

---

## City of York Local Plan Examination

### Hearing Statement on behalf of Defence Infrastructure Organisation (PM SID 345)

#### Matter 3: Green belt

November 2019



## Matter 3: Green Belt

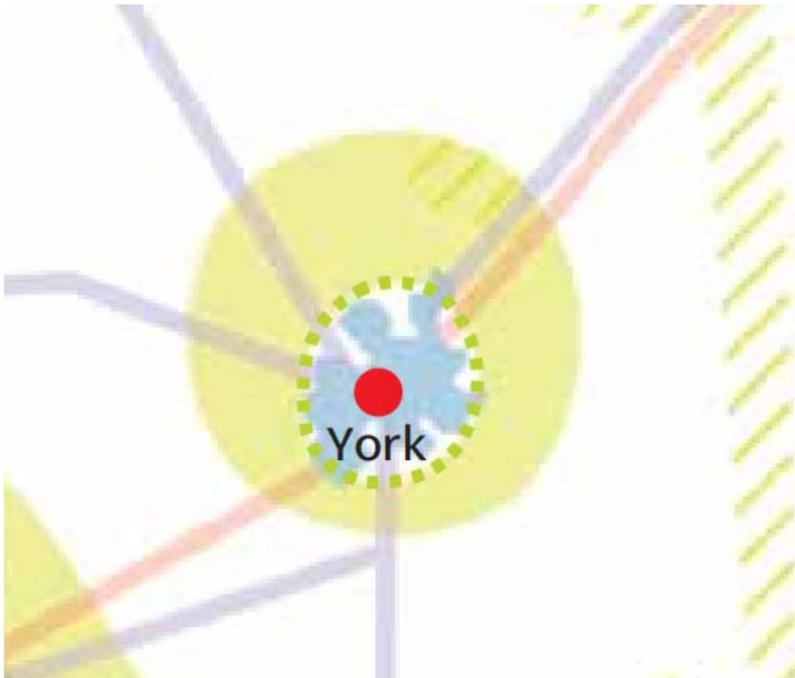
### Principles

3.1 Paragraph 10.1 of the Plan states that *"the plan creates a Green Belt for York that will provide a lasting framework to shape the future development of the city"*. For the purposes of Paragraph 82 of the National Planning Policy Framework, is the Local Plan proposing to establish any new Green Belt?

It is not entirely clear whether the Local Plan is proposing to establish new Green Belt: that is include within the Green Belt land that does not currently fall within the general extent of the Green Belt as defined by the saved elements of the Regional Spatial Strategy ("RSS"). The RSS Key Diagram appears to indicate that the general extent of the Green Belt extends outward from the York Outer Ring Road and so does not include the 'fingers' of open land that extend from the Ring Road into the urban area (see enlarged extract below). However, the diagram seems to us to be at odds with saved Policy YH9(c) of the RSS which states that:

*"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."*

It is our view that the RSS intended that the general extent of the Green Belt covered all land beyond the York urban area, including these 'fingers' and other open land within the Ring Road. If we are correct, then the Plan is not proposing to establish any new Green Belt.



If so, what are the exceptional circumstances for so doing, and where is the evidence required by the five bullet points set out at Paragraph 82 of the Framework?

N/A

If not, does the Local Plan propose to remove any land from the established general extent of the Green Belt? If it does, is it necessary to demonstrate that exceptional circumstances exist to warrant that approach? Or is it the case that the Local Plan establishes the Green Belt boundaries for the first time, such that the exclusion of land from the Green Belt – such as at the ‘garden villages’, for example – is a matter of establishing Green Belt boundaries rather than altering them, in the terms of Paragraph 82 of the Framework?

The RSS did no more than confirm that there needed to be a Green Belt around York and establish the general extent of it. It was not informed by or based upon any analysis or assessment of the land and settlement surrounding the City and no consideration was given back in 2008 to precisely which land or which settlement should be subject to Green Belt policy. That, the RSS noted, would be for CYC to assess at the Local Plan-making stage.

This Local Plan will, for the first time, define the inner and outer boundaries of the Green Belt, as well as boundaries around settlements which lie within the general extent of the Green Belt but which it is appropriate to exclude from it. In addition, the Plan proposes to draw Green Belt boundaries around a number of sites that CYC is wanting to allocate for development.

