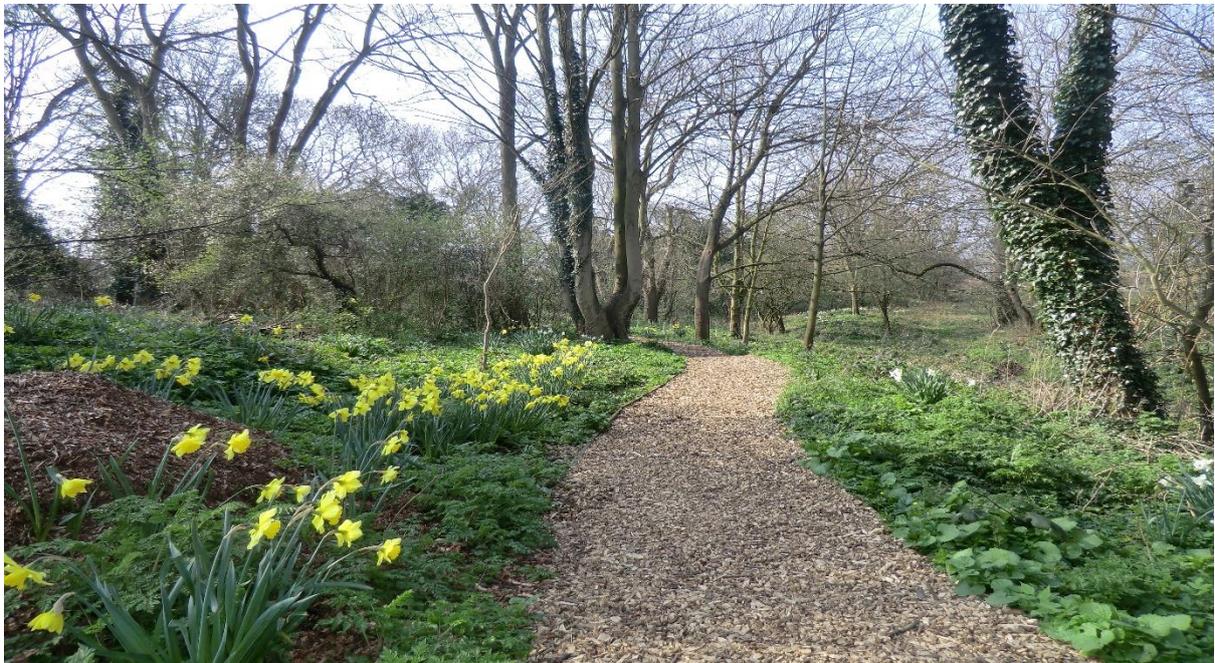


October 2016



# Poppleton Neighbourhood Plan

## Basic Conditions Statement

### Part 1

October 2016

# **Neighbourhood Plan Examination – Basic Conditions Statement**

## **Town and Country Planning Act 1990 ( as amended)**

### **Paragraph 8 (2) of Schedule 4B Statement**

**Submission Date October 2016**

**Poppleton Neighbourhood Development Plan Proposal**

**By**

**Nether with Upper Poppleton Parish Councils acting as Qualifying Body**

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### Document Information

Produced originally by H & H land and Property

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Client Nether with Upper Poppleton Parish Council

Original Author Tom Woof MRTPI

## INTRODUCTION

- 1 This Basic Conditions Statement (BCS) has been prepared by H&H Land and Property Ltd as part of its Neighbourhood Planning work with the Nether with Upper Poppleton Parish Councils. The Parish area has been designated a Neighbourhood Area and the two Poppleton Parish Councils became a qualifying body under the 2012 Neighbourhood Planning Regulations.
- 2 This BCS is submitted together with its appendices to City of York Council (CYC) under S15 (1) of the Neighbourhood Planning Regulations 2012.

### **Background to the Poppleton Neighbourhood Plan (PNP)**

- 3 After informal independent discussions both Nether and Upper Poppleton Parish Councils agreed in principle to develop a Neighbourhood Plan for Poppleton covering both parishes. At the formal Nether Poppleton Parish Council meeting on Monday 28 April 2014 the case was put to the full Nether Poppleton Parish Council that the joint councils should nominate two Parish Councillors each to collaborate in the development of a Neighbourhood Plan with other interested parties in the village. At the formal Upper Poppleton Parish Council on Monday 12 May 2014 the parish council ratified this arrangement to work in partnership to develop, in consultation with interested parties a Neighbourhood Plan. A successful Village Design Statement had been developed in such a way in 2003 and had formed the basis upon which the ancient and historic setting of the villages could be maintained and the Green Belt land protected in the absence of the City of York agreeing a designated Green Belt boundary.
- 4 On 16 June 2014 formal notices were placed round the villages to allow the 6-week public notice period to commence for the Neighbourhood Plan. The period of consultation was expected to be completed by late July. Formal approval was received on 13 October 2014 for the Neighbourhood Plan designated area.
- 5 The Local Plan was halted by the City of York Council in October 2014 and therefore the Neighbourhood Plan has developed ahead any Local Plan.
- 6 After the formal designation a website was developed, [www.plan4poppleton.co.uk](http://www.plan4poppleton.co.uk) where all documentation could be accessed by as many as had access to the Internet as considered vital in this age of instant communications.
- 7 All households in the village received a questionnaire which helped to identify areas of concern and potential housing and employment developments that would be supported. 560 replies were received and the data analysed to produce a report which can be viewed on the above website.
- 8 All relevant land owners, businesses, schools, societies, clubs and residents were contacted and a regular update on progress was recorded in the Parish Council minutes posted on both the Nether and Upper Poppleton Parish Websites.

