



**EXAMINATION OF THE CITY OF YORK LOCAL PLAN
2017-2033**

PHASE 3 HEARINGS

MATTER 1: AFFORDABLE HOUSING

CITY OF YORK COUNCIL STATEMENT

1. Matter 1 – Affordable Housing

1.1 What is the need for affordable housing?

- 1.1.1 Chapter 6 of the City of York SHMA (June 2016) (SD051) identified a net affordable housing need of 573 affordable dwellings per annum (Table 34). The calculation followed the longstanding methodology to calculate the need for affordable housing to rent as set out in PPG. This is summarised in Paragraph ID 2a-022-20140306 which states *“This calculation involves adding together the current unmet housing need and the projected future housing need and then subtracting this from the current supply of affordable housing stock.”*
- 1.1.2 In the SD051 calculation, Current Need is taken from a range of sources to identify homeless households, those in priority need in temporary accommodation; households in over-crowded homes, concealed households, existing affordable housing tenants in need and households from other tenures in need. This totalled a need for 83 affordable rental dwellings per annum.
- 1.1.3 Added to this was the projected future need which included Newly Forming Households (from demographic projections and affordability assumptions) of 732, Households Falling into Need (based on past trends) of 279 to arrive at a gross need of 1095 per annum. Taking into account the re-let of affordable housing (522) the net affordable housing need is 573 per annum.
- 1.1.4 This has recently been updated in Chapter 4 the City of York Local Housing Needs Assessment July 2022 (LHNA). As shown in Table 4.9 the level of affordable housing need has increased marginally to 592 affordable rental dwellings per annum.
- 1.1.5 Notwithstanding the transitional arrangements applied to the Local Plan examination, it was prudent for the LHNA to consider and assess the need for affordable home ownership products which fall within the expanded definition of affordable housing as set out in the 2021 NPPF. For the Local Plan it is necessary to only include those that could not afford to rent at market prices as being in the affordable housing need.
- 1.1.6 The PPG for calculating affordable housing need has not materially changed and still takes into account Current Need (now drawn from the housing register) of 86, Newly Forming Households (from demographic projections and affordability assumptions) of 680, Households Falling into Need (based on past trends) of 190 to arrive at a gross need of 955 per annum. Taking into account the relet of affordable housing (363) the net affordable housing

need is 592 per annum. By comparison, the need has therefore only marginally increased from 573 to 592 affordable dwellings per annum.

1.2 Does the provision for affordable housing in the Plan properly and pragmatically reflect that need?

1.2.1 The PPG (ID 2a-029-20140306), is clear that:

“The total affordable housing need should then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in the total housing figures included in the local plan (i.e. the Housing Requirement) should be considered where it could help deliver the required number of affordable homes.” (Paragraph 029)

1.2.2 Paragraph 47 of the relevant NPPF states that:

“To boost significantly the supply of housing, local planning authorities should... use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.”

1.2.3 Furthermore Paragraph 159 of the NPPF states that:

“Local planning authorities should have a clear understanding of housing needs in their area. They should: prepare a Strategic Housing Market Assessment to assess their full housing needs.... The Strategic Housing Market Assessment should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:

- meets household and population projections, taking account of migration and demographic change;*
- addresses the need for all types of housing, including affordable Housing”*

1.2.4 The Local Plan is consistent with the policy and guidance above having established the affordable housing need and proposing a justified policy response to it that recognises that there is no requirement for the Council to meet the need in full. This was clarified in the Kings Lynn & West Norfolk vs. SSCLG & Elm Park Holdings [2015] EWHC 2464 (Admin) judgement. In his judgement, Mr Justice Dove stated that:

“This consideration of an increase to help deliver the required number of affordable homes, rather than an instruction that the requirement be met in

total, is consistent with the policy in paragraph 159 of the Framework requiring that the SHMA “addresses” these needs in determining the FOAN.”

- 1.2.5 The Council is seeking to address as much need as possible through the Local Plan Policy H10 and Policy GB4. Policy H10 of the Local Plan seeks to maximise housing delivery based on the viability of different scheme types. By seeking to maximise affordable housing contribution, including from smaller development, the City is taking a pragmatic approach to the delivery of affordable housing when the need is unlikely to be met in full.

1.3 Should the housing requirement be uplifted to reflect the need for affordable housing?

- 1.3.1 No, the housing requirement adequately reflects the housing need. As discussed in phase 2, the housing requirement is targeted significantly above the latest demographic evidence. Any uplift above the demographic will help address affordability which in turn will reduce affordable housing need. It will also deliver a considerable level of affordable housing through developer contributions.

- 1.3.2 The level of affordable housing delivered will reflect the level of affordable housing that viability allows.

- 1.3.3 The PPG (ID 2a-029-20140306) is clear that:

“The total affordable housing need should then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in the total housing figures included in the local plan (i.e. the Housing Requirement) should be considered where it could help deliver the required number of affordable homes.”

- 1.3.4 While this may not address the affordable housing need in full there is no requirement for the Council to do so.

- 1.3.5 This was established in the Kings Lynn & West Norfolk vs. SSCLG & Elm Park Holdings [2015] EWHC 2464 (Admin) judgement. In his judgement, Mr Justice Dove stated that outlined how the need for affordable housing should be considered in drawing conclusions on the Housing he firstly noted that paragraph ID 2a-208–20140306 of the PGG stated:

- 1.3.6 “The total affordable housing need should then be considered in the context of its likely delivery as a proportion of mixed market and affordable housing

developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in total housing figures included in the local plan should be **considered** where it could help deliver the required number of affordable homes.”