The NPPF is clear that ‘exceptional circumstances’ need only be demonstrated in cases where a local planning authority proposes to alter a Green Belt boundary that has already been defined (or when it proposes to create new Green Belt as referred to above) (NPPF 82 and 83). That is clear in particular from the second sentence of NPPF 83, which identifies the need for ‘exceptional circumstances’ for Green Belt boundaries ‘once established’. Accordingly, in cases where the boundaries are not yet established, because pre-existing policy gives only the “general extent”, the ‘exceptional circumstances’ test can have no place.

Further, that accords with the underlying policy logic. In the absence of a clearly defined boundary, there is doubt about whether the land is already included or not. So to apply an ‘exceptional circumstances’ approach, whether to *add* the land, or to *remove* the land, begs the prior question of whether the land is in or out. To apply an exceptional circumstances test would create a paradox, because one does not know whether one is adding the land to the Green Belt or taking it out. So NPPF 83 does not require this.

With this in mind, we are satisfied that it is not necessary in this instance to demonstrate that there are exceptional circumstances justifying decisions taken in respect of where the inner and outer boundaries of the Green Belt should be drawn, or where the boundaries should be drawn around settlements that are to be inset. We accept that this approach may not be appropriate in relation to land that plainly lies beyond the main built up area or any settlement to be inset, so that there is no pre-existing doubt about whether the land is to be treated as Green Belt. This appears to be the case for CYCs proposal to remove from the general extent of the Green Belt sites ST7, ST8, ST9, ST14 and ST15. But in cases where the definition of the boundary is capable of affecting whether the land is included in the Green Belt or not, the application of an ‘exceptional circumstances’ approach is contrary to both the wording of NPPF 83 and the underlying purpose of the policy requirement in NPPF 82 to establish Green Belt boundaries.

3.2 Paragraph 1.1.1 of the Council's "Approach to defining York's Green Belt" Topic Paper (TP1) [CD021] says "York's Local Plan will formally define the boundary of the York Green Belt for the first time." How has the Council approached the task of delineating the Green Belt boundaries shown on the Policies Map? In particular:

Is the approach taken in general conformity with those parts of the Regional Spatial Strategy for Yorkshire and Humber ('the RSS') that have not been revoked, namely Section C of Policy YH9, Sections C1 and C2 of Policy Y1, and the Key Diagram of the RSS insofar as it illustrates the RSS York Green Belt policies and the general extent of the Green Belt around the City of York?

See answers to 3.1 above.

How has the need to promote sustainable patterns of development been taken into account?

CYC's assessment and articulation of what constitutes sustainable patterns of development lacks clarity and is incomplete. Moreover, in looking at sustainability in the context of the Green Belt it has, inappropriately in our view, attempted to weave environmental policy objectives into its application of Green Belt purposes. The result is an approach to assessing the Green Belt, defining Green Belt boundaries, and marrying these with its spatial strategy that is confused and difficult to interrogate and thus test for soundness.

CYC appears to have defined sustainable patterns of development by reference to what it calls 'key shapers'. These include: avoiding development in areas that need to be kept open so as to conserve York's historic and natural environment; and avoiding development in areas that are not well related to services, facilities and public transport links. It has also done so, it seems, by reference to the principles specified in Policy SS1, that is to say: helping satisfy the City's housing and jobs growth requirements; conserving the City's historic and natural environment; making development accessible by sustainable modes of transport; avoiding unacceptable levels of congestion or pollution or risks in respect of flooding; and, where viable and deliverable, favouring the use of previously-developed land. On the face of it, there is nothing fundamentally wrong with this; all of these matters will be relevant to an assessment of what is and is not sustainable development. What is missing though is an analysis of the relative sustainability of the different parts of the main urban area and the various settlements that lie in the open countryside beyond the City itself. As a consequence, the spatial strategy fails to give a clear indication as to where development should be directed in order to achieve sustainable outcomes.

In addition, CYC has made what we consider to be inappropriate and unnecessary links between some of the above environmental factors and the purposes of Green Belts – links that have resulted in CYC reaching perverse conclusions. For example:

- in respect of Purpose 1 (checking unrestricted sprawl) it assesses land having regard to the distance it is away from services and facilities – this is not relevant. Purpose 1 requires an assessment of the physical characteristics only and, in particular, the extent to which the development of it might be naturally 'restricted', for example by the existence of strong, clearly defined boundaries;
- in respect of Purpose 3 (safeguarding the countryside from encroachment), it looks at all manner of open spaces and environmental designations, none of which are the same as open countryside; and

- in respect of Purpose 4 (preserving the setting and special character of historic towns) it looks at Green Wedges and areas preventing coalescence that stretch far beyond the main urban area (to the extent where one must question their relevance to preserving the setting of the City).

