

Copmanthorpe Neighbourhood Plan

Part 5



Basic Conditions Statement

April 2017

Copmanthorpe Neighbourhood Plan

Neighbourhood Plan Examination Basic Conditions Statement

**Town and Country Planning Act 1990 (as amended)
Paragraph 8(2) of Schedule 4B Statement**

Copmanthorpe Neighbourhood Plan Proposal

By

Copmanthorpe Parish Council acting as Qualifying Body

Contents

Genesis of the Copmanthorpe Neighbourhood Plan
Introduction
Basic Conditions
Schedule 4B Paragraph 8 Section (1)
SoS Guidance - National Planning Policy Framework
RSS York Green Belt policies
SoS Guidance - National Planning Practice Guidance
Sustainable Development
General Conformity with Strategic Policies
What is meant by 'general conformity'?
EU obligations
Prescribed matters and conditions
Conclusion
List of background documents (web links)

Documents

Part 2	Copmanthorpe Neighbourhood Plan Examination Version
Part 3	Copmanthorpe Village Design Statement
Part 4	Evidence Base including Area Designation Application and Decision
Part 5	Consultation Statement
Part 6	SEA Screening Opinion

Document Information

Produced by: H&H Land and Property

Copmanthorpe Neighbourhood Plan Examination Version Basic Conditions Statement

Date: November 2014

Approved by Tom Woof MRTPI

Genesis of the Copmanthorpe Neighbourhood Plan

On 8 May 2012 Copmanthorpe Parish Council declared its intention to develop a Neighbourhood Plan. Cllrs Carr, Whitfield, Smith, Taylor and Townsend were selected to form a Steering Group to take this project forward.

In May 2013 a Public Meeting was organised (Thursday 23 May) in the Methodist Church attended by Julian Sturdy MP, City of York Ward Councillors, and a representative from City of York Council.

In June 2013 Copmanthorpe Parish Council established the Copmanthorpe Neighbourhood Planning Group (CNPNG) to undertake the development and progression of a Neighbourhood Plan; this group was formed to represent the views of the village and consisted of Parish Councillors and representatives from stakeholder groups and village residents.

The CNPNG took on the responsibilities of the CNP process under the auspices of CPC. In order to support the wider aspects of Community Led Planning, the CNPNG developed a Neighbourhood Plan which consisted of one overarching Plan for the Parish which included Neighbourhood Planning Policies and Village Design.

In preparing the CNP the CNPNG has consistently ensured that residents and other stakeholders including local authorities, interest groups, land owners, businesses and statutory bodies have been consulted and that their comments have been noted and, where appropriate, incorporated into the plan as it evolved.

Summary of findings: 1750 households in the village were canvassed in July 2013 by the Parish Council, the Methodist Church and consultants "Action Planning". A total of 565 responses were received which showed 79% of respondents to be against any further housing development in the village and 87% of respondents attached great importance to the existing Green Belt surrounding the village.

In September 2013 Copmanthorpe Parish Council wrote to the City of York Council to formally submit an application for designation of a neighbourhood plan area in order to allow them to subsequently draft a Neighbourhood Plan for the Parish of Copmanthorpe.

The City of York Council received over 120 responses, all of which supported the application by Copmanthorpe Parish Council.

A Housing Quantity Survey was made available, which canvassed 1750 households in the parish in November 2013 specifically to assess the level of new housing which residents considered the village could absorb and the most suitable sites for any development.

The application for designation of a neighbourhood plan area was taken to Cabinet (CYC) on the 7th January 2014 and the application, including the boundary was approved.

The consensus view of respondents in the Housing Quantity Survey, published in March 2014, was that the village could absorb up to 135 new houses and the top four sites where development should take place were Temple Lane, New Moor Lane, Tadcaster Road Link, and Old Moor Lane.

A Housing Needs Survey was made available, which canvassed 1750 households in the Parish in June 2014 specifically to assess the type of housing need, specialist housing and impact on traffic flow. The survey asked residents household numbers, tenure, alternative accommodation needs and housing aspirations.

