

North Yorkshire Council's Response to Inspector's Matters, Issues and Questions

Matter 1 – Legal Compliance

Issue 1 – Duty to Cooperate

Q1. What evidence can the Council point to which demonstrates that it has engaged constructively, actively and on an ongoing basis in relation to the known cross-boundary issues?

The Council can point to the Duty to Cooperate Paper (SDNS02) in order to demonstrate its active and constructive engagement on cross boundary issues. This shows that cross-boundary issues were identified at an early stage with relevant organisations and that dialogue was active and ongoing. Of particular note are the Statements of Common Ground with Leeds City Council and York City Council respectively, which are appended to the Paper (SDNS02) and document that engagement has been ongoing throughout preparation of the DPD.

Q2. Are the remaining issues to resolve (such as transport, healthcare, and education) matters of soundness or legal compliance?

No. The Council believe that any issues that remain are matters of detail rather than principle, where the parties all agree that a solution is possible and are working together towards that solution. The Council believes that the DPD sets out a positive framework to address these matters and has worked extensively with former North Yorkshire County Council colleagues (who now form North Yorkshire Council) in relation to transport, healthcare and education. The proposed policies and strategies for these are discussed in the relevant matter.

None of the issues that require further detail to resolve are matters of soundness or legal compliance in terms of the duty to co-operate and indeed none of the bodies with whom duty to co-operate is required has suggested that there is any breach of the Duty to Cooperate or any other legal requirement.

Q3. Has the Duty to Cooperate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to the advice

contained in the National Planning Policy Framework ('the Framework') and the Planning Practice Guidance ('the PPG')?

Yes. As set out in the [Duty to Cooperate Paper \(SDNS02\)](#) the Council has complied fully with the relevant legislation and guidance.

Issue 2 – Public Consultation

Q1. Has public consultation been carried out in accordance with the Council's Statement of Community Involvement, the Framework, the PPG and the requirements of the 2004 Act and 2012 Regulations? If not, what were the reasons why?

Yes, consultation on the DPD has been carried out in accordance with the Council's Statement of Community Involvement 2020 (SCI) ([SDNS15](#)), the Framework, PPG and the requirements of the 2004 Act (as amended) and the 2012 Local Planning Regulations.

The Council's SCI was adopted in 2014 and updated in August 2020 in line with the government guidance dated 13 May 2020, to reflect the changed circumstances and challenges presented by the coronavirus (COVID-19) pandemic.

Table 8.1 in the SCI Appendix sets out how and when the Council consult with the community in each stage of the preparation of the DPD. This is in line with Section 18 and 19 (3) of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning Regulations 2012.

Regulation 19 representations were received suggesting that alternative boundary options should have been consulted on in a separate stage consultation, however the Council considered a range of options at Regulation 18 as well as the preferred option. This preferred option included a more defined boundary which has not significantly changed. Further targeted engagement took place between the Regulation 18 and Regulation 19 consultation and therefore the Council do not consider a stage has been missed.

The lack of in-person consultation events / exhibitions was also raised however the Council considers that the consultation methods used were effective and the local communities have been engaged with constructively. The Regulation 18 consultation was carried out during the coronavirus (Covid-19) pandemic and the Council has liaised extensively with the Community Liaison Group throughout the development of the DPD.

Full details of the engagement undertaken is set out in the Consultation Statement ([CDNS06](#)).

The Council consider that the public consultation has been carried out in accordance with the Council's Statement of Community Involvement, the Framework, the PPG and the requirements of the 2004 Act and 2012 Regulations.

Q2. Were adequate opportunities made available for participants to access the Plan, and other relevant documents, in different locations and in different formats (such as in paper, at face-to-face meetings/events and online)?

Yes, the Consultation Statement ([CDNS06](#)) sets out the engagement undertaken which clearly show that adequate opportunities were available for participants to access the Plan and other relevant documents in different locations and formats.

Of particular note are the copies of the '*Have Your Say*' leaflets and posters which were distributed to the local community at both Regulation 18 and Regulation 19. These provided key information on how to get involved and make comments and are contained within the Appendices to the Consultation Statement ([CDNS06](#)).

The table in Chapter 2 sets out the methods of engagement, the meetings held and details of where the DPD and relevant documents were available to view, both online and as paper copies at local libraries, the Civic Centre at Harrogate.

Q3. Were adequate opportunities made available for participants to submit and make representations, having particular regard to the length of public consultation and the process for making comments?