Ultimately, what CYC does not appear to have done is: (i) determine what it needs to deliver in the way of new development; (ii) define where development needs to be accommodated in order to deliver sustainable outcomes; (iii) carry out an separate / independent assessment of the general extent of the Green Belt in order to determine which bits of it absolutely must be retained, in order to ensure that it does what it needs to do (noting that the primary purpose of the Green Belt around York is to safeguard the special character and setting of the historic City); and then (iv) draw the three strands together and determine where the Green Belt boundaries should be drawn so as to strike an appropriate balance between delivering sustainable growth and keeping land free of development that absolutely must be kept open. This, in our view, is a failing.

**With regard to Paragraph 84 of the Framework, how have the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary been considered?**

See above.

We note that the matters of urban capacity and looking beyond the outer boundary to accommodate growth (i.e. in other Districts) are both considered in the Addendum to TP1 (EX/CYC/18). Although the information presented in that document is somewhat limited, we note that CYC considers that, for the purposes of producing the submitted Plan it exhausted the City's urban capacity and that it's discussions with neighbouring authorities have indicated that it will not be possible for any of them to accommodate any of York's growth. Whatever the basis of the position being taken by the neighbouring authorities, it must be the case that the most sustainable way of delivering the development that the City needs is to find ways of accommodating this within the CYC administrative area. It would not be sustainable to 'hop' the Green Belt and deliver significant quantities of development in locations that are remote from where the need arises. Green Belt policy should not be a barrier to the delivery of sustainable development and, in this instance, the boundaries of it should be fixed in a manner that enables necessary, sustainable growth to be achieved. The Inspector's will note that the original version of RSS Policy YH9(c) stated that the drawing of the inner boundaries of the Green Belt should allow for development required by the RSS. The same must apply in respect of the objectively assessed needs of the City as they are now.

**How do the defined Green Belt boundaries ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development and/or include any land which it is unnecessary to keep permanently open?**

We do not believe that adequate provision is being made for development in the Plan and so, by definition, the specified Green Belt boundaries are impacting adversely on the ability of CYC to deliver what is required.

We do not believe that the proposed boundaries have been defined so as to ensure that only land that must be kept permanently open is retained within the Green Belt. There is land at Queen Elizabeth Barracks, Stensall that is shown as not being within the Green Belt in the Submitted Plan but is now proposed to be washed over by Green Belt, and land at Imphal Barracks in York which is proposed to be included within the Green Belt,

neither of perform a Green Belt function, neither of which is 'open' and neither of which need be kept in its current state in order for strategic Green Belt objectives to be satisfied.

**3.3 Will the proposed Green Belt boundaries need to be altered at the end of the Plan period? To this end, are the boundaries clearly defined, using physical features that are readily recognisable and likely to be permanent? What approach has the Council taken in this regard?**

If the Green Belt boundaries are not amended now, they will absolutely need to be amended at the end of the Plan period. Indeed, in the light of the provisions of the new NPPF and current standard method based housing need projections, CYC will almost certainly be required to review this Plan within 5 years of it being adopted and the Green Belt boundaries will have to be amended then – far sooner than the end of the Plan period.

**3.4 Should the Plan identify areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period?**

Yes.

CYC is asserting that it should look ahead just 5 years beyond the end of the Plan period, and account for development that might need to be delivered in that extended timeframe, in order to ensure that the Green Belt boundary does not need to be altered at the end of the Plan period. This is wholly inadequate. CYC should be taking a much more long-term view and defining Green Belt boundaries now that have the ability to endure long into the future. Only by doing that will CYC and the Plan afford stakeholders the necessary and reasonable certainty regarding the form that the Green Belt will take well beyond the Plan period. It can do this by identifying areas of safeguarded land.

**3.5 Overall, are the Green Belt boundaries in the plan appropriately defined and consistent with national policy in the National Planning Policy Framework, and is the Plan sound in this regard?**

No.