During the period that followed the views of local residents have been obtained through a variety of exercises including survey questionnaires, public events, open days and written contributions.

A number of consultation exercises were designed by the Parish Council, CNPG and Stakeholder Groups, in order to obtain and understand the “issues of importance” within the local community; one example being a day-long exhibition of the draft Neighbourhood Plan held on Saturday 12th July 2014. Copies of the draft Neighbourhood Plan were exhibited together with a range of site maps and expanded views of the each of the CNP policies.

In August 2014, CNPG commissioned planning consultants H&H Land and Property to provide professional advice and guidance to the group on preparation of documentation in readiness for the pre submission phase of the process.

Notices of the Statutory Pre submission Consultation process were published in August 2014 providing advance notice of the commencement of the pre submission consultation phase, due to commence 1 September 2014. Notices were placed in the Library, Doctors’ Surgeries, Recreation Centre, WI Hall, Hairdressers, Royal Oak public house, Youth Club (Howell Hall), Dentist, Post Office, Fast Food Outlets, Co-op, Mace, Methodist Church, St Giles Church, Scout Hall, Tennis and Bowls Clubs etc. Residents and Business owners were informed as to the purpose of the Pre Submission Consultation and invited to formally respond to the Plan, its aims and its policies by 12 October 2014.

Individual copies of the Neighbourhood Plan, together with various appendices and response forms, were made available free of charge in public places and businesses around the village from 1st September 2014 onwards. The Plan and response forms were also made available on line on both the Parish Council and Neighbourhood Plan websites:

www.copmanthorpeparishcouncil.org.uk
www.plan4copmanthorpe.org.uk

Copies of the Neighbourhood Plan, together with Appendices, were also available on request to the Parish Clerk by ‘phoning 01904 778087.

As part of the Pre Submission Consultation phase all Interested Parties and Statutory Consultees were directly mailed, or hand delivered, copies of the Neighbourhood Plan and Appendices seeking comments.

Introduction

1. This Basic Conditions Statement (BCS) has been prepared by H&H Land and Property Ltd as part of its Neighbourhood Planning work with the Copmanthorpe Parish Council. The Parish area has been designated a Neighbourhood Area and Copmanthorpe Parish Council is a qualifying body under the 2012 Neighbourhood Planning Regulations.
2. This BCS is submitted together with its supporting documents (The Plan) to City of York Council (CYC) under s15(1) of the Neighbourhood Planning Regulations 2012.

BASIC CONDITIONS

3. Neighbourhood Development Plans must meet the following basic conditions¹:

(1) *The examiner must consider the following—*

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

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

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,*
- (d) the making of the neighbourhood development plan contributes to the achievement of sustainable development,*
- (e) the making of the neighbourhood development plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),*
- (f) the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and*
- (g) prescribed conditions are met in relation to the neighbourhood development plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood development plan.*

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

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

Schedule 4B Paragraph 8 Section (1)

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

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

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

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

38A

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

38B

- 1) a) the period of the NDP is up to 2030 or 15 years. This period has been chosen to align the NDP with the dates of the emerging City of York Local Plan.
 - b) the NDP does not include any provision for excluded development such as national infrastructure
 - c) the NDP does not relate to more than one neighbourhood area. It relates to Copmanthorpe Neighbourhood Area as designated by City of York Council on 7th January 2014.
 - 2) There is no other NDP in place in this neighbourhood area.
 - 3) Refers to conflicts within the NDP.
 - 4) Refers to regulations that the SoS may make relating to NDPs. Such regulations are 2012 No 637 The Neighbourhood Planning (General) Regulations 2012 which have been used to inform the process of making the Copmanthorpe NDP. These regulations set out the process by which neighbourhood plans are to be made and set out
 - the consultation bodies for NDPs These have been included in the Consultation Statement
 - that NDPs which are likely to have a significant effect on European Sites (habitats) must be subject to an appropriate assessment. The Copmanthorpe NDP has been subject to a Strategic Environmental Assessment and Habitat Regulations Screening Exercise which has concluded that no further assessment is required
 - that NDO may be subject to an Environmental Impact Assessment (not relevant for NDPs).
 - 5) Refers to the publication of NDPs
 - 6) Clarifies what is excluded development.
- (d) Whether the area for the referendum should extend beyond the area that the draft Neighbourhood Development Plan relates.