1.3.7 He goes on to state in paragraph 33:

“This consideration of an increase to help deliver the required number of affordable homes, rather than an instruction that the requirement be met in total, is consistent with the policy in paragraph 159 of the Framework requiring that the SHMA “addresses” these needs in determining the FOAN.” They should have an important influence increasing the derived FOAN since they are significant factors in providing for housing needs within an area.

1.3.8 Concluding and contradicting a previous judgment in Oadby and Wigston that:

“insofar as Hickinbottom J in the case of Oadby and Wigston Borough Council v Secretary of State [2015] EWHC 1879 might be taken in paragraph 34(ii) of his judgment to be suggesting that in determining the FOAN, the total need for affordable housing must be met in full by its inclusion in the FOAN I would respectfully disagree. Such a suggestion is not warranted by the Framework or the PPG for the reasons which I have just set out.”

1.3.9 Finally, as set out in para 4.138 of the Draft LHNA 2022 (EX/CYC/XX):

“Despite the level of need being high, it is not considered that this would necessarily point to any requirement for the Council to further increase the Local Plan housing requirement. The link between affordable need and overall need (of all tenures) is complex and in trying to make a link it must be remembered that many of those picked up as having an affordable need are already in housing (and therefore do not generate a net additional need for a home). Additionally, most of the affordable need is already part of the demographic projections which are used to drive the housing requirement and so any additional provision would arguably be double counting.”

1.4 What would be the effect of such an uplift?

- 1.4.1 We do not consider such an uplift is warranted as this would exceed the identified housing need for the City. Any increase in the housing requirement would also need to be balanced out with other considerations which could lead to a significant delay in the Local Plan.
- 1.4.2 The Council described the limitations of directly comparing the calculated affordable housing need figure and the OAN during the phase 2, matter 2 hearings. It highlighted the different methodological approaches in calculating the two figures with the former including, for example, households within the estimated backlog of need who would themselves 'free up' housing for another household if their needs were met. Therefore, for the most part the needs of these existing households are not for net new dwellings. In contrast, the OAN relates to net new dwellings, which accommodate net new households (household growth).
- 1.4.3 The appropriateness of applying an uplift to the OAN in this context of responding to the calculated need for affordable housing is considered in EXCYC9. It is concluded that the evidenced scale of need for affordable housing provides justification for planning for an uplifted level of provision above that suggested by the 'starting point'. The scale of uplift associated with the OAN range linked to supporting job growth, however, is considered sufficient in that it would, if delivered, represent a boosting of the supply of housing with no further adjustment recommended to the overall OAN range on this basis.
- 1.4.4 In the context of both the methodological differences between the two numbers and the subsequent interpretation of the PPG by the High Court the council's approach is considered reasonable and justified.

1.5 Is Policy H10 soundly based and in accord with national policy?

- 1.5.1 In the view of the Council, policy H2 is justified, effective and is positively prepared.
- 1.5.2 The policy responds to the need identified in the Council's evidence (as explained in response to question 1.1). Paragraph 50 of the NPPF confirms that local authorities can set policies for meeting identified housing need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.
- 1.5.3 The Council has taken a proactive approach and seeks to maximise opportunities to secure contributions from small sites with fewer than 15 units and with more than 1,000sqm of gross floorspace. On-site provision is sought

for developments of 15 or more dwellings with differentiated contributions for brownfield and greenfield sites (20% and 30% respectively). The policy approach is evidenced and shown to be viable in CD056, CD057, CD018 and in subsequent technical updates that have been provided. It is expected to make a material contribution to affordable housing provision over the plan period (see Affordable Housing Note, February 2020 [EX/CYC/36]).

- 1.5.4 The Council is aware of the guidance in the PPG (paragraph 31) which exempts small sites (defined as developments of 10 dwellings or fewer) from paying s106 contributions to affordable housing. This guidance is a material consideration, and the Council considers that there is a sound and evidenced basis upon which to apply the approach in Policy H10 to development in York.
- 1.5.5 The approach to vacant building credit in Policy H10 is consistent with paragraphs 21, 22 and 23 of the PPG.
- 1.5.6 Notwithstanding the comments above, the Council recognises that the effectiveness of Policy H10 could be improved with modification to simplify the wording and the approach to different thresholds. Accordingly, modifications are proposed in the Council's latest schedule of modifications, informed by evidence at appendix 1.

1.6 Is the approach to OSFC a reasonable one?

- 1.6.1 Yes. The offsite financial contributions (OSFC) in policy H10 has been tested. It is equal to the affordable percentages set out in policy H10 based on the formula also prescribed in policy H10. The OSFC has been informed by work undertaken by Porter PE, which is presented in Appendix 5 to CD018. It is therefore justified.

1.7 Will the alternative source of supply (in Policy GB4 make any material difference in terms of supply?

- 1.7.1 The Council's Affordable Housing Note, February 2020 [EX/CYC/36], acknowledges that the plan will not deliver the full affordable housing need – but is intended to contribute to it. The primary mechanism for securing affordable housing is through application of Policy H10 and Table 10 does identify the main sources of supply. Delivery of Green Belt exception sites are by their nature challenging to predict and as such have not been factored into these supply calculations as a specific source of supply. However, the Council consider that an enabling policy framework for affordable housing exception sites in Green Belt remains necessary. This is because these exception sites have the potential to contribute towards delivering more affordable housing provision which is an important Plan objective. Plan,

paragraph 2.5 highlights the objective to optimise affordable housing delivery.

- 1.7.2 Policy GB4 also responds to the requirements of NPPF (2012), para 89, bullet 5, which identifies 'limited affordable housing for local community needs under policies set out in the Local Plan' as appropriate to Green Belt.