- 9 Newsletters, flyers and leaflets were distributed through the villages and all replies were noted.
- 10 All sites around the villages and within the parish areas were considered under a formal site assessment programme.
- 11 The plan was submitted to the City of York Planning Department for a pre-submission consultation on 22 January 2015
- 12 All replies were noted and compiled into a consultation document which was also placed on the website.
- 13 A consultant, Tom Woof of H & H Land Associates was appointed to steer the production of the relevant formal planning documentation such as the Basic Conditions Statement
- 14 Formally the City of York and English Heritage requested a full Strategic Environmental Assessment be undertaken as there was no Local Plan in place at the time.
- 15 A Health Check on the plan was undertaken in July 2015 and at that time confirmation that a full SEA would be required was confirmed.
- 16 The Committee used AECOM to assist with the development of a Scoping Document, followed by a Strategic Environmental Assessment. This was sent to the City of York Planning Department, Historic England, Natural England and the Environmental Agency for comments
- 17 All comments were then worked through the SEA
- 18 A second pre-submission consultation was undertaken between 11 May and 1 July.2016.
- 19 A consultation from the City of York on preferred sites for the Local Plan was released on 18 July 2016. This indicated that housing numbers of 841 per annum would be appropriate and previous land considered safeguarded would be removed from the land allocation unless noted as a site for housing development.
- 20 This changed some of the policies wording and consideration was given in the Neighbourhood Plan in relation to the new information.
- 21 AECOM have been instrumental in assisting the Neighbourhood Plan to develop further.
- 22 Tom Woof left the employment of H & H Land and Property Ltd so the Neighbourhood Plan Committee is now working with AECOM to develop the plan ready for presentation to the City of York to progress to examination.

## BASIC CONDITIONS

Neighbourhood Development Plans must meet the following basic conditions<sup>1</sup>

(1) The examiner must consider the following:-

- (a) Whether the draft neighbourhood development plan meets the basic conditions ( see sub-paragraph (2)
- (b) Whether the draft Neighbourhood Development Plan complies with the provision made by or under sections 61E(2), 61J and 61L,
- (c) Whether the area for a referendum should extend beyond the neighbourhood area to which the draft neighbourhood development plan relates, and
- (d) Such other matters as may be prescribed.

(2) A draft neighbourhood development plan meets the basic conditions if –

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,

(d) the making of the neighbourhood development plan contributes to the achievement of sustainable development,

(e) the making of the neighbourhood development plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or part of that area),

(f) the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and

(g) prescribed conditions are met in relation to the neighbourhood development plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood development plan.

(6) The examiner is not to consider any matter that does not fall within sub-paragraph (1) (apart from considering whether the draft neighbourhood development plan is compatible with the Convention rights).

15 To meet these basic conditions the following information is presented to help the Examiner in his or her consideration.

### **Schedule 4B Paragraph 8 Section (1)**

1a) This is for the Examiner to determine having had regard to the information presented in this Statement. It is considered in detail below under Section (2).

b) the provisions of 61E(2), 61J and 61L as amended by s38C(5)(b) is a reference to the provisions of 38A and 38B.

In relation to the provisions of 38A and 38B the following is submitted

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<sup>1</sup> Paragraph 8 of Schedule 4B to the 1990 Act (excluding 2b,c,3 to 5 as required by 38C(5))

### 38A

- 1) Poppleton Parish is a qualifying body and entitled to submit a neighbourhood development plan (PNP) for its own parish area.
- 2) The POPPLETON NP expresses policies relating to land use within the neighbourhood area.
- 3) to 12) are essentially post examination procedures.

### 38B

- 1) a) the period of the PNP is up to 2037 or 20 years. This period has been chosen to align the PNP with the dates of the emerging City of York Local Plan. The City of York has indicated that the Local Plan will be presented for examination in 2017 with a 15 year period initially and extension for a further 5 years.  
b) the PNP does not include any provision for excluded development such as national infrastructure.  
c) the PNP does not relate to more than one neighbourhood area. It relates to Poppleton Neighbourhood Area as designated by City of York Council in October 2014.
  - 2) There is no other PNP in place in the neighbourhood area.
  - 3) Refers to conflicts within the PNP
  - 4) Refers to regulations that the ~SoS may make relating to PNPs. Such regulations amended by SI2015/20) which have been used to inform the process of making the POPPLETON NP. These regulations set out the process by which neighbourhood plans are to be made and set out.
    - The consultation bodies for PNPs. These have been included in the Consultation Statement
    - That PNP which are likely to have a significant effect on European Sites (habitats) must be subject to an appropriate assessment. The POPPLETON NP has been subject to a Scoping Assessment, Strategic Environment Assessment and Habitat Regulations Screening Exercise which are part of this submission.
    - The 2015 amendment to the Regulations require that the submission of a Neighbourhood Plan is also accompanied by a Strategic Environment Assessment which accompanies this submission. Assessment Screening which also indicates that a full SEA has been completed.
    - That NDO may be subject to an Environmental Impact Assessment ( not relevant for PNPs).
  - 5) Refers to the publications of PNPs
  - 6) Clarifies what is excluded development.
- (d) Whether the area for the referendum should extend beyond the area that the draft Neighbourhood Development Plan relates

It is not considered that there is any benefit in extending the area for the referendum beyond the Designated Neighbourhood Plan Area because the effect of the policies in the PNP are specific to Poppleton Parish.