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

(e) Prescribed Matters

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

Schedule 4B Paragraph 8 Section 2

(a) SoS Guidance - National Planning Policy Framework

5. The NPPF in sections 183 - 185 refers to Neighbourhood Plans and seeks that the ambition of those plans should be aligned with the strategic needs and priorities of the wider local area. Those strategic needs and priorities are generally set out in the unadopted CYC policy documents and in the 2013 Order for the abolition of RSS12. This latter document says:

RSS York Green Belt policies

POLICY YH9: Green belts

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

POLICY Y1: York sub area policy

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

C Environment

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

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

6. This makes clear that the boundaries of the Green Belt around York have not been formally defined as no LDF (or replacement document) has been adopted to do so.
7. The NPPF also seeks that Neighbourhood Plans are to be in 'general conformity with the Strategic Policies of the Local Plan'. This phrasing is slightly different than the legal requirement which is set out in the Act (Sch 4B Para 8 (2)(e)) refers to the making of the [plan] being in 'general conformity with the strategic policies contained within the adopted development plan'. There is no adopted development plan for the City of York. The CYC website explains:

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

The independent government inspector who chaired the inquiry recommended that the council set its green belt boundary for at least 20 years. As a result, the inquiry was suspended, and we have since been consulting residents about the green belt and land use allocations.

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

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

Schedule 4B Paragraph 8 Section 2

(a) SoS Guidance - National Planning Practice Guidance

8. NPPG 070 says:

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

9. The National Policies that have been considered for relevance are listed below

NPPF Paragraph	Summary of Relevance to Neighbourhood Planning	How the NPPF is taken account of in the CNP
NPPF 2	Confirms the significance of the adopted development plan unless material considerations indicate otherwise	Consideration of the status of the CYC plans has been considered and views taken as to their relevance to the NDP.
NPPF 6 – 15	Puts sustainability at the heart of the planning system and the importance of local circumstances in plans.	The NDP is intended to improve the sustainability of the community of Copmanthorpe by addressing housing, employment and community facilities in a locally distinctive way.
NPPF 16	Refers to neighbourhood planning and seeks that communities engage with the process and develop policies for housing, economic development and positively shape and direct development that is outside the strategic elements of the Local Plan.	The NDP considers these types of policies explicitly through active engagement of the community with the process
NPPF 17	Seeks that neighbourhood planning plays a part in developing an empowering and succinct planning system.	The NDP covers a wide range of matters that are referred to in this paragraph of the NPPF.
NPPF18 – 22	Seeks the encouragement and protection of sites for economic growth	The NDP allocates such sites specifically for small scale business uses which are appropriate for a settlement of Copmanthorpe's size.
NPPF 23 - 27	Refer to town centres	To the extent that these policies are relevant to a village like Copmanthorpe, the NDP refers to the updated Village Design Statement.

NPPF 28	Refers to policies to support economic growth in rural areas	The NDP allocates sites which will support economic growth in the wider rural area.
NPPF29 – 40	Refers to supporting sustainable transport	Not relevant to this NP
NPPF 42 - 45	Refers to supporting high quality communications infrastructure	High Speed Broadband now a requirement of CNP6
NPPF47 – 55	Refers to the delivery of a wide choice of housing and in particular NPPF 50 refers to mixed communities which reflect local demand	The NDP seeks to deliver a range of housing for specific groups including affordable housing, older persons housing and custom build in response to local needs survey.
NPPF 56 – 68	Refers to the requirement for good design and in particular NPPF 58 seeks that NDPs should set out how that quality is to be provided	The NDP refers to the updated Village Design Statement as the primary method by which locally distinctive design criteria will be met.
NPPF 69 – 78	Refers to the promotion of healthy communities and in particular to the use of Neighbourhood Plans to designate open green space	The NDP allocates land for this purpose including for allotment space.
NPPF 79 – 92	Refers to the protection of Green Belt land	The Green Belt around the City of York is now established only within the 2013 Order (SI 2013 No 117) which specifies it only in a general way, but goes on to say that ‘the inner boundaries should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city’ and that plans should ‘define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York City Centre’. The NP allocates land for development which is consistent with the emerging CYC Green Belt with small modifications. It is considered that these are appropriate and do not undermine the purpose or character of the York Green Belt.

