



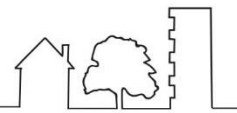
AIREDON
PLANNING & DESIGN

York Local Plan Examination

Matter 2 Statement

Mr J Harrison

November 2019



Matter 2 – the housing strategy: the objectively assessed need for housing; the housing requirement and the spatial distribution of housing

2.0.1 Summary of representations:

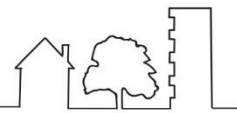
- The Council's overall strategy that should form the basis for identifying sustainable sites for the delivery of housing is fundamentally flawed and is unsound.
- The key principles that should underpin the strategy are unremarkable, but they do not extend into the delivery of sustainable forms of development. The Council has failed to identify an appropriate spatial distribution of housing upon which the strategy and housing allocations should be based, which includes the failure to identify a settlement hierarchy or subsequently the amount of housing that each settlement or area of York can accommodate. This has resulted in there being no spatial strategy for the identification of appropriate sites, rendering the current choice of strategic and housing sites unsustainable.
- Notwithstanding the fact that there are sustainable alternatives to the chosen strategic and housing allocations set out in the plan within York's own administrative area, the Council has also failed to adequately work in a collaborative way with neighbouring authorities. The plan and its evidence base do not demonstrate reasoned justification for the City of York and Selby District Councils decision to assess housing needs separately. The Councils should be working collaboratively given that they are located within the same HMA.
- It is acknowledged that it is legitimate for a plan to have policies that endure beyond the plan period; however, the Council should not seek to identify housing requirements beyond the plan period, and certainly not allocate land for such requirements.
- The above fundamental considerations render the plan unsound. The only reasonable and appropriate way to rectify such shortcomings is for the authority to withdraw the plan from examination and start the plan making process again.

Housing market area

2.1 We understand that the Council considers York to be within an HMA which includes the City of York and the area of Selby District Council, but that the two Councils are identifying housing need within their administrative areas separately.

a) Is that correct?

2.1.1 Yes. The 2016 City of York Strategic Housing Market Assessment (ref: SD051) states at paragraph 6 that the triangulation of sources strongly supports defining a City of York HMA with only a recognition of overlaps between authorities and markets in the area. Quite strong relationships are identified with Selby, the east of Ryedale and south of Hambleton, similarly, Leeds' influence is likely to extend into the western periphery of the York area.



2.1.2 Policy DP1 of the Local Plan (ref: CD001) makes it clear at point iii. that York's housing needs will be met within the York local authority area.

2.1.3 This stance is also confirmed in the Duty to Cooperate document (ref: CD020).

If so:

c) What is the justification for assessing housing needs separately?

2.1.4 From a generalised spatial planning perspective there are reasonable justifications for assessing housing needs separately, just as there are reasonable justifications for working collaboratively. However, in this case there appears to be a desire from a regional perspective to work collaboratively, or at least explore the possibilities of doing so, but the justification for not doing so at this point in time is extremely weak.

2.1.5 The document entitled City of York Demonstrating the Duty to Co-operate (Interim Statement) (September 2017) sheds some interesting light on the justification for assessing housing needs separately and more widely the mentality behind an overall lack of co-operation and collaborative thinking across the North Yorkshire and York Spatial Planning and Transport Board.

2.1.6 The document confirms at paragraph 4.34 that at its meeting on 10th September 2015, the Board considered a paper prepared by City of York Council accepting that the HMA stretches beyond the immediate confines of the City of York and that the Council had concerns about the impact caused by meeting its own OAHN.

2.1.7 Interestingly, the general consensus from the Board Members (paragraph 4.35) was rather narrow minded, stating that each respective authorities' Local Plan was at the time at a different stage of preparation and it would not be therefore advisable to take such a sub-regional approach for the current round of Local Plan but to defer such collaborative working until the next round of Local Plan Reviews. This standpoint has serious implications in the successfulness of the Plan making process for both authorities involved.

2.1.8 There are many instances within the country of collaborative working across HMAs and between local authorities, which have occurred due to forward thinking organisations taking a holistic view on what is best for the area as a whole. The narrow mindedness of the situation with North Yorkshire and York is clear for everyone to see and is at the severe detriment to the preservation of York's administrative area as a sensitive location for development.

2.1.9 Furthermore, Selby, which is within the same HMA as the City of York has recently announced that they will be revisiting its evidence base with the intention of starting the Local Plan preparation process again. This presents the perfect opportunity for York and Selby to work together moving forward as opposed to brushing matters under the carpet for the time being until the next round of Local Plan Reviews.



