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Sent: 24 March 2023 14:13
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Subject: Representation to City of York - Consultation on Proposed Modifications to Local Plan - Danehurst Development Limited
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Dear City of York Council,

I write on behalf of our Client, Danehurst Development Limited to submit representations to the City of York Consultation on Proposed Modifications to Local Plan. Please find the attached letter of representation.

We look forward to your formal acknowledgement of our representation.

Please let myself or Matt know if you have any queries.

Kind regards,



Tiahna Joshi

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REF: MR/TJ/ R00759

SENT BY EMAIL ONLY: localplan@york.gov.uk

City of York Council
West Offices
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York
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24th March 2023

Dear Sir / Madam,

**REPRESENTATIONS TO CITY OF YORK LOCAL PLAN CONSULTATION ON PROPOSED MODIFICATIONS
REPRESENTATION CITY OF YORK
ROK PLANNING ON BEHALF OF DANEHURST DEVELOPMENT LIMITED**

I write on behalf of our client, Danehurst Development Limited, to submit representations to the City of York Local Plan Consultation on Proposed Modifications to the Local Plan. Danehurst acquire and develop land and property to provide sustainable purpose-built student accommodation across the South East, South West and Scotland.

The consultation closes at midnight on Monday 27th March 2023. The consultation is focused on the proposed Main Modifications to both Local Plan policy text and the associated policy map, along with associated new evidence base.

The remainder of this letter sets out Danehurst's representations to the following parts of the local plan:

- Policy EC2 'Loss of Employment Land'; and
- Policy H7 'Off Campus Purpose Built Student Housing'.

Policy EC2 'Loss of Employment Land'

The proposed modifications to Policy EC2 states:

"When considering the loss of employment land and/or buildings the Council will expect the applicant to provide evidence proportionate to the size of the site of effective marketing the site/premises for employment uses for a reasonable period of time and in most cases not less than 18 months. Where an applicant is seeking to prove a site is no longer appropriate for employment use because of business operations, and/or condition, the council will expect the applicant to provide an objective assessment of the shortcomings of the land/premises that demonstrates why it is no longer appropriate for employment use. This includes all employment generating uses, not just office or industrial uses".

Policy EC2 therefore seeks to enhance the restriction on the loss of all employment generating uses, not just office or industrial use. Our client raises strong objection to this approach for the following reasons:

1. The evidence base that forms the justification for Policy EC2 is formulated on data prior to Covid-19. The inflexibility of this draft policy should be reviewed in light of Covid-19 and the effects on the employment space market this has caused. It is acknowledged that the Employment Land Review Update (2017) indicates a loss of 19,750sqm of office space for residential conversion over 2014/15 and 2016/17. However, the demand for office space has drastically decreased following national lockdowns and working-from-home initiatives. An updated evidence base would almost certainly reflect this. Thus, the evidence base is considered out of date and the demand for employment space unjustified.
2. The updates to the draft policy are particularly onerous in terms of including a marketing period of 18 months and the inclusion of having to demonstrate that it is not viable/feasible to redevelop sites for employment uses. These requirements have not been sufficiently justified and should be removed to enable flexibility for other uses to enable schemes to come forward in a timely fashion.
3. The implementation of an 18-month marketing period is further in conflict with Paragraph 123 of the NPPF (2021) which states that Local Planning Authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. They should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors.
4. Non-strategic employment sites and sites that are not allocated in the Local Plan should be exempt from this policy restriction. Ultimately, it is not considered appropriate to enforce the retainment of all existing industrial land across York simply because the overall stock of industrial land and office space has decreased over the plan period. In fact, the evidence base used to plan for employment provision under Policy EC1 'Provision of Employment Land' of the Draft 2018 Local Plan includes a forecast for growth calculated with an allowance for the loss of existing, now outdated building(s). Paragraph 118 of the NPPF states that planning policies should "*promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively*". Paragraph 117 is similarly clear that "*strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land*".
5. Policy EC2 now applies to employment generating uses outside the B use classes including sui generis uses and car showrooms. However, the 18 month marketing requirement should not apply to car showrooms. Prior to the drafting of this policy, the conversion of car showrooms has been found to be in accordance with Policy EC2 and acceptable without 18 months marketing data. An application for the conversion of a car showroom to a residential block of flats (LPA ref. 21/01379/FUL) was found acceptable on the basis that:
 - The existing use of the site is less compatible with adjacent uses than it would have been when originally commenced and the buildings are clearly old and unlikely to be considered fit for purpose;
 - The scale of the site means that the number of jobs lost is unlikely to have any impact on employment needs during the plan period; and
 - The benefits of adding to the housing stock.