NPPF 86	This policy refers to the criteria for inclusion of a village within the Green Belt and the openness of the character of the village as part of the open character of the Green Belt.	It is not considered that the character of Copmanthorpe Village is sufficiently open to warrant protection within it to be that of Green Belt designation.
NPPF 93 – 108	Refers to climate change and flooding	These policies are not particularly relevant to the NDP other than in a general way. The sites which are allocated do not fall within areas vulnerable to flooding. It is considered that CYC will develop policies to address this issue in line with this section of the NPPF.
NPPF 109 - 125	Refers to the conservation of the natural environment including biodiversity	All developments must take due account of national or international designations for habitats. The NP does not alter this in any way.
NPPF 126 - 141	Refers to the conservation and enhancing of the historic environment. There is no specific reference to Neighbourhood Plans in this section of the NPPF.	All developments must also take due account of national or international designations for landscape. While the landscape is generally protected by virtue of a Green Belt designation which is specifically for protecting and enhancing the historic setting of York, the detail of the boundary is not set by any higher tier policy. The allocations for housing in the NP are better situated than the CYC proposed allocations in respect of conserving the Roman Road which runs out from the village in a south westerly direction.
NPPF 142 – 149	Refers to safeguarding minerals	No relevant to this NP
NPPF 150 – 182	Refers to Plan making and specifically to local authority plan making as neighbourhood planning is considered in the next section.	NPPF 158 – 159 refers to an appropriate and realistic evidence base for housing market assessments. It is widely felt that the CYC assumptions for housing requirements have taken somewhat extreme positions for economic activity and have consistently taken the highest figures within any range of assumptions.

NPPF 183	Confirms that Neighbourhood Planning provides powers to set policies	The NP does this.
NPPF184	Seeks that communities set positive policies for local circumstances providing they are aligned with strategic needs and are in general conformity with the strategic policies.	The NP does this.
NPPF 185	Sets out the relationship of NDPs with other policies	The NP will support the strategic policies of providing a reasonable quantum of housing for the settlement of Copmanthorpe whilst directing it to locations that are deemed to be locally acceptable and acceptable according to all other land use planning criteria.
NPPF186 - 219	Refers to decision taking and implementation	These policies are not directly relevant to the issues set out in the NP.

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

11. The presumption in favour of sustainable development within the NPPF means that neighbourhoods should plan positively to support local development that is outside the strategic elements of the local plan².

² NPPF paras 15 and 16

Schedule 4B Paragraph 8 Section 2

(d) Sustainable Development

12. The thrust of the Neighbourhood Plan is to increase the sustainability of the communities in Copmanthorpe Parish. There is an emphasis on providing housing for LOCAL people particularly for older persons and those in need of affordable housing. It is also the aim of neighbourhood planning to reduce local opposition to development proposals by giving local people greater sway over the decisions that affect where they live.

- The key elements of the NDP which modify the approach taken by CYC in the development of its policies are those which increase the sustainability of the aims of the plan. These elements are:
- The inclusion of smaller areas which are allocations for housing land, thereby reducing the need to take productive farm land out of use.
- Resiting the allocated land away from the better farm land and away from acknowledged areas of heritage assets, thereby meeting the needs of the present without compromising the ability of future generations to meet their needs.
- Introducing, within policy, the requirement to meet the needs of older people and those wishing to custom build, thereby helping a healthy mix of residents within the community and improving social cohesion.
- Including land for economic activity, thereby supporting more economic activity and, hopefully, reducing the need to travel.
- Requiring that dedicated new housing is provided only for local people, thereby supporting local people to find housing in their community and reducing the need to travel and encouraging kinship relationships that foster caring and community engagement.
- Allocating land specifically for recreation, leisure and allotments, which will encourage and support community activities, food production and healthy living .