Yes. More than adequate opportunities were made available and indeed the Council extended both formal rounds of consultation beyond the statutory requirements.

As detailed in the Consultation Statement ([CDSN06](#)). The Regulation 18 consultation was held during the coronavirus (COVID-19) pandemic and to ensure local communities had sufficient opportunity to respond, the consultation period was open for 13 weeks from 19 October 2020 and 22 January 2021.

For the Regulation 19 consultation we listened to and responded to requests from Parish Councils and local community to extend the consultation period for another 10 days. The consultation ran from the 3 October 2022 to 25 November 2022 (over 7 weeks).

Comments were accepted via the Consultation Portal, email and by post and therefore a variety of methods to make responses were offered.

Issue 3 – Sustainability Appraisal

Q1. What are the 'concept options' in the Sustainability Appraisal ('SA') based on? How have they been determined, and do they adequately reflect a reasonable range of alternatives? If not, what should the SA have considered at this stage?

Firstly, it should be noted the 'concept options' considered in the SA ([CDNS02](#)) were developed within a framework in which both the principle of a new settlement within the broad location for

growth and the overall minimum size/requirements of the settlement had already been established by the adopted Harrogate District Local Plan 2014-2025. The purpose of this DPD is therefore not to reinvent that wheel, but to determine the most appropriate settlement boundary within that area.

The “concept options” were based on known available land at the time within the broad location for growth identified in the adopted Harrogate District Local Plan 2014-2025. They take into account known constraints and opportunities and importantly these represented distinct spatial options, each of which contained enough land to include the requirements outlined in adopted policy DM4. These were consulted upon during the Regulation 18 consultation (which also put forward a preferred option) at which point any further reasonable options could have been put forward.

As such, the Council consider that these concept options adequately reflect a range of reasonable alternatives, and no comments were received at Regulation 18 to suggest that any other alternatives within the broad location should have been considered.

The Council therefore considers that the Sustainability Appraisal was based on a reasonable range of options.

Further information on the development of the options can be found in [OD01: New Settlement Concept Framework- Stage 5b Final Concept Framework Report \(2020\)](#). This work was undertaken by Gillespies, supported by Cushman & Wakefield and Vectos of behalf of the Council. As part of this commission, targeted consultation was undertaken, and this included workshops with key stakeholders to inform the generation and appraisal of the concept options.

Q2. Are there any other reasonable spatial options that should have been tested by the Council through the SA, and if so, why?

No. As outlined in the response to Q1 above, the Council considers that a reasonable range of options were tested, and due opportunity was given for others to be put forward. It is not considered that there are any other options distinct enough to allow meaningful appraisal that would meet the requirements of the policy framework Local Plan Policy DM4.

Q3. Do each of the concept options propose the same amount of growth? How has the potential loss of any best and most versatile agricultural land been considered?

Yes. The purpose of the DPD is to fulfil the requirements of Local Plan Policy DM4. It was therefore necessary that each of the concept options proposed a level of growth which was consistent with that policy.

All three concept options had a land area of sufficient scale to deliver the required number of housing units, employment space, local centre and social infrastructure, this is evidenced in

Appendix 3 to OD01: New Settlement Concept Framework- Stage 5b Final Concept Framework Report (2020) which shows how the options were developed.

It should also be noted that the Council acknowledged loss of best and most versatile agricultural land (BMVL) during the preparation of the adopted Harrogate District Local Plan (SDNS14) and allocation of the broad of location for growth, but this was balanced with the positive impacts of the new settlement as well as the relatively small scale of the loss in the context of wider provision of BMVL across the District.

The matter was further considered in the SA (CDNS02) which included an objective to minimise loss. In appraising the concept options, the SA concluded that loss was unavoidable for all three options and there was not any difference of significance between them in terms of the amount of BMV land which would be lost to weigh in the choice of options. Additionally, in the context of agricultural land resources across the Local Plan Area and in the wider area, the effects are therefore not considered to be significant.

Q4. The preferred option (Option 3) is predicted to have likely significant negative effects in terms of biodiversity and potential significant negative effects in terms of landscape including retaining the area's rural character. How will these negative effects be addressed by the DPD?

As detailed in the SA (CDNS02), all three concept options have significant negative effects on biodiversity and landscape. This impact was acknowledged during the Local Plan examination during the establishment of the broad location.