Therefore, an 18-month marketing period is not required to justify the loss of a car showroom as it has been found previously acceptable on the basis of the above criteria.

Recommendation: The need to implement an 18-month marketing requirement is unsubstantiated for the reasons set out above and it is recommended that this should be reduced to 12 months for office space and industrial uses, and removed altogether for other employment generating uses, including car showrooms as detailed above.

Policy H7 'Off Campus Purpose Built Student Housing'

The proposed modifications to Policy H7 states:

"Proposals for off campus purpose-built student accommodation, other than the allocation at SH1, will be permitted where all of the following criteria are satisfied:

- i. It can be demonstrated that there is a need for student housing which cannot be met on campus; and*
- ii. It is in an appropriate location for education institutions and accessible by sustainable transport modes;
 - a. The rooms in the development are secured through a nomination agreement for occupation by students of one or more of the University of York and York St. John University; and;**
- iii. The development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area;*
- iv. The accommodation shall be occupied only by full-time students enrolled in courses of one academic year or more and conditions or obligations shall be imposed to secure compliance with this requirement and for the proper management of the properties;*

For new student accommodation a financial contribution should be secured towards delivering affordable housing elsewhere in the City. The contribution will be calculated on a pro rate basis per bedroom using the following formula:

Average York Property price – Average York Fixed RP Price x 2.5% = OSFC per student bedroom

The contribution will be required only from the number of units creating a net gain. For mixed-use developments of student accommodation with general housing a pro-rata approach will be used to determine whether a contribution is required, and how much this should be. Contributions towards affordable housing provision from new student accommodation will not be sought where the student accommodation site which at the date of adoption of the Plan is owned by a university and which will continue to be owned by a university to meet the accommodation needs of its students. Where a developer considers the contribution cannot be fully met, they should justify the level of provision proposed through an open book appraisal to demonstrate to the Council's satisfaction that the development would not otherwise be viable.

Developers may not circumvent this policy by artificially subdividing sites and are expected to make efficient use of land."

Danehurst make the below recommendations to parts i, iia and iii of Policy H7, as well as the affordable housing contribution text outlined at the end of the policy. These are detailed below.

Part i – Evidence of Student Need

Requiring developers to demonstrate that there is a need for student housing which cannot be met on campus is objectionable due to the overwhelming demand for student bedspaces in York. The statistics outlined below strongly indicate that the rapid increase of students within the city is outgrowing the pace at which student bedspaces are being provided.

1. There is an identified need for PBSA development as evidenced by the council's Strategic Housing Market Assessment 2016 which acknowledges that the student rental market remains strong and that demand for purpose-built student accommodation is high, particularly from international students. This is further substantiated in other research and available statistics for York.
2. Research by Knight Frank (2022) analysing the supply and demand of PBSA in York confirms a 25% increase in the number of students at The University of York and York St John's University over the five-year period 2016/17 to 2020/21. The growth in international students over the same period is almost 75% - up from just under 4,000 in 2016/17 to almost 7,000 in 2020/21. International students have a strong preference for studio accommodation and off campus accommodation for privacy and quality reasons.
3. According to CBRE and Cushman Wakefield (Report submitted with LPA Ref. 22/01795), the actual combined student population in York grew from 21,640 in 2016 to 26,450 in 2020 – up almost 5,000 students. Cushman Wakefield confirms there are 11,649 PBSA bedspaces in York for academic year 22/23 of which only 2,643 are offered as direct let, 23% of the supply.
4. It is estimated that at least 10,500 students require a bed but are unable to secure one in PBSA – leaving at least 2 students per bed space available. This number is likely to be higher as the ratio is based on the student population for 20/21 and PBSA supply for 22/23, in other words two years growth in the student population not accounted for.
5. Moreover, the University of York has undergone a 2.2% increase in students based on 2020/21 which saw an influx of 20,277 full time students. The high growth in 2021/22 was a result of covid-19 with many students having chosen to hold off going to University until the pandemic was over. A similar picture emerges across all popular university locations and therefore heightens the need for additional PBSA in York.
6. Furthermore, the justification for Part i of Policy H7 (as outlined in paragraph 5.45 of the CYC Student Housing Policy H7 Note) is that by requiring developers to demonstrate a need for student housing which cannot be met on campus, this will '*limit development that would compete with the need for general housing.*' Danehurst raise objection to this on the basis that PBSA is recognised in national policy as a contributor towards housing supply and therefore a form of general housing. This is detailed below.
7. National planning guidance states the following at para 034 (Reference ID: 68-034-20190722) that "*All student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can in principle count towards contributing to an authority's housing land supply.*" The Housing Delivery Test Rulebook explains that this contribution is on a 2.5 bedspace to dwelling ratio. Therefore, Policy H7 should not limit the potential for the