13. Greg Clark, Minister for Planning and Decentralisation said:

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

Schedule 4B Paragraph 8 Section 2

(e) General Conformity with Strategic Policies

Introduction

The meaning of general conformity

14. The term 'general conformity' is not defined in law but has been discussed in a number of judgements, particularly with regard to the relationship between Structure Plans and Local Plans. The use of the adjective 'general' is to introduce a degree of flexibility, although not unlimited flexibility. The judgements seem to conclude that the degree of flexibility this phrase permits will depend upon the planning judgement of the decision maker and the particular circumstances of the case.
15. In this case, the test is to be applied to a new and different tier of planning policy formulation; that between the strategic elements of a Local Plan and a Neighbourhood Development Plan. This relationship has not been tested in the Courts and there is no case law to consider to help in these circumstances, other than in the most general sense. It is useful therefore to consider what was the intention of the legislator in choosing these words to define this relationship. The SoS states in the NPPF;
Neighbourhood Plans give communities the direct power to plan the areas in which they live through setting planning policies for the development and use of land. Parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications.
16. This is what the Copmanthorpe Neighbourhood Plan intends to do. The process of preparing a Neighbourhood Plan is a discretionary one that is undertaken by the Community; it is intended to be a locally driven process and one which is not undertaken by Local Authorities. As such, for a local community, it is a significant undertaking and one that is made voluntarily and not made lightly. To be worth this effort and time, the result of a Neighbourhood Plan must be sufficiently different from the Local Plan and to allow a difference that, although not undermining the overall strategy, does provide for decision making that would not otherwise be possible without a Neighbourhood Plan. To this extent, then, the policies of a Neighbourhood Plan will require more flexibility, rather than less, in the range of flexibility that 'general conformity' allows. The converse of this, if a more rigid approach to 'general conformity' were to be adopted, would tend to reduce the chances that Local Communities would undertake the process of Neighbourhood Plan making and the purpose of the Localism Act would be severely diminished.
17. The policies of Neighbourhood Planning will tend to seek out those areas of policy that will make the most positive difference for Local Communities and the phrase 'general conformity' needs to be interpreted accordingly.
18. For the relationship between the London Plan and Borough UDPs a definition of general conformity was proposed which referred to the significance of harm caused by a spatial development strategy. This level of planning and the level of 'general conformity' between Structure Plans and Local Plans has the potential to affect a larger and inherently more strategic area than that between a Local Plan and Neighbourhood Area. It is, therefore, natural that the degree of conformity between policies of higher tiers within the overall framework need to be tighter than those between lower tiers of policy which may be looser because they affect a smaller and inherently less strategic area.

19. The NPPF³ says that *Neighbourhood planning is a powerful set of tools for local people*. This wording is intended to give local communities ambition and higher goals than is possible with Area Action Plans, Village Design Guides and the like. To be powerful a Neighbourhood Plan must be intended to allow a locally distinctiveness to be tangible and real and not be completely in conformity with higher tier policy. A level of variation within the strategic framework is part of neighbourhood planning.
20. For all these reasons each NDP policy needs to be considered with an understanding of 'general conformity' that is generally looser than that used to consider the relationship between Structure and Local Plans or between the London Plan and UDPs.
21. The SoS has issued guidance that sets out in brief criteria 'what is meant by 'general conformity?'

NPPG 74 says:

What is meant by 'general conformity'?

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

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach*

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

This document was approved at a meeting of the City of York Council on 12th April 2005. It has two key roles reflected in its title:

Firstly, it represents the most advanced stage of the draft City of York Local Plan. In this role, it comprises the 1998 deposit draft of the Local Plan amended up to and including a fourth set of changes.