(e) Prescribed Matters

There are no prescribed matters other than those considered below under paragraph 2(g)

## **Schedule 4B Paragraph 8 Section 2**

### **(a) SoS Guidance – National Planning Policy Framework.**

16 The NPPF in sections 183-185 refers to Neighbourhood Plans and seeks that the ambition of those plans should be aligned with the strategic needs and priorities of the wider local area. Those strategic needs and priorities are generally set out in the unadopted COYC policy document and in the 2013 Order for the abolition of RSS 12. This latter document says:

RSS York Green Belt policies

POLICY YH9 Green Belts

C the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city.

POLICY Y1 York sub area policy

Plans, strategies, investment decisions and programmes for the York sub area should:

C Environment

1. In the city of York Local Development Framework (LDF), define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York City centre and the inner boundary in line with policy YH9C.

2 Protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open area.

17 This makes clear that the boundaries of the Green Belt around York have not been formally defined as no LDF ( or replacement document) has been adopted as of September 2016.

18 The NPPF also seeks that Neighbourhood Plans are to be in 'general conformity with the Strategic Policies of the Local Plan'. This phrasing is slightly different from the legal requirement which is set out in the Act ( Sch 48 Para 8(2)3 and refers to the making of the (Plan) being in 'general conformity with the strategic policies contained within the adopted development plan. There is no adopted Local Development Plan for the City of York. The CYC website explains:

All local plans are subject to public inquiry, which aims to resolve any conflicts over land use that have arisen. We published our draft local plan in May 1998, and the public inquiry opened in November 1999.

The independent Government inspector who chaired the inquiry recommend that the council set it Green Belt Boundary for at least 20 years. As a result, the inquiry was suspended and we have since been consulting residents about the Green Belt and land use allocations.

The first and second set of changes to the deposit draft were put out for public consultation during February and March 1999. The representations received were considered and informed the drafting of the 3<sup>rd</sup> set of changes. This in turn was consulted on during March 2003. Again, representations from this period of consultation were considered and reported to council members. The resultant changes were approved by Full Council on 12 April 2005 as the City of York Local Plan Incorporating the 4<sup>th</sup> Set of Changes – Development Control Local Plan.

As recent changes to the Planning system require local authorities to produce a new type of citywide plan ( a Local Development Framework), the public inquiry on our local plan will not be reconvened.

During the pre-submission consultation May 11 – 1 July 2016, the Neighbourhood Plan Committee received the following information from the City of York Planning Department.

“We would also like to inform you that the Local Plan Preferred Site consultation document was published for Member discussion at the Local Plan Working Group on 27<sup>th</sup> June 2016 and Executive 30<sup>th</sup> June 2016 wherein it was approved for citywide public consultation. We appreciate that this has happened during the pre-submission consultation period of the Poppleton Neighbourhood Plan and consequently, couldn't be taken into account by yourselves. We have, however reflected it in our comments,”

## **Schedule 4B Paragraph 8 Section 2**

### **(a) SoS Guidance National Planning Practice Guidance.**

10 NPPG 070 says:

*“ A qualifying body is advised to set out in its basic conditions statement how they have regard to national policy and considered whether a particular policy is or is not relevant. A qualifying body is encouraged to set out the particular national policies that it has considered, and how the policies in a draft neighbourhood plan or the development proposal is an Order take account of national policy and advice.”*

20. The National Policies that have been considered for relevance are listed below; and indicated throughout the Poppleton Neighbourhood Plan.

<b>NPPF Paragraph</b>	<b>Summary of Relevance to Neighbourhood Planning</b>	<b>How the NPPF is taken account of in the PNP</b>
NPPF 2	Confirms the significance of the adopted plan unless material considerations indicate otherwise	Consideration of the status of the CYC plans have been considered and views taken as to their relevance to the PNP
NPPF 6-15	Puts sustainability at the heart of the planning system and the importance of local circumstances in plans.	The PNP is intended to improve sustainability of the community of Poppleton by addressing housing, employment and community facilities in a locally distinctive way.
NPPF 16	Refers to neighbourhood planning and seeks that communities engage with the process and develop policies for housing, economic development and positively shape and direct development that is outside the strategic elements of the local plan.	The PNP considers these types of policies explicitly through active engagement of the community with the process.
NPPF 17	Seeks that neighbourhood planning plays a part in developing an empowering and succinct planning system	The PNP covers a wide range of matters that are referred to in this paragraph of the NPPF
NPPF 18-22	Seeks the encouragement and protection of sites for economic growth	The PNP protects such sites for business uses which are appropriate for a settlement of Poppleton's size.
NPPF 23-27	Refers to town centres	To the extent that these policies are relevant to a village like Poppleton, the PNP refers to the updated Village Design Statement
NPPF 28	Refers to policies to support economic growth in rural area.	The PNP allocated sites which will support economic growth in the wider rural area.
NPPF 29-40	Refers to support sustainable transport	Not relevant to this PNP except to support increased lengths of cycle paths
NPPF 42-45	Refers to support for high quality communications infrastructure	Not relevant to this PNP
NPPF 47- 55	Refers to the delivery of a wide choice of housing and in	The PNP seeks to deliver a range of housing for specific