Nevertheless, these impacts are addressed by a number of key policies in the DPD:

- **NS3 Master-planning Principles** – in particular the requirement for contextual use of edge treatments across the development which are sensitive into the surrounding landscape.
- **NS12: Green and Blue Infrastructure** – this requires a strategy to be produced to be guided by the development framework, to respond to the existing natural and historic environment, incorporating a range of distinctive green spaces that respond to local needs. With connection through green infrastructure to the rights of way network beyond the settlement boundary, the green blue infrastructure strategy should provide opportunities to provide and create wildlife corridors, flood alleviation, water quality buffers and informal recreation opportunities.
- **Policy NS13: Providing Biodiversity Net Gain** – this requires a net gain in biodiversity as well as targeted enhancements for specific species.
- Policies on heritage assets (NS16 to NS21) which ensures impacts on key vistas (such as the spire of the Church of St John the Baptist, Hunsingore and the Kirk Hammerton Conservation Area) are minimised.

It should also be noted that the Council's Ecologist, Landscape Architect and Conservation Officers have been instrumental in developing these policies, as well as specialist organisations

such as Natural England. The Council therefore believes that sufficient provision has been made to address the biodiversity and landscape impacts within the DPD.

Issue 4 – Climate Change

Q1. Does the Plan (taken as a whole) include policies designed to secure that the development and use of land in the area contributes to the mitigation of, and adaptation to, climate change? If so, how?

Yes. The Plan has a strong focus on climate change with policies seeking to achieve a specific climate change objective that requires both mitigation and adaptation measures. A New Settlement Climate Change Strategy ([SDNS08](#)) has been prepared to ensure the Plan includes an evidence based approach to addressing climate change that maximises the opportunities that developing a new settlement provides to create a low carbon climate resilient community. The strategy identifies four climate change priority areas for action aimed at contributing to net zero carbon by 2038 and securing climate resilience through adaptation measures. These priority areas are addressed through specific climate change policies, NS4 to NS11, but also, where relevant, across the other policies in the Plan.

Issue 5 – Public Sector Equality Duty

Q1. In what ways does the DPD seek to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010 in relation to those who have a relevant protected characteristic?

The DPD seeks to ensure that due regard is had to the three aims expressed in s149 of the Equality Act 2010 through equality analysis, which has taken place alongside the preparation of the DPD and informed its content.

Equality analysis involves considering the effects of each proposed policy on achieving each of the three aims for those with a relevant protected characteristic. The process has allowed the council to identify whether a proposed policy may give rise to unlawful discrimination, harassment or victimisation, and ensure that the policy is changed to eliminate this potential. The process has also allowed consideration of whether a policy would advance equality of opportunity between different groups and/or foster good relations between groups, and informed changes to policies to increase these positive outcomes.

The DPD Submission Draft Equality Analysis ([CDNS04](#)) indicates that none of the policies have negative effects on those with a relevant protected characteristic and many policies have positive effects, with the greatest number relating to the characteristics of age and disability. Importantly, it highlights that the DPD will help to eliminate discrimination due to age, disability and pregnancy/maternity. It also shows that a large number of policies will advance equality of

opportunity in relation to most characteristics and, to a lesser degree, policies will help to foster good relations between groups.

Issue 6 – Habitats Regulations Assessment

Q1. Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the Habitats Regulations Assessment been carried forward in the DPD?

Yes, the requirements for appropriate assessment under the Habitats Regulations Assessment (HRA) ([CDNS03](#)) have been met and the results have been carried forward in the DPD.

There is only one European or Ramsar site lying within 10km of the proposed new settlement. Kirk Deighton SAC which is designated for great crested newts is located approximately 5.7km to the southwest of the new settlement. The HRA concluded that due to the distance from the new settlement that the SAC would not be adversely affected.

Yes, the results of the HRA have been carried forward in the DPD. The HRA reviewed the DPD, screening the Policies. Appendix B sets out each policy and assesses likely significant effects, none of the policies proposed were considered to present any impact on internationally important wildlife sites.

Q2. What measures will the DPD put in place to ensure that likely significant effects would be avoided?

The HRA ([CDNS03](#)) reviewed the DPD, screening the Policies. Appendix B sets out each policy and assesses likely significant effects, none of the policies proposed are considered to present any impact on internationally important wildlife sites.

The modifications as set out in the Maltkiln (New Settlement) DPD Proposed Modifications Schedule following Regulation 19 consultation ([CDNS05](#)) have been assessed against the Habitats Regulation Assessment April 2022. None of the proposed modifications have led to changes to the Habitat Regulations Assessment (HRA).