In addition, and quite separately, it was also approved for the purpose of making development control decisions in the City, for all applications submitted after the date of the Council meeting (12th April 2005). It will be

³ NPPF para 184

used for this purpose until such time as it is superseded by elements of the Local Development Framework.

For both purposes, it is accompanied by a set of proposal maps entitled 'Development Control Local Plan Proposal Maps'.

For the purposes of clarity, policy numbers have been carried forward throughout the whole Local Plan process. Where new policies have been added they include a suffix. Where policy numbering does not run sequentially this is because a policy has been deleted (see 'How to use this Local Plan' for full details).

*For further information into the background to this document please contact:
City Development Team,
City of York Council
9 St Leonard's Place
York
YO1 7ET*

23. For the purposes of this exercise, and following conversations with CYC officers, it is accepted that there is no adopted plan for York and, therefore, there are no strategic policies (with the exception of the retained RSS green belt policies) for the Neighbourhood Plan to be in general conformity with. Nevertheless, CYC says it wishes to encourage neighbourhood plans to take account of the emerging Local Plan. While this is a reasonable position to take for developing policy, such an approach cannot be the basis for a neighbourhood plan to fail to meet the Basic Conditions.
24. The approach required by the National Policy Guidance is to assess each NDP Policy against the four considerations set out in NPPG 74. This is set out below in relation to the emerging CYC policy. In addition, each policy is also assessed against policies in the emerging CYC Plan in greater detail. However, it cannot be overstated that the fact of there being no adopted Plan for York means that there is no strategic policy (with the exception of the RSS policy) for the NDP to be in general conformity with. Nevertheless, it is intended to be shown to what extent the NDP supports and upholds the emerging strategy. Where any conflict exists, it is considered that it is both within the margins permitted by the term 'general conformity' and outside the strict test of being considered against 'adopted strategic policy'.

Whether the neighbourhood plan policy supports and upholds the general principle that the strategic policy is concerned with

25. The present emerging Strategy for York (now subject to review following City of York Council's decision on 9 October 2014) is to provide the majority of houses within the City Boundary and provide a small proportion around 10% of the target within the villages within the Green Belt together with two significant new settlements. The CNP supports this general strategy by allowing an amount of development in the Parish that fits broadly within this strategy.

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

26. The degree of conflict between the CNP and the emerging CYC strategy is limited to the absolute number of dwellings to be permitted in the Parish.
27. The CNP proposes a lower figure for housing in Copmanthorpe within the plan period than the emerging CYC Local Plan. The figures are 135 and 562 respectively. The CYC figure for Copmanthorpe set out within the Local Plan publication version (654) is substantially higher than the Preferred Options figure of 562, despite a reported 23% reduction in the total number of houses in the Local Plan. Consequently, one might expect to see a corresponding fall in the CYC proposed allocation for Copmanthorpe. However, the change from 562 to 654 is, in fact, a rise of 16.4%. Local Plan figures are subject to further review following CYC's decision of 9 October 2014.
28. The CYC document refers to a Housing projection forecast 2014 update that makes the following recommendations:
- *In light of the most up-to-date evidence, housing provision should be in the range of 838-877 dwellings per annum. The higher provision would apply if the Plan adopts OEF Scenario 2, but the lower provision would also be valid as the objectively assessed need (although it would not take into account economic effects).*
 - *Once 2012 based household projections are available and Edge Analytics have reported, the 838-877 requirement should be reviewed, particularly as this range is sensitive to household formation rates.*
 - *It is considered that the plan allows for the application of a 20% buffer (to meet the requirement for a five year housing land supply). This means that the annual dwelling requirement will be higher in the first five years and lower in subsequent years.*
 - *It is recommended that if York considers it is appropriate to add the accumulated shortfall for the period from 2012 to date to the requirement, this is added to the whole plan requirement (Liverpool approach). Alternatively, a start date of 2004 could also be appropriate, given that it is the start date of the RSS.*
 - *It is not recommended that the shortfall should be met within the first five years of the Local Plan (Sedgefield approach). The proposed housing requirements represent a significant 'step up' from recent delivery trends; adopting the Sedgefield method would not meet the 'aspirational but realistic' test set out in Paragraph 154 of the NPPF.*
29. It should be noted that this document also says that the approach to understanding if there has been a 'persistent shortfall in housing deliver' which is the test for whether a 20% buffer is applied is 'not an exact science'. It can be seen from figure 3 Housing Completions in York the average figure for the provision of housing from 2000 – 2014 is 648 units per year. This shows that the RSS target of 640 per year was being met successfully. However, the RSS, which has since been abolished, included a step change in targets to 850 per year from 2008. This increased target has little basis in the reality of the times. In 2008 the global economic slow-down occurred and the UK went into recession. It is therefore unreasonable to continue to use that target to test if there had been a persistent shortfall, when it had no realistic prospect of being met and