	particular to NPPF 50 refers to mixed communities which reflect local demand	groups including affordable and housing for older persons in response to local demographic understanding.
NPPF 58- 68	Refers to the requirement for good design and in particular NPPF 58 seeks that PNPs should set out how the quality is to be provided	The PNP refers to the updated Village Design Statement as the primary method by which locally distinctive design criteria will be met. It also refers to the 12 good design principles
NPPF 69- 78	Refers to the promotion of healthy communities and in particular to the use of neighbourhood plans to designate open green space.	The PNP allocates land for this purpose including for allotments space.
NPPF 79-92	Refers to the protection of Green Belt land	The Green Belt around the City of York is now established only within the 2013 Order ( SI 2013 No117)(RSS revocation) which specifies it only in a general way, but goes on to say that 'the inner boundaries should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city' and that plans should 'define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York City Centre. The PNP allocated land for development which is consistent with the emerging CYC Green Belt ideas with small modifications. It is considered that these modifications are appropriate and do not undermine the purpose or character of the York Green Belt.
NPPF 86	This policy refers to the criteria for inclusion of a village within the Green Belt and the openness of the character of the village as part of the open character of the Green Belt.	The character of Poppleton Village is such that the building limit allows the village to appear compact within the Green Belt, green fields and open countryside. However

		the area inside the A1237 does not have so much of this characteristic. The amount that is there should be safeguarded to prevent coalescence.
NPPF 93-108	Refers to climate change and flooding	The PNP includes policy on local flooding issues and seeks to provide site by site improvements to flood resilience together with a concerted strategy to deal with historic flooding issues through the use of a SUDS report and masterplan
NPPF 109-125	Related to the conservation of the natural environment including biodiversity	All development must take due account of national or international designation for habitats. The PNP does not alter this in any way and supports it through policies.
NPPF 126-141	Refers to the conservation and enhancing of the historic environment. There is not specific reference to Neighbourhood Plan in this section of the NPPF	All development must also take due account of national or international designation. While the landscaper is generally protected by virtue of a Green Belt designation which is specifically for protecting and enhancing the historic setting of York, the detail of the boundary is not set by any higher tier policy.
NPPF 142-149	Refers to safeguarding minerals	Relevant to mineral extraction within the boundary of the parish area and covered by a policy to ensure the land is returned to its former condition.
NPPF 150 - 182	Refers to Plan making and specifically to local authority plan making as neighbourhood planning is considered in the next section	NPPF 158-159 refers to an appropriate and realistic evidence base for housing market assessments. CYC has has reassessed the housing need at 841 houses per annum in the recent preferred sites consultation.
NPPF 183	Confirms that Neighbourhood Planning provides powers to set policies	The PNP does this

NPPF 184	Says that communities set positive policies for local circumstances providing they are aligned with strategic needs and are in general conformity with the strategic policies	The PNP does this
NPPF 185	Sets out the relationship of PNP with other policies	The PNP will support the strategic policies of providing a reasonable quantum of housing for the parish area of Poppleton whilst directing it to locations that are deemed to be locally acceptable and acceptable according to all other land use planning criteria.
NPPF 186- 219	Refers to decision taking and implementation	These policies are not directly relevant to the issues set out in the PNP.

21 The Rt Hon Greg Clark MP says in his forward to the NPPF that Planning should be a creative exercise , a collective enterprise, not excluding people and communities, and Neighbourhood Planning is intended to address this.

22 The presumption in favour of sustainable development within the NPPF means that neighbourhoods should plan positively to support local development that is outside the strategic elements of the Local Plan<sup>2</sup>

**Schedule 4B Paragraph 8 Section 2**

**(d) Sustainable Development.**

23. The thrust of the Neighbourhood Plan is to increase the sustainability of the communities in Poppleton Parishes. There is an emphasis on providing housing where major development is due to take place and which provides for the redevelopment of a large brownfield Site (ST1 CYC, H1 PNP). Housing is also supported on the former Civil Service Playing fields and agricultural land (ST2) (H4 PNP) and infill areas within the village (H2 and H3).

The key elements of the PNP which modify the approach taken by CYC in the development of its policies are those which increase the sustainability of the aims of the plan. These elements are,

- To provide a mix of uses on the significant brownfield site (ST1 CYC H1 PNP) in order to ensure that the land users are good neighbours and to reduce the likelihood of traffic using the development as a short-cut to avoid the congestion on the A1237 bypass ring road.

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<sup>2</sup> NPPF para 15 and 16.

- To provide housing on the former Civil Service playing fields including the grade 2 agricultural land.
- To provide recreational areas within the village
- To protect existing Green Spaces, Green fields and reinforce the protection of the Green Belt.

