessibility and the interpretation of green infrastructure will be particularly supported’</p> <p><i>In the second paragraph of the Interpretation insert after the first sentence: ‘Policy HES: 14 applies both generally across the neighbourhood area, and in the specific locations identified in the first part of the policy. Whilst the policy cannot identify every element of green infrastructure in the neighbourhood area it might otherwise include trees, woods, hedges, ditches, grass field margins, flora and fauna’</i></p> <p><i>Delete 3 Elvington Airfields Grasslands as a significant green space both from Section 13.5 of the Plan and from Figure 6.</i></p> <p><i>Delete the paragraph on page 55 ‘The University of York.... continuity of grass’</i></p> <p><i>Replace Figure 5 with a revised plan showing the extent of proposed significant green space at the Campus East Lake and Grounds (Site 1 in Figure 6).</i></p>	Report.
Policy HES: 15 Sustainable Transport	Paragraph 7.77-7.79	<p>In the opening part of the policy replace ‘the’ with ‘any’</p> <p>After ‘including’ add ‘as appropriate to the site concerned and the scale and the nature of the proposed development’</p> <p>In c) replace ‘to’ with ‘across’</p> <p>Replace ‘Development proposals.... of the following’ with ‘Development proposals should address any of the following matters insofar as they are relevant to the development of the site concerned’</p> <p>Replace the e) to k) lettering system with bullet points’</p>	Agree with the modifications for the reasons set out in the Examiners Report.

		<p>In the submitted e) insert at the beginning ‘the incorporation of’</p> <p>In the submitted f) insert at the beginning ‘the incorporation of measures that would result in’</p> <p>In the submitted k) insert at the beginning ‘the incorporation of’</p>	
Policy HES: 16 Vehicular and Pedestrian Traffic	Paragraph 7.80-7.84	<p>Delete the policy</p> <p><i>Delete the Interpretation</i></p> <p><i>Insert an additional Community Action to read:</i> <i>‘Within the context set by the emerging Local Plan the Parish Council will work with the City of York Council and the developers concerned to ensure that the development of the strategic housing allocation (ST15) safeguards the character of the local road network in general, and of Low Lane, Ox Close Lane, Common Lane, Long Lane and Langwith Stray in particular’</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 17 Traffic in Heslington Conservation Area	Paragraph 7.85-7.88	<p>Delete the policy</p> <p><i>Delete the Interpretation</i></p> <p><i>Insert an additional Community Action after HES: CA1 to read:</i> <i>‘Any highway improvements within the Heslington Conservation Area (either introduced in their own right or as mitigation associated with other development) are expected to respect the character or appearance of the area and respond to its distinctive features’</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Policy HES: 18 Paths and Other Rights of Way	Paragraph 7.89-7.90	No modifications proposed.	N/A
Policy HES: 19 University of York	Paragraph 7.91-7.95	<p>Replace the policy with: ‘Proposals for academic and University-related development on the University of York campuses will be supported where they demonstrate, as appropriate to the location, scale and nature of the development concerned, how they respond positively to the development principles in Section 15.4 of this Plan’</p> <p>In Section 15.4 delete 15.4.2 (Existing planning conditions) and 15.4.7 (Design and Access</p>	Agree with the modifications for the reasons set out in the Examiners Report.

		<p>Statements)</p> <p>After 15.4.6 Design Quality add: '15.5 Implementation Policy HES: 19 sets out a series of development principles to guide and influence any new development that may come forward on the University campuses. Within this context the policy seeks to consolidate the approach already taken by previous planning permissions and captured in master plan and development brief work. Design and Access Statements should demonstrate the extent to which development proposals address the design principles included in Section 15.4 of the Plan'</p>	
Community Actions HES:CA3	Paragraph 7.96-7.99	<p><i>Replace the Community Action to read: 'The local community will work with the City of York Council, landowners and any proposed developers to ensure that any development of the former Elvington Airfield comes forward within the context of an agreed master plan'</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
Other Matters – Green Belt	Paragraph 7.100-7.102	<p><i>Replace paragraph 5.1.3 with: '5.1.3 National Planning policy is clear in its support for the Green Belt, emphasising its essential characteristics of openness and permanence. It also states that inappropriate development (such as the construction of new buildings), which is harmful to the role and function of the Green Belt should not be approved except in very special circumstances.</i></p> <p><i>5.1.4 Despite the fact that the York Green Belt is still, technically, draft Green Belt it has, de facto, been in existence for several decades and has been reaffirmed on numerous occasions in planning refusals and dismissals of planning appeals. It was specifically recognised in the Yorkshire and Humber Regional Spatial Strategy (RSS) adopted in 2008 and although the RSS was substantially revoked by an Order (SI. No. 117 2013) made in early 2013 under the Localism Act 2011, policies which related to the York Green Belt were specifically excluded from the revocation.</i></p> <p><i>5.1.5 The Neighbourhood Plan needs to be in general conformity with strategic policies of the Development Plan. In this case, these are the saved policies YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy (RSS) (2008) and the RSS</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.

Key diagram (see Figure 2A). Together the policies and key diagram set the general extent of York's Green belt to approximately 6 miles from York's city centre.

5.1.6 Further, 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. This is a material consideration in decision making but does not define York's Green belt boundaries.

5.1.7 The National Planning Policy Framework (NPPF) is clear that the identification and modification of Green Belt boundaries are essentially matters for the Local Planning Authority to determine. In this case, that authority is York City Council. Furthermore, these paragraphs identify that these processes should be undertaken as part of the preparation or review of a Local Plan. In this case, this would be through the vehicle of the preparation of the emerging City of York Local Plan, which was submitted for independent examination in May 2018. The proposed Green Belt boundary relevant to the Heslington Neighbourhood Plan is set out on the Local Plan Policies Map South (2018) (Figure 2B). The adopted Local Plan will set the detailed Green belt Boundaries.

5.1.8 In advance of the adoption of the Local Plan decisions on whether to treat land as falling within the Green Belt for development management purposes will be taken in accordance with the approach supported in the case of Christopher Wedgewood v City of York Council Group [2020] EWHC 780 (Admin). This means that such decisions will take into account the RSS general extent of the Green Belt, the draft Local Plan (April 2005) (Figure 2C), the emerging Local Plan and site-specific features in deciding whether land should be regarded as Green Belt in advance of the adoption of the Local Plan'

Renumber paragraphs 5.1.4 and 5.1.5 of the submitted Plan accordingly

Insert a Figure 2A to show the RSS Key Diagram (2008)

		<p><i>Insert a Figure 2B to show the City of York Local Plan Publication (Draft) (2018) submitted for examination – Policies Map South Heslington Parish extract</i></p> <p><i>Renumber Figure 2 as Figure 2C</i></p> <p><i>On the Policies Map remove the Green Belt shading from the map and the Green Belt part of the key. Insert a note at the end of the Key to read: Green Belt: ‘The situation in relation to the Green Belt is set out in paragraphs 5.1.3 to 5.1. 10 of the Plan and illustrated on Figures 2A, 2B and 2C’</i></p>	
Other Matters - General	Paragraph 7.103-7.104	<p><i>Modification of general text (where necessary) to achieve consistency with the modified policies.</i></p> <p><i>On the front page of the Plan add ‘2017 to 2033’ after Plan</i></p> <p><i>In paragraph 1.1.2 replace ‘covers a 20-year period’ with ‘period is 2017-2033’</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.