was based on different economic factors than those that were manifestly present at the time.

30. This reading of the historical targets and delivery rates suggests that the 20% buffer is not required nor that there is a shortfall to be delivered in York as whole. This would put the overall figure for York at 13,920 (870 x 16) for the proposed plan period. If 10% of that figure were to be allocated to the outer villages (as stated in the preferred options Local Plan) in the Green Belt, that would suggest that 1392 would be proposed for 22 potential villages or around 63 per village.
31. Consequently, the proposed figure of 135 dwellings for Copmanthorpe represents an increase over the pro-rata approach to housing distribution, and represents almost 8% household growth over the plan period. This level of higher housing growth than the pro-rata approach is justified because the relative size of Copmanthorpe suggests that it can absorb a higher level of housing than smaller villages.
32. The average house size in Copmanthorpe is 2.45, which is higher than the figure used by Arup or CYC of 2.11. This suggests that if 135 new dwellings, particularly those of the type suggested in the CNP, are built this would allow Copmanthorpe to expand by a further 331 people or 7.7% of the current population.

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

33. The type of development to be permitted in locations like Copmanthorpe is not specified within the emerging strategy. The types proposed by the CNP are housing, employment generating, leisure, open space. The CNP further provides detail on the form of housing to be provided including affordable housing, older persons housing and housing for local people. These detailed policy provisions are supported by local consultation and survey material which are included within the Consultation Statement

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

34. The rationale for the approach taken is based within survey and consultation material of the local community which supports the approach put forward. It is also considered that the approach of critically assessing the CYC approach to the housing figures is justified because there is a lack of clarity in the rationale CYC has taken. For example, there is no explanation of why the percentage rates for housing delivery in the City and the villages have apparently altered between the Preferred Options Version and the Submission Version. Nor is there any explanation as to why, if the overall housing requirement has fallen between these versions of the CYC Plan, that there is no consequential reduction in the housing requirement for Copmanthorpe. It may be that the requirement for housing has simply followed the land which is considered available, which would be a form of market led plan making and not the approach promoted by the NPPF.

35. In contrast, the CNP approach is to retain the essentially sound and acceptable approach put forward in the CYC Preferred Options Plan of allowing 10% of the housing development within the green belt villages and working these numbers through to an amount that is appropriate for Copmanthorpe. This approach has the benefit of ensuring that all villages within the green belt have the opportunity of providing limited, but essential, levels of housing and no one village ends up overwhelmed by development. This approach is set out in Matthew Taylor's review of policies for the Countryside 'Living Working Countryside' and is at the heart of the Government's approach to sustainable development.