24 Greg Clark, Minister for Planning and Decentralisation said:

*“Most people love where they live, yet the planning system has given them almost no say on how their neighbourhood develops. The Coalition Government will revolutionise the planning process by taking power away from officials and putting it into the hands of those who know most about their neighbourhood – local people themselves. This will be a huge opportunity for communities to exercise genuine influence over what their home town should look like in the future. It will create the freedom and the incentives for those places that want to grow, to do so, and to reap the benefits. It’s a reason to say yes”*

*Furthermore, a strategic environmental assessment has been undertaken on the plan. Article 1 of Directive 2001/42/EC’ on the assessment of the effects of certain plans and programmes on the environment’ ( the ‘SEA Directive’) states that SEA should, inter alia:*

*“...provide for a high level of protection of the environment...with a view to promoting sustainable development by ensuring that...and environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”*

## **Schedule 4B Paragraph 8 Section 2**

### **(e) General Conformity with Strategic Policies**

#### **The meaning of general conformity.**

25 The term ‘general conformity’ is not defined in law but has been discussed in a number of judgements, particularly with regard to the relationship between Structure Plan and Local Plans. The use of the adjective ‘general’ is to introduce a degree of flexibility although not unlimited flexibility. The judgements seem to conclude that the degree of flexibility this phrase permits will depend upon the planning judgement of the decision maker and the particular circumstances of the case.

26 In this case, the test is to be applied to a new and different tier of planning policy formulation, that between the strategic elements of a Local Plan and a Neighbourhood Development Plan. This relationship has not been tested in the Courts and there is no case law to consider to help in these circumstances, other than in the most general sense. It is useful therefore to consider what the intention of the legislator in choosing these words was to define this relationship. The SOS states in the NPPF:

*Neighbourhood Plans give communities the direct power to plan the areas in which they live through setting planning policies for the development and use of land.*

*Parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications.*

27 This is what the Poppleton Neighbourhood Plan intends to do. The process of preparing a Neighbourhood Plan is a discretionary one that is undertaken by the community, it is intended to be a locally driven process and one which is not undertaken by Local Authorities. As such, for a local community, it is a significant undertaking and one that is made voluntarily and not made lightly. To this extent the policies of the Neighbourhood Plan will require more flexibility rather than less in the range of flexibility that 'general conformity' allows. The converse of this, if a more rigid approach to 'general conformity' were to be adopted, would tend to reduce the chances that Local Communities would undertake the process of making a Neighbourhood Plan. The purpose of the Localism Act would be severely diminished.

28 The policies of Neighbourhood Planning will tend to seek out those areas of policy that will make the most positive difference for Local Communities and the phrase 'general conformity' needs to be interpreted accordingly.

29 For the relationship between the London Plan and Borough UDP a definition of general conformity was proposed which referred to the significance of harm caused by a spatial development strategy. This level of planning and the level of 'general conformity' between structure Plans and Local Plans has the potential to affect a larger and inherently more strategic area than that between a Local Plan and a Neighbourhood Area or Plan. It is therefore natural that the degree of conformity between policies of higher tiers within the overall framework need to be tighter than those between lower tiers of policy, which may be looser, because they affect a smaller and inherently less strategic area.

30 The NPPF<sup>3</sup> says that Neighbourhood Planning is a powerful set of tools for local people. This wording is intended to give local communities ambition and higher goals than is possible with Area Action Plans, Village Design Guides and the like. To be powerful a Neighbourhood Plan must be intended to allow a local distinctiveness to be tangible and real and not be completely in conformity with higher tier policy. A level of variation within the strategic framework is part of neighbourhood planning.

31. For all these reasons each PNP policy needs to be considered with an understanding of 'general conformity' that is generally looser than used to consider relationship between structure and Local Plans or between the London Plan and UDPs.

32. The Secretary of State (SoS) has issued guidance that sets out in brief criteria 'what is meant by 'general conformity?'

### **NPPG 74 says:**

#### **What is meant by 'general conformity'?**

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<sup>3</sup> NPPF Para 184

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

Whether the Neighbourhood Plan Policy or development proposal supports and upholds the general principle that the strategic policy is concerned with.

The degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy.

Whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy.

The rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.

33. There is a fundamental issue to consider when assessing the Poppleton NP for General Conformity. It is that CYC does not have any adopted plan and therefore it has no strategic policies against which the issue of general conformity can be judged. The RSS was revoked leaving only some very general policies about the York Green Belt referred to earlier. In the meantime, CYC has approved its 4<sup>th</sup> set of changes to the deposit draft local plan in 2005 for development control purposes. The preface to this document says:

*“This document was approved at a meeting of the City of York Council on 12<sup>th</sup> April 2005. It has two key roles reflected in its title. Firstly, it represents the most advance stage of the draft City of York Local Plan. In this role, it comprises the 1998 deposed draft of the Local Plan amended up to and including a fourth set of changes. In addition, and quite separately, it was also approved for the purpose of making development control decisions in the City, for all applications submitted after the date of the Council meeting (12<sup>th</sup> April 2005). It will be used for this purpose until such time as it is superseded by elements of the Local Development Framework. For both purposes, it is accompanied by a set of proposal maps entitle ‘Development Control Local Plan Proposal Maps’. For the purposes of clarity, policy numbers have been carried forward throughout the whole Local Plan process. Where new policies have been added they include a suffix. Where policy numbering does not run sequentially this is because a policy has been deleted (see ‘How to use this Local Plan’ for full details).*

*For further information into the background to this document please contact:*

*City Development Team, City of York Council, 9 ST Leonard’s Place, York  
YO1 7ET(2005)”*

***New address since 2014***

*Planning and Environment*

*City of York Council*

*West Offices Station Rise*

*York YO1 6GA*

34 For the purposes of this exercise and following conversations with CYC officers, it is accepted that there is no adopted plan for York and therefore there are no strategic policies (with the exception of the retained RSS Green Belt Policies) for the Neighbourhood Plan to be in general conformity with. Nevertheless CYC says it wishes to encourage Neighbourhood plans to take account of the emerging Local Plan. While this is a reasonable position to take for developing policy, such an approach cannot be the basis for a neighbourhood plan to fail to meet the Basic Conditions.