creation of PBSA on other sites other than SH1 which would contribute to housing supply as a sustained shortage of PBSA which will exert significant pressure on more traditional housing markets.

8. The Council themselves acknowledge at paragraph 5.45 of the CYC Student Housing Policy H7 Note (2022) that PBSA development “*can free up housing suitable for wider general housing needs, taking pressure of the private rented sector and increasing the overall housing stock.*”
9. This is further supported by national planning guidance which states that “*encouraging more dedicated student accommodation may provide low-cost housing that takes pressure off the private rented sector and increases the overall housing stock*” (Paragraph: 004 Reference ID: 67-00420190722).
10. Acceptance of this overarching approach can also be seen elsewhere in the country through for example the London Plan 2021, which recognises that PBSA development contributes to meeting London’s housing need.
11. There have been a series of appeal decisions where Inspectors have granted consent for student developments where issues have been raised by the local planning authority in terms of a perceived conflict with the development plan due to the view that the site should deliver conventional housing. These include:
 - a. 315-349 Mill Road, Cambridge (APP/Q0505/W/15/3035861);
 - b. Land at Fish Strand Hill, Falmouth, Cornwall (APP/D0840/W/17/3177902); and
 - c. Land at Ocean Bowl, Falmouth, Cornwall (APP/D0840/W/17/3182360).
12. It is an accepted principle that the fewer PBSA bedspaces are available, the greater the number of students there are occupying HMO accommodation, and thus it is clear that the provision of additional PBSA bedspaces can serve to reduce the demand for HMO accommodation in the city.
13. National planning policy gives substantial weight to the value of redeveloping suitable brownfield land in sustainable locations to meet identified needs, promotes the effective use of land for homes and other uses, and requires LPAs to take a positive approach to applications for alternative uses of developed land (NPPF paras 119-123). Paragraph 60 of the NPPF emphasises the Government’s long-standing intention to significantly boost the supply of homes (including student housing) and highlights the importance of addressing the housing requirements of specific groups.

Recommendation: Part i of Policy H7 should be revised to acknowledge that PBSA is a form of housing and that there is an identified existing shortfall of student bedspaces. The policy should be updated to encourage PBSA in sustainable locations across the city.

Part iia - Nomination Agreement

Part iia of Policy H7 requires the need for additional bedspaces to be evidenced via a formal agreement between the developer and a relevant education provider for the supply of bed spaces created by the development. The client objects to this aspect of the policy for the following reasons:

1. A nominations agreement only addresses first-year students. PBSA developers, including Danehurst, provide PBSA for second- and third-year undergraduate students and post graduate students. As evidenced by The University of York's representations on the Draft Emerging Local Plan prepared by O'Neill Associates 08 July 2022, student numbers are rising and demand for managed student accommodation among postgraduate and 2nd/3rd year undergraduates is increasing.
2. The same submission explains the University's long term accommodation objective is to provide 46.2 beds per 100 students enrolled. This includes an allowance of 15% of 'returning students' – i.e. 2nd year + students who wish to remain in accommodation provided by the University. Currently, the University of York provide some 8,572 beds or 41.3 beds per 100 students. Excluding future growth, it will need a further 1,000 beds. Once this threshold is met, either by on-campus development or through nominations agreements with private providers, there is no incentive for the universities to enter additional nomination agreements. This is not sustainable and future PBSA development by private providers could not be delivered leaving a large section of the student population excluded from PBSA.
3. A report by CBRE 'Student Accommodation Insight' for the academic year 2021/22 established that 8.45% (8.45 per 100 student) of the student population in York live 'at home' meaning that 49.8 per 100 students have access to PBSA or live at home. 50% of students do not have access and rent houses and flats in and around York. Applying anticipated growth in student numbers, this situation will not ease substantially unless private providers of PBSA are allowed to bring forward schemes, with the result that local housing will continue to be occupied by students reducing the 'General Housing Supply' as a result and contrary to the stated objective of this policy.
4. Policy H12 of the Manchester Local Plan, adopted in 2012, similarly required evidence of a formal agreement with universities. In 2019 Manchester City Council themselves acknowledged this specific policy as a primary cause of inflating rental levels and loss of Council tax across the city as large numbers of students continued to seek off-campus living and were forced to reside in HMO accommodation due to a lack of private-sector off-campus PBSA. In 2020, it was resolved that the findings of a report undertaken to assess this issue specifically were to be treated as a material consideration until the adoption of a new local plan in order to increase the flexibility of this policy;
5. Even if a nominations agreement were insisted upon, which for reasons set out above is unreasonable, it is our client's experience and that of many other providers that it is highly unlikely any formal agreement (i.e. nominations agreement) between a higher education provider and a developer can be agreed prior to the issuing of planning permission. Universities are often reluctant to engage in such agreements where they are liable to pay void payments if they are unable to fill rooms or take a risk on losing a development (and therefore committed rooms) if it falls behind in the planning and / or construction process;
6. Danehurst argues that the requirement for a nomination agreement in order for a private student accommodation to receive planning permission, is unreasonable given the context of the scale of the City of York. The city is well-located and well-connected, particularly with Leeds and neighbouring towns. Furthermore, this requirement is in conflict with Policy ED5 'York St. John University Further Expansion' which directs student housing towards Land at Heworth Croft therefore limiting the potential for nominations agreements to be secured on other suitable sites.

Recommendation: Part iia should be removed altogether or note that evidence of need via formal agreement with a higher-education provider should not be required and, if necessary, the submission of an up-to-date student needs assessment should be required in its place.

Part iii – Adverse Impact on Amenity on Nearby Residents and Design

Whilst we acknowledge that there is a general concern over the effect of PBSA on residential amenity, our client objects to this point for the following reasons:

1. There is no evidence or justification provided that PBSA actually creates harm to residential communities. Danehurst argue that the provision of PBSA in fact contributes to the creation of mixed and balanced communities rather than harms existing communities.
2. Indeed, it is important to note that PBSA developments are managed buildings with staff on-site rather than uncontrolled HMO houses/flats, and thus considerations of amenity for these two distinct accommodation types should be treated separately. PBSA developments are subject to Student Management Plans which outline processes for the protection of surrounding residential amenity.

Recommendation: Part iii of the policy should be removed as there is no evidence to demonstrate that managed PBSA, which is entirely different from uncontrolled HMO's, has a harmful effect on residential amenity. In any case the provision of a Student Management Plan can overcome these concerns.

Financial Contribution for Delivery of Affordable Housing

There is no rationale for affordable housing contribution on PBSA sites.

1. The requirement for an affordable housing contribution will significantly hinder the viability and deliverability of student schemes. It is important to consider the implications of enforcing such a contribution at the level currently proposed, especially when this has not been tested or assessed as detailed above. The added cost of affordable housing contributions when applied in the same way to PBSA as conventional residential uses is likely to cause viability issues, as the application of same thresholds across the two development types does not take account of the differences in these typologies. For example, there are numerous additional costs associated with PBSA development that largely do not affect conventional residential dwellings, including the employment of staff to enforce Management Plans. Additionally, PBSA is subject to numerous other planning obligations and contributions which can affect viability, including Open space Contributions and Flood Risk contributions. Currently, there is a lack of evidence to suggest that these further contributions have been taken into account when considering how the draft affordable housing contribution will affect the development viability of PBSA.
2. Ultimately, the increased costs associated with the development of PBSA in the city is likely to have the following negative implications:
 - PBSA providers will look to other cities where the cost to develop PBSA is far lower;
 - Regardless, fewer student schemes in York will be viable and thus fewer bedspaces will be delivered;
 - Thus, the provision of PBSA bedspaces will fail to meet the current and increasing demand within the city leading to a further increase in HMO's occupied by students;