The housing strategy: the housing requirement

2.5 *Policy SS1 aims to ensure that “a minimum annual provision of 867 new dwellings [are delivered] over the plan period to 2032/33 and post plan period to 2037/38”*

a) Is this figure an annual average, or is it a commitment to providing at least that number during every year of the plan period and post plan period? Is it intended to be a net figure?

2.5.1 Policy SS1 appears to imply that a minimum annual provision of 867 new dwellings should be delivered between 2017/18 (the beginning of the Plan period) and 2037/38, some 5 years post plan period.

2.5.2 However, the OAHN figure has since been amended to 790 dpa as per the Council's Minor Modifications Schedule (22nd March 2019) (ref: EX CYC 15).

b) For the avoidance of doubt, what period of time is the plan period?

2.5.3 The Plan appears to suggest that the plan period is from 2017/18 to 2032/33, which equates to a period of 15 years. This is the standard amount of time that Local Plans should cover and complies with national planning policy and guidance.

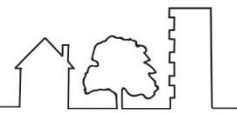
c) Is the “plan period” the period of time for which the plan and its policies will be in force as part of the development plan? Related to this, is it legitimate, or possible, for a development plan to include policies which purport to dictate or direct development beyond the “plan period”, as Policy SS1 appears to?

2.5.4 Yes, it is legitimate and common for a development plan to include policies which can endure beyond the plan period and that a Local Plan's policies do not necessarily become irrelevant at the end of the plan period. This is confirmed in recent High Court case law ¹, which confirms that the expiration of the end date of a plan does not mean the plan is out-of-date. This is particularly relevant for policies which set a standard for development, whether that be in terms of design or the protection of important areas of interest for example. It is a matter for interested parties at the time to determine whether specific policies are considered out-of-date based on fact and judgement whether they are consistent with national policy.

2.5.5 However, it is not considered legitimate for a development plan to allocate land for development to accommodate a housing requirement that sits beyond the plan period, which the City of York Local Plan appears to do.

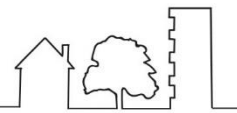
2.5.6 This is a wholly unacceptable approach. The plan period is set at approximately 15 years to anticipate and respond to long-term requirements and opportunities as set out at paragraph 22 of the NPPF. Planning for development allocations beyond this timeframe would be akin to

¹ Peel Investments (North) Limited v (1) Secretary of State for Housing, Communities and Local Government; and (2) Salford City Council [2019] EWHC 2143



sticking a finger in the air. Attempting to anticipate growth requirements, economic conditions and the need for major infrastructure that far into the future cannot be achieved with any form of certainty.

- 2.5.7 Saying that, it is acknowledged that there will be some houses planned to be brought forward during the post plan period given that some of the larger strategic sites will have longer build out trajectories extending into the post plan period. This is wholly acceptable, however what is not acceptable is that the Council has identified a specific housing requirement figure for 5 years post plan period and allocated sites accordingly to meet that requirement.
- 2.5.8 In many cases, local planning authorities seek to identify safeguarded land to preserve the ability to accommodate development post plan period should the need arise through plan reviews and/or the need to bring forward land should there be a significant shortfall in housing delivery.
- 2.5.9 It would be counter-productive to identify housing allocations for example beyond the plan period, essentially allowing developers and housebuilders to develop even if York finds itself in a position where further housing need has not been identified based on up-to-date and robust evidence at the time. This essentially puts the Council in a very vulnerable position post-plan period. Furthermore, there is no mechanism within the plan to ensure those allocations are only met post plan period. The authority could find itself in a position whereby all housing sites come forward during the plan period, leaving the authority with a significant glut of housing development to the detriment of the housing market.
- 2.5.10 This position is emphasised by paragraph 23 of the NPPF which confirms that strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the **plan period** (our emphasis).
- 2.5.11 It appears from the Council's plan and evidence base that the Council decided to extend the site-specific allocation policies of its Local Plan beyond the plan period in a bid to ensure the longevity of its new Green Belt boundaries. However, it is considered that this is not the correct way of going about matters. Yes, the Council does have a duty to ensure that the Green Belt boundaries endure beyond the plan period, but this does not mean that housing allocations should be made to ensure housing need beyond the plan period can be met on the ground.
- 2.5.12 It appears that the Council has not interpreted John Hobson QC's advice note appropriately. Paragraph 7 of the advice letter to York Council (ref: EX/CYC/11a) states that he was asked to consider how long the Green Belt boundaries should endure beyond the plan period. In response, the QC states that there is no finite period for the plan to endure and that land which is designated as Green Belt should be expected to remain open and undeveloped indefinitely. However, this does not mean to say that there will not be circumstances post plan period that are exceptional in nature that would warrant the Green Belt boundaries to be amended accordingly at that point in time, such as the circumstance that many local authorities currently find themselves in where they have to release land from the Green Belt to accommodate their