35 The approach required by the National Policy Guidance is to assess each NP Policy against the four considerations set out in NPPG 74. This is set out in Appendix A below Table of Conformity in relation to the emerging CYC policy. In addition each policy is also assessed against the general requirements that NPs should be sustainable, deliverable and not in breach of EU regulations.

36. However, it cannot be overstated that the fact that there is no adopted Plan for York means that there is no strategic policy (with the exception of the RSS policy) for the NP to be in conformity with. Nevertheless it is intended to be shown to what extent the NP supports and upholds the emerging strategy. Where any conflict exists, it is considered that it is both within the margins permitted by the term 'general conformity' and outside the strict test of being considered against 'adopted strategic policy'.

37 The issue of whether the Poppleton Neighbourhood Plan can set the detailed boundaries for the York Green Belt within the Designed Area of the Poppleton parishes is discussed here.

38. Strategic Policy YH9 refers to the need to define the detailed boundaries. Y1 goes on to say that 'Plans, strategies, investment decisions and programmes should: In the City of York LDF, define the detailed boundaries' etc and then refers to YH9. This policy position makes clear that there is a role for 'Plans Strategies etc.in defining the boundary and then seeks that the York LDF does that. Robert Walton of Counsel has advised that whilst as a matter of principle it may be within the scope of a NP to set an interim green belt boundary pending the Local Plan, it is only the Local Plan that can define the Green Belt boundary.

39. CYC refers to Counsel's advice on the Green Belt as taken to the Local Plan Working Group on 29<sup>th</sup> January 2015. This advice (from John Hobson QC) dated 16 January 2015 was essentially about the approach to be taken towards safeguarded land. He was not requested to advice about Green Belt Boundaries in neighbourhood plans. We have been informed by the City of York planning department that Robert Walton has recently advised separately on this issues. We have received not further advice on this issue. We are not given any help in this matter by these documents other than a history of the Green Belt and the argument on the importance of setting safeguarded land'. It also suggests that without safeguarded land, a green belt is less likely to have permanence because 'it is know that the land will need to be released to meet future development needs, if not this plan period then at least in the next'.

40 Nevertheless, the designation Safeguarded Land is normally a Strategic matter for the City of York to consider and designate. It is not generally a matter with

which Neighbourhood Plans should concern themselves particularly in relation to housing land. The reason for this is that the longer term strategic assessments which must be carried out ascertain the likely amount of development land which should be safeguarded for particular development types for the City as a whole beyond the life of the Local Plan are unlikely to be within the parish's knowledge.

41 Notwithstanding this, the designation of land safeguarded for education use within the green belt adjacent to Manor Academy is consistent with this approach. It responds to the likely requirement for 16-18 year old provision adjacent to the existing school without removing it from Green Belt. The use of this land for playing fields will allow the school to expand on its present site without compromising the open character of the Green Belt. The Community in Poppleton includes those intimately connected with the Governance of Manor Academy.

42 The Green Belt within the Poppleton Parishes is the narrowest within York and its preservation should be defended with utmost rigour.

43 The setting of the detailed Green Belt Boundary is a legitimate Neighbourhood Plan issue. As the emerging Local Plan will be setting the official Green Belt it is anticipated that the settlement limit around the villages of Poppleton and the Green Belt line will follow the same path. This then makes a clear distinction between the Green Belt and the Urban Settlement of York.

44 The RSS policy that retains the general extent of the Green Belt needs to be defined in order that the Green Belt serves its intended purpose of setting the long term limits of development and safeguarding the special character and setting of the City of York. The mechanism for doing this is set out in 'Plans and Strategies' and specifically in the 'City of York LDF'. The City of York is no longer preparing an LDF, as that process was abandoned in July 2012 following the CYC approval of development at Monks Cross in conflict with the emerging LDF. Now that the emerging Local Plan is being prepared by the City it will form part of the Development Plan for the Area. Neighbourhood Plans, inaugurated by the same legislation that allowed the partial revocation of the RSS, will also form part of the Development Plan for the area. They carry the same weight as Local Plan policies and are therefore able to retain the boundary in the same way as any policy in the Development Plan is able to do. Neighbourhood Plans for Poppleton seeks to retain the green belt boundary as retained by the City of York in the RSS Policy.

45. Finally the detailed boundary of the Green Belt effectively sets the limits of development within the urban area of York and the villages of Poppleton. Providing that no strategic policy objective is jeopardised, the local community, generally engaged with Neighbourhood Planning is easily capable of recognising this boundary. The 2005 4<sup>th</sup> set of changes planning document of the City of York set the green belt boundary till 2026.