## Exceptional Circumstances

**3.6 Paragraph 83 of the National Planning Policy Framework is clear that Green Belt boundaries should only be altered in exceptional circumstances. It appears that the Plan proposes to 'release' some land from the Green Belt by altering its boundaries. In broad terms:**

**Do the necessary exceptional circumstances exist to warrant the proposed alterations to Green Belt boundaries, in terms of removing land from the Green Belt? If so, what are they?**

There are exceptional circumstances justifying the release of land from the Green Belt. The most pertinent and significant of these is the very considerable need that York has for new homes, and the need for these to be delivered within the CYC administrative area in order to (i) achieve sustainable outcomes and (ii) address the City's chronic affordability issues and associated social and economic problems.

As will have been noted from our Matter 2 submissions, our assessment of the City's housing needs is at odds with CYCs. Our assessment indicates that the City's FOAN for housing is at least 997 net new dwellings per annum (15,952 over the period 2017 – 2033), whereas CYC is now promoting an FOAN of 790dpa. However, to this CYC

has added 32dpa to account for under-delivery in the period 2012 -2017 thus generating a 'housing requirement' of 822dpa (13,152 over the 16 year Plan period). Finally, for Green Belt purposes, it has made an allowance for housing need in the five year period beyond 2033 and has added an additional 3,950 (790 x 5) to the baseline requirement to ensure that allocations made in the Plan enable the Green Belt to endure for at least 20 years. Even if we ignore for a moment housing needs arising beyond the Plan period, CYC is indicating that after taking account of land available for development beyond the Green Belt (excluding our Client's land at QEB), and after making an allowance for windfalls, it needs to find land within the Green Belt for in excess of 1,000 new homes. If the Council is right to also plan for the development of an additional 790 dwellings per annum in the period 2033 – 2038, CYCs figures indicate that it needs to find land in the Green Belt for some 4,988 new homes (see EX/CYC/18, Section 7).

Whilst we do not agree with CYC's assessment of land supply (we believe that it has overestimated the number of dwellings that its proposed housing sites will deliver in both the first 5 years after Plan adoption and then beyond, and have major concerns about CYC making a substantial allowance for windfalls when it purports to have exhausted the City's urban capacity) we do agree that it will only be able to address the development needs of the City if land within the general extent of the Green Belt is used for housing. Indeed, when a more robust view is taken in respect of windfalls and what the urban areas and proposed housing allocations will yield in the way of new homes, the scale of Green Belt release required increases beyond that currently promoted in the Plan.

**What relationship, if any, is there between the exceptional circumstances leading to the alterations proposed to the Green Belt and the proposed spatial strategy/distribution of new housing?**

There is a direct relationship. The general extent of the Green Belt surrounds all of the most sustainable locations in the City; locations where the need for development arises and new development would be best accommodated.

**What is the capacity of existing urban areas to meet the need for housing and employment uses?**

EX/CYC/18 asserts at paragraph 7.72 that there is land beyond the Green Belt (which must mean within the urban areas) to accommodate 6,502 new homes and 108,900 sq m of employment development over the next 20 years. CYC then, sensibly, makes a 10% downward adjustment to the housing figure to allow for non-implementation. Whilst we welcome this adjustment, and consider it to be necessary, we are concerned that the likely yield from the urban sites listed in Section 7 of EX/CYC/18 is over-estimated.

**Is there any non-Green Belt rural land which could meet all or part of the District's housing and employment needs in a sustainable manner (having regard to any other significant constraints)?**

N/A

**What is the justification for excluding the identified Strategic Sites (e.g. ST7, ST8, ST14 and ST15) from the Green Belt?**

For others.

## The approach to identifying land to be 'released' from the Green Belt for development

3.7 How has the land proposed to be removed from the Green Belt been selected? Has the process of selecting the land in question been based on a robust assessment methodology that: (a) reflects the fundamental aim of Green Belts, being to prevent urban sprawl by keeping land permanently open; (b) reflects the essential characteristics of Green Belts, being their openness and permanence; (c) takes account of both the spatial and visual aspects of the openness of the Green Belt, in the light of the judgements in *Turner1* and *Samuel Smith Old Brewery2*; (d) reflects the five purposes that the Green Belt serves, as set out in Paragraph 80 of the Framework, particularly that of preserving the setting and special character of the historic city; (e) is in general conformity with RSS Policy Y1, which aims to protect the nationally significant historical and environmental character of York, including its historic setting, the need to safeguard the special character and setting of the historic city and to protect views of the Minster and important open areas; and (f) takes account of the need to promote sustainable patterns of development?