housing need. The Council's Local Plan should not produce policies and land allocations to accommodate growth derived beyond the plan period.

d) At 867 dpa, the housing requirement is higher than the OAHN of 790 dpa. Why?

2.5.13 The Council's Minor Modifications Schedule (22nd March 2019) (ref: EX CYC 15) appears to suggest that the reason for a higher housing requirement compared to the OAHN is due to the Council's persistent under delivery of housing to date and they have consequently included enough land in the early years of the trajectory to ensure there is a 20% buffer in the first 5 years.

2.5.14 Whilst this approach is advocated for the Plan period to deal with historic under delivery, as set out above, the Council should not be setting out an OAHN for the post plan period (2033/34 to 2037/38) and a requirement should not be allocated as a result.

e) Does setting a housing requirement that is higher than the OAHN undermine the Council's arguments in relation to the justification for releasing land from the Green Belt for housing purposes – that is to say, does it reduce the degree to which “exceptional circumstances” exist, in principle, for amending the Green Belt boundaries for housing delivery purposes?

2.5.14 Setting a housing requirement higher than the OAHN does not necessarily undermine the Council's argument in relation to the justification for releasing land from the Green Belt, particularly when the housing requirement seeks to deal with the past under supply of housing delivery. However, allocating land for a housing requirement identified beyond the plan period does significantly undermine it. Exceptional circumstances exist to enable Council's to meet essential housing needs for the plan period and establishing a housing requirement for 15-20 years ahead of the present time renders the plan extremely vulnerable and uncertain.

2.6 *Will the housing requirement ensure that the need for affordable housing will be met?*

2.6.1 In theory yes, the housing requirement will ensure that the need for affordable housing will be met. However, this scenario is very much dependent on the viability of the proposed strategic and housing allocations within the authority.

2.6.2 Table 5.4 of Policy H10 of the Publication Draft Local Plan (ref: CD001) confirms that greenfield sites of 15 or more dwellings will be expected to contribute 30% on-site affordable homes, which is not by any means an insignificant figure.

2.6.3 It is widely known that affordable housing is usually the first item on the list to be cut out of housing schemes on the basis of viability. Given that some of the housing allocations and strategic sites have significant on-site issues, such as substantial infrastructure requirements for access and facilities, highways concerns and surface water problems, there is a serious risk that the affordable housing requirements will not be delivered from these sites.



2.7 *Overall, is the housing requirement set out in the plan underpinned by robust evidence and is the plan sound in this regard?*

2.7.1 No, overall the housing requirement set out in the plan is not underpinned by robust evidence and this renders the plan unsound. Caution is required when considering over what period the housing requirement should stretch and how the requirement is met.

2.7.2 It is clear from our answers above that the Council has misinterpreted advice and has identified a housing requirement post plan period and has gone as far as allocating sites to meet that requirement. This is contrary to national policy and the legal advice obtained by the Council.

The housing strategy: spatial distribution

2.8 *The Plan's development strategy is set out in Policy SS1. This provides five spatial principles to guide the location of development through the plan. In broad terms, is this the most appropriate spatial strategy?*

2.8.1 Yes, this is the most appropriate spatial strategy. It is sensible in its approach and considers the authority specific considerations that York faces. However, this strategy does not feed through into other parts of the plan as set out below.

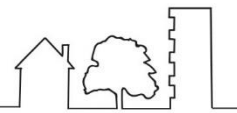
2.9 *Policy SS1 says that the location of development will be guided by the five spatial principles. However, the Plan strategy does not quantify the spatial distribution of new housing across the Plan area.*

a) What is the overall distribution of housing proposed through the Plan? Should it be clearer in this regard? Does the Key Diagram provide sufficient illustration of the broad distribution of new housing across the Plan Area?

2.9.1 The Council's Local Plan does not provide a breakdown of the overall distribution of housing proposed. Paragraph 23 of the NPPF is clear in stating that broad locations for development should be indicated on a key diagram, and land-use designations and allocations identified on a policies map.