36. Summary Assessment of each CNP Policy against the Basic Conditions Requirements

NDP Policy	General conformity with Strategic Policy	Deliverability	Sustainability	Breach of EU regulations
CNP1 Housing quantity	Yes, the only adopted strategic policies are the RSS policies that refer to the green belt boundaries not to housing quantity. The emerging plan suggest a higher amount but that plan is not considered to be sound being in conflict with the approach put forward in the Living, Working Countryside'	The two allocated sites are available for development.	Yes, the number of units is endorsed by the community and will meet the needs of the community as expressed in the housing needs survey.	No, a higher quantum of development in this general location has already been assessed as acceptable under EU regulations.
CNP2 Allocated sites	Yes CNP allocates sites which is the approach put forward by CYC emerging plan.	Yes, the sites identified are capable of providing the uses and quantity of development proposed	Yes allocating sites in Copmanthorpe is a sustainable location for the scale of development proposed	No, the sites identified do not cause any impact on European sites
CNP3 Affordable and special housing	Yes, the policy adds local definition to the general policy of 30% affordable housing	Yes, the provision of affordable housing is supported within the CYC long established policies. The adjustment to this policy does not add to the financial burden on the developer.	Yes, the policy will ensure the housing provided is more closely aligned to the needs of the local community than the CYC policy alone.	No – not applicable

CNP4 Housing for older people	Yes CYC policy is essentially silent on this	Yes, restricting certain housing to older people is a proper use of planning conditions where the policy framework requires it.	Yes, the policy will ensure the housing provided is more closely aligned to the needs of the local community than the CYC policy alone.	No – not applicable
CNP5 Local Occupancy	Yes CYC policy is essentially silent on this	Yes, this type of policy is quite common in other local authorities and is normally secured by condition.	Yes, the policy will ensure the housing provided is more closely aligned to the needs of the local community than the CYC policy alone.	No – not applicable
CNP6 Parish economy, transport and employment	Yes CYC policy is essentially silent on this	Yes. The site identified is available for development.	Yes this is supported by local people.	No – The scale of development falls below the threshold for SEA consideration
CNP7 Community facilities and organisations	Yes CYC policy suggests allocating similar land for this purpose	Yes. This land is available for development of this type which is in turn suitable for development in the green belt	Yes	No – the form of development does not require SEA consideration
CNP8 Green belt and green infrastructure	Yes CYC policy suggests protecting land in this way	Yes. This level of protection is able to be enforced by CYC in the normal course of its development management duties.	Yes, the level of environmental protection provided by this policy is consistent with principles of sustainability.	No
CNP9 Parish consultation	Yes Local PC views are important to ensuring a responsive plan-led system can make appropriate decision	Yes The Parish Council is capable of holding pre-application consultations and responding to planning applications in a meaningful way	Yes this policy will foster good governance and local accountability.	No – not applicable

Schedule 4B Paragraph 8 Section 2

(f) EU obligations

37. The policies have been submitted to CYC as the appropriate environmental body together with a request for a Screening and Scoping Opinion as to whether a SEA is required or whether an appropriate assessment is required in relation to Habitat Regulations. We are still awaiting the response from CYC to this request, in the absence of which we have prepared our own and this is included in the supporting documents.

Schedule 4B Paragraph 8 Section 2

(g) Prescribed matters and conditions

38. Paragraph 1 of Schedule 2 of the Neighbourhood Planning Regulations 2012 prescribes the following condition for the purpose of this section of the Basic Condition Statement:

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

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

Conclusion

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

Appendix 5

List of background documents and weblinks

1. Living Working Countryside - Matthew Taylor Report [Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing](#)
2. Copmanthorpe Neighbourhood Plan – www.plan4copmanthorpe.org.uk
3. Surveys – www.plan4copmanthorpe.org.uk
 - 3.1. Community Audit
 - 3.2. Housing Quantity Survey
 - 3.3. Housing Needs Survey
4. Full report on Community Audit – www.plan4copmanthorpe.org.uk
5. Responses from residents doc – www.plan4copmanthorpe.org.uk/ResidentsResponses
6. Responses from statutory consultees and interested parties doc – www.plan4copmanthorpe.org.uk/StatutoryConsulteeResponses
7. City of York Council – Area Designation decision: http://www.york.gov.uk/downloads/file/10886/copmanthorpe_neighbourhood_plan_decision_summary

Published by Copmanthorpe Parish Council

April 2017