- The increase in demand for PBSA will lead to higher rental levels for those bedspaces that are deliverable and will sustain rental levels which may limit access;
- Schemes that remain deliverable are likely to need to sacrifice communal amenity space or open space in favour of achieving a higher number of bedspaces in order to become viable; and
- Viability issues associated with off-site affordable housing provision may lead to a reduction in the level of other contributions, such as open space.

A hinderance on the delivery of student housing is equally a hinderance on the delivery of housing as a whole. A continuing undersupply of student accommodation will only place additional pressure on family housing as students will continue to be forced to occupy conventional dwellings. Increased delivery of PBSA in fact relieves pressure on family housing, which the Council itself recognises in the supporting text (paragraph 5.45) of Policy H7.

3. Moreover, the requirement for affordable housing from PBSA is ultimately in direct conflict with national policy. There is no national planning policy basis for the provision of affordable housing arising from PBSA developments, and the requirement for affordable housing contributions arising from student developments is therefore entirely local in planning policy terms. The NPPF (2021) clearly states that exemptions to affordable housing should be applied where developments propose specialist accommodation, including PBSA.
4. In addition, the client considers the viability appraisal set out in the CYC Local Plan Viability Technical Note is entirely unsound for the following reasons:
 - a. The financial models provided in Appendix 3 of the Technical Note all understate construction and associated costs due to applying an incorrect total build area – in the case of a 350-bed scheme – it is understated by £4,543,349 (excluding any adjustment for inflation given that costs are based on Q4 2021);
 - b. The financial models provided in Appendix 3 of the Technical Note all understate the professional fees that should be applied. The Technical Note states 10% should be applied to build cost whereas the model applies 7.89% on too low a construction cost – in the case of a 350-bed scheme – it is understated by £441,306 (excluding upward lift in construction costs as a result of inflation);
 - c. The financial models do not take account of Purchaser's Costs in selling the development to crystallise profit. A conservative estimate is that this would equal 4% of the GDV – in the case of the 350-bed scheme, it would add £1,572,000 in costs;
 - d. The Construction Cost applied in the model is almost two years out of date and was assumed in the midst of the covid-19 pandemic with very little construction activity and relatively modest inflationary pressures. It is simply not sound to apply cost data which is almost two years out of date. There has and continues to be significant inflation in construction costs. The RICS Tender Price Index suggests inflation in construction prices for the period Q4 2021 to Q1 2023 is almost 17% (16.95%) with a further 5% inflation forecast in the next 12 months;
 - e. Land Value per hectare for a site in York City Centre is set to a totally arbitrary level of £1,500,000 and is based on numerous errors in Table, 4 where the details listed are factually incorrect, which have led to consequential errors in the assumptions made. Correcting for these errors, the resulting price per hectare is almost halved resulting in an extremely low price per hectare of c £850,000. Based on assessment of actual development site transactions in York since 2017 including The Coal Yard, Aubrey House, 15 Foss Islands Road, Fawcett Road and Redeness Street, the open market value per hectare is in fact over £14m.

5. Applying erroneous assumptions in policy making will only result in the policy objectives not being delivered as developers will be able to demonstrate without little contention that their schemes will not be able to carry the Affordable Housing Levy at £5,212 per bed/ equivalent to £162.19 per sqm built.

Recommendation: There is no rationale for affordable housing contribution on PBSA sites and this requirement should be omitted from the policy in its entirety.

I trust the above representations are in order and look forward to confirmation of their safe receipt. Please do not hesitate to contact myself or Tiahna Joshi (tiahna.joshi@rokplanning.co.uk) should you have any queries or wish to discuss these.

Yours faithfully,



Matthew Roe
Director
ROK Planning

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