2.9.2 In York's case, there is no clear structure to the process of identifying land that best accommodates the housing requirement. In order to steer the development of housing to the most suitable and sustainable locations, the Council must first look at the broad distribution of growth across the Plan Area, which has not been undertaken. It appears that the Council has jumped at least one step by identifying sites for housing development without a clear understanding of whether those locations are appropriate and capable of accommodating the growth required of them.

2.9.3 The Key Diagram does not show the broad-brush approach to housing distribution that it should but instead identifies specific strategic sites for housing development. The Key Diagram



should be illustrative in nature and identify the main locations for growth in a diagrammatic fashion.

2.9.4 Furthermore, the plan should include a settlement hierarchy, which it does not currently, along with a table showing the number of dwellings each settlement (or indeed sub-area of the city) is capable of accommodating in terms of planned growth.

2.9.5 These are components of a plan that are essential in providing a clear methodology leading towards site selection that have been omitted rendering the plan unsound.

b) What level of new housing is directed towards the City Centre and other parts of the Plan Area?

2.9.6 The Local Plan provides no indication of the level of housing directed towards the City Centre and other parts of the Plan Area. The only way to determine the distribution of housing would be to calculate the individual strategic and housing allocation yields by geographical location. It is our opinion that this is too far down the line to determine housing growth distribution. This should be determined at an earlier point in the Plan making process and should form the basis around which the housing allocation process is structured.

c) How has this distribution been arrived at and what is the justification for it?

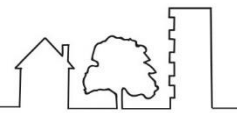
2.9.7 As previously stated, the distribution of housing growth has been determined by the housing allocations themselves. There does not appear to be a distribution framework set that the allocations fit around.

d) Is the distribution consistent with the overall approach set out in Policy SS1?

2.9.8 Given that there is no clear overall approach to the distribution of housing growth across York, it is very difficult to ascertain whether the approach, if there is one, complies with the provisions under Policy SS1.

2.9.9 However, what is clear is that at least some of the proposed strategic housing allocations do not conform with the provisions set out in Policy SS1. This is particularly apparent with ST14, which would fail to ensure the delivery of sustainable growth in York through the plan period. York has a notoriously poor historic delivery rate of new homes, which is acknowledged throughout the Plan, despite the Council being successful in achieving a higher than 100% delivery rate under the Government's Housing Delivery Test results in November 2018.

2.9.10 The allocation of ST14, which has been found to be fundamentally flawed as a strategic allocation for a new standalone sustainable settlement in our previous representations, is an unacceptable risk to the sustainability of the plan as a whole.



2.9.11 Furthermore, ST14 fails to adequately conserve, let alone enhance, York's historic and natural environment; fails to prevent unacceptable levels of congestion, pollution and/or air quality; and fails to ensure flood risk is appropriately managed in an area which is almost permanently under water.

e) Is the distribution of housing supported by the SA and will it lead to the most sustainable pattern of housing growth?

2.9.12 No, the distribution of housing is not supported by the SA. The Local Plan does not set out a framework of growth distribution to which the location of the strategic and housing allocations should be structured around. The SA cannot rationally determine whether the distribution of housing growth is appropriate without a relevant policy to test it against.

f) Has the Green Belt and/or any other constraints influenced the distribution of housing and, if so, how?

2.9.13 There appears to have been very little influence upon the distribution of housing as a result of Green Belt, at least as far as the more open countryside areas are concerned. Close to existing settlements slightly more attention seems to have been paid in some areas, with some villages, for instance, provided with significant buffers 'to prevent coalescence' – although this was not an input at the initial stage of housing allocations and has only been imposed during subsequent revisions. Similarly, no apparent consideration of the need to identify strong boundaries to the Green Belt has formed any part of the process until the Green Belt paper was prepared, which was subsequently followed by a number of changes to allocation boundaries so that they followed improved boundary features, although this has not been done to all allocations.

2.10 *Overall, is the spatial distribution of housing justified and is the Plan sound in this regard?*

2.10.1 The lack of methodical approach leading to the identification of sites for housing development renders the local plan unsound. The Council has excluded at least one important step in the process (identifying an appropriate spatial distribution of housing) and does not have a clear strategy moving forward to identifying appropriate housing sites. In failing to achieve this, the Council appears to have allocated sites in a hap hazard manner resulting in unsustainable and inappropriate sites being proposed for development.