## **Schedule 4B Paragraph 8 Section 2**

### **(f) EU obligations.**

46 In line with Regulation 9 of the SEA Directive, the draft neighbourhood plan was 'screened' by CYC. This screening option was sent to the SEA consultation bodies for comment. CYC subsequently issued a screening determination that the SEA was required (largely due to potential impacts on heritage assets). In line with

SEA regulation 12(s) the scope of the assessment was then consulted on with the consultation bodies for the required five week period. An environmental report, prepared in line with Regulation 12 was later published alongside the draft neighbourhood plan. This was subsequently updated to reflect consultation feedback and minor amendments to the plan itself.

A table in Appendix B of the environmental report sets out how the SEA adheres to the SEA Regulations (and therefore to the SEA Directive).

#### **Schedule 4b Paragraph 8 Section 2**

#### **(g) Prescribed matters and conditions.**

47 Paragraph 1 of Schedule 2 of the Neighbourhood Planning regulations 2012 prescribes the following conditions for the purpose of this section of the Basic Conditions Statement.

The making of the Neighbourhood Development Plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010(d) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c.) Regulations 2007€) (either alone or in combination with other plans or projects).

48 The effect of this condition and the explanatory note to the Neighbourhood Planning Regulations 2012 is that provided the appropriate environmental body (City of York Council) is of the view that the NP is not likely to have a significant effect upon a European Site (as considered above in Section (f) of the Statement) the, in the Examination of the Plan, the Examiner must apply the prescribed conditions.

#### **Conclusion**

49 The Basic Conditions as set out in the Schedule 4B to the TCPA 1990 are considered to be met by the Poppleton Neighbourhood Plan and all the policies therein. It is therefore respectfully suggested to the Examiner that the Poppleton Neighbourhood Plan complies with Paragraph 8(1)(a) of Schedule 4B of the Act.

PNP POLICY	NPPF assessment of General Conformity with Strategic Policy				Deliverability	Does the policy contribute to the achievement of sustainable development	Breach of EU regulations
	Whether the neighbourhood plan policy supports and upholds the general principle that the strategic policy is concerned with	The degree if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy	Whether the draft neighbourhood plan policy provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy	The rationale for the approach taken in the draft neighbourhood plan and the evidence to justify that approach			
PNP 1 Green Belt	Yes the current and emerging LP strategic policy see the protection of the Green Belt as a key strategic aim. This policy not only seeks to protect the Green Belt but it also notes how the green belt is currently situated within Poppleton	See paragraphs 26-31 of the BCS	Yes additional detail through the confirmation of boundaries	The approach is to set out the detailed boundary in a way that clearly articulates the local communities' view of where the limits of village development should be <b>within</b> the village settlement line.	Yes CYC has been consistently robust at defending its Green Belt whether adopted or not	Yes the long term approach to the green belt is a key part of delivering a sustainable development plan for the Poppleton villages and York	

<p>PNP 2 A and B Green Infrastructure</p>	<p>The protection and enhancement of Green Infrastructure as defined in these policies are considered principles of the RSS strategic policies for York Green Belt and Green Infrastructure including strategic Green Wedges. They are integral to the character and setting of the City of York and the villages</p>	<p>No conflict with CYC emerging Plan</p>	<p>Additional detail for the specific elements of Green Infrastructure to be protected and enhanced. Much of the Green Wedges that surround York are effectively the flood plain of the Rivers Ouse and Foss.</p>	<p>These policies set out an overall protection and enhancement of certain Green Infrastructure features and list which features will, in particular, be subject to efforts to secure their enhancement and protection as opportunities arise. The list of features represents a local list of those that the local community consider of significance.</p>	<p>Yes – the policy seeks protection and enhancement only where the opportunity arises, which will apply within the normal scope of reasonable planning requirements and the test for conditions of obligations</p>	<p>Yes- the protection and enhancement of Green Infrastructure where possible will help achieve the sustainability of the Poppletons in an environmental and economic sense by improving the environmental and historic setting of the City of York and the Villages and properties within the Poppleton villages.</p>	<p>NO</p>
<p>PNP 3 Conservation Areas</p>	<p>The protection and enhancement of Conservation areas as part of the local plan 2006</p>	<p>No conflict</p>	<p>No conflict</p>	<p>This policy sets out to ensure that the conservation area and the regulations are maintained. The rationale for this policy is to conserve the character, setting and historic assets of the village.</p>	<p>Yes</p>	<p>Yes</p>	<p>\no</p>

<p>PNP 4 Village Design Statement (VDS)</p>	<p>Yes the policy raises the VDS to a statutory level in order to provide greater direction and guidance to developers on the detail required for proposals. The strategic Policy as set out in the former RSS Green Belt Policies are silent on the use of detailed advice, but to do so would not undermine the general strategic policy or aim of defining and protecting the village historic status</p>	<p>No Conflict</p>	<p>Yes this policy provided a level of detail that is previously set out in a Supplementary Planning Document and had weight in planning decisions.</p>	<p>The use of the VDS as a source of criteria with which to judge the acceptability of schemes provides weight and teeth to a carefully prepared document that already has status of a supplementary Planning document</p>	<p>Yes the CYC Development Management team already uses the VDS as a material consideration in planning decisions.</p>	<p>Yes the use of the VDS in planning decisions will ensure the character and design of new development will be appropriate to the area and thereby enhance the economic and cultural capital in the area, which in turn will improve the sustainability of the area.</p>	<p>NO</p>
<p>PNP 5 Traffic Policy</p>	<p>Yes this policy reiterates the importance of maintaining the character of the Green Belt and seeks to provide further sustainable transport links.</p>	<p>No Conflict</p>	<p>This policy adds local details by including a requirement for a pedestrian or cycle link as part of other forms of transport improvements.</p>	<p>Within this very narrow part of the Green Belt lie the Ring Road, an arterial road, two rail lines, the river and four roads into Poppleton. There is no dedicated cycle path or</p>	<p>Yes provided the public agencies responsible for transport infrastructure are willing to contribute to the improvements.</p>	<p>Yes the provision of a dedicated cycle pedestrian link will improve the sustainability of the Poppleton villages.</p>	<p>NO</p>