It is within EX/CYC/18 that we find the fullest explanation of the approach that CYC has taken to defining detailed Green Belt boundaries. It is also where we find its justification for PM39 (see Addendum Annex 4), which is of direct concern to our Client.

EX/CYC/18 indicates that CYC began by assessing the entirety of the area falling within the general extent of the Green Belt for whether it satisfied one or more of the five purposes of Green Belt as defined in the NPPF. It then layered the results of each of its five assessments to define those parts of the City that it considered needed to be kept permanently open.<sup>1</sup>

The Addendum then goes on to explain how CYC then conducted a finer grain assessment of the outer boundary of the Green Belt (its outer edge) and the inner boundary (around the City). It indicates that this, more detailed assessment, was again carried out having regard to the five purposes of Green Belts but also the need to select boundaries that are permanent and capable of enduring beyond the plan period (i.e. are defensible).

For the settlements that lie between the City and the outer edge of the Green Belt, the Addendum states that CYC applied a three-stage analysis. This began with the identification of built up areas and then went on to consider whether these areas need to be kept 'open' and therefore washed over by Green Belt before, finally, looking at the line the Green Belt boundary should take where built up areas are to be inset. CYC identified built up areas within the Green Belt using GIS and an assessment of the density of built form. This generated a list of 42 built up areas that CYC went on to assess. Each of the 42 built up areas was then, apparently, assessed for the extent to which it has an 'open character' and whether such character makes an important contribution to the openness of the Green Belt. This, the Addendum indicates, resulted in CYC identifying 18 built up areas for exclusion from the Green Belt<sup>2</sup> and 24 that CYC considered should be washed over.

---

<sup>1</sup> The Addendum confirms (rightly) that DIOs land at QEB and Imphal Barracks is not land that it is necessary to keep permanently open. Accordingly, it is not land that should be included within the Green Belt (NPPF para 85).

<sup>2</sup> This included Strensall which was identified as Area 3

These 18 areas were then subject, according to the Addendum, to the same detailed boundary analysis as the inner and outer edges (i.e. having regard to the five purposes of Green Belts and factors of openness and permanence). The results of this analysis are contained within Annex 4 to the Addendum.

We have no fundamental problem with the methodology that CYC has employed. That is to say we agree that the boundaries of the Green Belt should be defined having regard to the extent to which land needs to be kept permanently open and the extent to which retaining land within the Green Belt is necessary to enable Green Belt policy objectives to be satisfied. However, we do have concerns about (i) the way in which CYC has interpreted and applied the five purposes of Green Belts (NPPF 80) (see above regarding conflation of purposes and other environmental policies / objectives); (ii) the way it has assessed land in the light of the five purposes and thus; (iii) the conclusions that it has reached in respect of both land which it believes must be kept permanently open (see Figure 7 in TP1 which is a nonsense in Green Belt terms) and the precise routes that the Green Belt boundaries should take. That all said, our primary concern rests with the way in which CYC has defined the Green Boundaries in the vicinity of QEB and Imphal Barracks (see our Representations to CYCs Proposed Modifications) and we shall deal with these specifically during the Phase 2 Hearing Sessions.

**3.8 Have the Green Belt boundaries - as proposed to be altered - been considered having regard to their intended permanence in the long term? Are they capable of enduring beyond the plan period?**

CYC has given some, but inadequate, consideration to what needs to be done in order to specify Green Belt boundaries that are capable of enduring beyond the Plan period. In simple terms it needs to release more land now, release more land and safeguard land, in order to provide stakeholders with the clarity and certainty that the NPPF requires.

**3.9 In this regard, what is the justification for the proposed alterations to the Green Belt boundary, as set out in Annex 6 of the Topic Paper 1: Addendum [EX/CYC/18]?**

Insofar as the alterations at Strensall are concerned, this is not clear. There is no sense to the approach that CYC has taken here, or indeed evidence to support the alterations that it is now arguing should be made.

**3.10 Overall, is the approach to identifying land to be 'released' from the Green Belt robust, and is the Plan sound in this regard?**

No, but it is capable of being made sound with further modifications of the type described in our Representations to CYCs Proposed Modifications and by identifying additional land for development within and beyond the Plan period.