				pedestrian link within the village settlement line. Such improvements to link to the Academy will reduce the need for children to be ferried by car to school and increase the sustainability of Poppleton Villages.			
PNP 6 Housing ABCD	Yes it supports the provision of housing which is a strategic element in Land Use Planning H1 300 H2 2 H3 1 and replacement buildings H4 261	No conflict – it does not impinge on the Green Belt.	The policy sets out a local level of detail for the delivery of a number of housing sites small and medium housing development.	The rationale for the housing policy is to support the need for housing with and around York. It seeks to provide mixed housing to ensure that a community is developed by allowing for different stages in house lifecycle, ie starter homes, bungalows and family housing. It seeks to provide gardens as a place for relaxation and enjoyment.	Yes – There is no information to suggest that this is not a deliverable requirement.	Yes – a key part of ensuring the sustainability of the Poppleton villages is to retain the character of the conservation area of which the Blairgowrie site plays an important part	NO

<p>PNP 7 A and B Employment</p>	<p>Yes- the restriction on new development to the current footprint of this building within the green belt will protect the open character of the green belt and the setting of the city of York</p>	<p>No conflict</p>	<p>The policy provided detailed advice for the possible redevelopment of an important site within the green belt.</p>	<p>The retention of the open character of the green belt at this location is considered by the local community to override any requirement to expand the current footprint. Any decision will need to take account of all material considerations.</p>	<p>Yes –There is no information to suggest that this is not a deliverable requirement.</p>	<p>Yes – the protection of the open character of the green belt is considered to help achieve sustainable development in the Poppleton Villages.</p>	<p>NO</p>
<p>PNP 8 A and B Education</p>	<p>Yes the strategic policy aim of defining and protection green belt is supported by this policy which sets out area for education expansion while safeguarding area beyond the period of the plan for educational use</p>	<p>No conflict</p>	<p>Yes detailed allocations and safeguarding is included within the policy</p>	<p>The rationale is to help define the green belt while acknowledging that education investment is a matter for a longer term than the period of this plan. It is accepted by the Governors of Manor Academy that expansion of the school to include 16-18 year old provision may be required in the future and this policy seeks to</p>	<p>Yes detailed investment and development proposal will depend upon schemes drawn up and funded at the appropriate time. Manor Academy already owns the ED 1 site, and the safeguarding of the buffer zone will secure the possible relation of sports areas as required by development proposals on ED 1</p>	<p>Yes this policy will help secure the future effectiveness of education facilities within the area which is considered to be a key part of establishing a sustainable local community.</p>	<p>NO</p>

				safeguard land to assist in that provision without compromising the green belt open character.			
PNP 9 A and B Community Facilities	Yes the strategic policy of defining and protecting the green belt is supported by the provision of this policy	No Conflict	Yes, the details provided set out certain uses and locations for community facilities that may occur without undermining the open character of the green belt	Local understanding of the needs of the community has been used to determine the scale and scope of this policy	Yes if funding allows	Yes these community facilities will improve the social aspect of sustainability within the Poppleton Villages.	NO
PNP 10A and B Environmental Policies	Yes this policy helps define the detail of the green belt within the Poppleton villages and the strategic policy refers to protecting important open area	No conflict	Yes this policy helps define the details of the green belt and the importance of habitat in the villages	These areas are also subject to a legal covenant preventing development. Although purchased part of the former green belt it still remains greenbelt even if under cultivation.	Yes CYC have been robust in the defence of the Green Belt.	Yes the protection of the habitat and Green Belt is a key part of achieving sustainable development within York and the Poppleton Villages in particular the protection of the character and setting of the City of York	NO
PNP 11 Climate and renewable energy	Yes this policy helps to ensure that climate conditions and renewable energy are	No conflict	Yes this policy helps define the details of the types of renewable energy that are	Sustainable energy and control of water in the new development is important to York	Yes CYC are supportive of this type of work in this policy	Yes Climate policies are part of the developing Local Plan for York	NO

	encouraged in new building.		supported at a strategic level	has high levels of flooding are periodic			
PNP 12 Mineral Extraction and Waste Management	Yes this policy helps to ensure that extraction of materials within the parished areas will not affect the long term views of the open character of the green belt and greenfield land that is farmed.	NO conflict	Yes this policy helps to clarify how the development should be sympathetic to the final view of the landscape on completion of the works	Environmental reinstatement is part of the strategic policies being developed by CYC	Yes CYC are support of this policy	Yes Mineral extraction is part of a larger county wide approach to use of minerals in the area. The final consultation on this has not yet been published	NO