Hearing Statement – Matter 1

Doncaster Local Plan

On behalf of Priority Space

August 2020
1. **Introduction**

1.1. This is a Hearing Statement prepared by Spawforths on behalf of Priority Space in respect of:

- Matter 1: Legal and Procedural Requirements and other General Matters

1.2. Priority Space has significant land interests in the area and has made representations to earlier stages of the Local Plan process.

1.3. The Inspector’s Issues and Questions are included for ease of reference. The following responses should be read in conjunction with Priority Space comments upon the submission version of the Doncaster Local Plan, dated September 2019.

1.4. Priority Space has also expressed a desire to attend and participate in Matter 1 of the Examination in Public.
2. **Matter I – Legal and Procedural Requirements and other General Matters**

Q1.1. Is there any substantive evidence to demonstrate that, during the preparation of the Plan, the Council failed to undertake effective and on-going joint working with relevant bodies on strategic matters that affect other local planning authority areas?

2.1. Priority Space has no specific comment in relation to this issue.

Q1.2. Is there any substantive evidence to demonstrate that the public consultation carried out during the plan-making process failed to comply with the Council’s Statement of Community Involvement or legal requirements?

2.2. Priority Space has no specific comment in relation to this issue.

Q1.3. Was the Plan shaped by early, proportionate and effective engagement with communities, local organisations, businesses, infrastructure providers and operators, and statutory consultees?

2.3. Priority Space has concerns relating to the weight attributed to community consultation responses without sufficient regard to the nature of comments and whether they form material planning considerations. Stage 7 of the Site Selection Methodology [SDEB46], indicates that this concluding stage includes feedback from the consultation responses to the 2018 consultation. It is not clear what weight or role this has had in the site selection process. For example, there are a number of sites with significant notable objections, in both context and number, are allocated, whilst sites with only a small number of objections are rejected.
There are a number of sites where consultation responses are not referred to. It is therefore not possible to determine the weight attributed to consultation responses.

2.4. It is noteworthy that the Inspector’s Letter in respect of the Doncaster LDF Sites and Policies Development Plan Document [OTH ** Final Letter Stage 1 v2, June 2014] paragraph 51 expressed similar concerns in relation to the Site Selection Methodology at the time.

2.5. For example, Site 165/186, is noted within CSD 10 to have had the most objections, 465 signature petition, 203 standard letters and 27 individual responses, and yet this site is allocated. Site 234 received significantly fewer responses, 20 letters of objection, and is not allocated despite performing better than allocated Site 033 in the Sustainability Appraisal and the Council’s Green Belt assessment, according to the summary within SDEB 46. Priority Space have reviewed the consultation summary in CSD 10 and the nature of comments recorded for their Site 234 appear no more or less substantive than those raised in Site 165/186. However the conclusion in the Site Selection Methodology for Site 234 indicates that objections are the reason why the site is not released from the Green Belt.

2.6. Therefore, this would imply in this case greater weight is given to consultation responses, regardless of whether the responses form material considerations, than the sustainability appraisal.

Q1.4. Is there any substantive evidence to demonstrate that the sustainability appraisal failed to meet the relevant legal requirements?

2.7. Priority Space has no specific comment in relation to this issue.

Q1.5. Did the sustainability appraisal consider and compare reasonable alternatives as the Plan evolved, including for the broad spatial distribution of housing, economic and other development? Was the Plan informed by the findings of the sustainability appraisal?
2.8. The site selection methodology sets out a 7 stage process for site selection [SDEB 46]. Stage 4 relates to the Sustainability Appraisal. A summary of each sites performance against each objective is stated within [SDEB46]. There is no conclusion for each site’s performance against the Sustainability Appraisal. There is no conclusion drawn for each settlement within the site selection methodology or Sustainability Appraisal. All sites assessed in Stage 4 are taken to the next stage of the site selection methodology. It is not clear to the reader how the findings of the Sustainability Appraisal has influenced the Plan with reference to the selection of sites or what weight is attributed to the performance within the Sustainability Appraisal as opposed to later stages of the site selection process. Priority Space has noted a number of occasions where rejected sites perform as well or better than sites that are proposed to be allocated and sites that are proposed as ‘Reserve Sites’.

2.9. Priority Space is concerned that the Sustainability Appraisal and Sustainability Appraisal Addendum do not therefore seem to have consistently informed the Plan.

2.10. Further whilst flood risk is a consideration within the Sustainability Appraisal as shown in objective 11A, with scoring attributed to Main River Flooding, Surface Water Flooding, Areas Benefiting from Flood Defences, EA Flood Warning or Alert Area. The Sustainability Appraisal is reliant on the findings of the Level 1 SFRA. The Sustainability Appraisal does not improve upon the accuracy or ambiguity of the Level 1 baseline data, particularly where more up to date flood risk information is available. Priority Space consider that this approach has misinformed the Plan.

2.11. It is crucial that the Sustainability Appraisal is undertaken in a consistent and objective way, and that its conclusions feed not only into the site selection process in general but also support the Councils conclusions pertaining to the Sequential Test and implications for passing the Exception Test, with particular regard to NPPF paragraph 160 part a [NPPG ID 7 – 022].

2.12. Priority Space maintain that the Sustainability Appraisal has not consistently and objectively informed the Plan. This is not consistent with national policy, and considered unsound.
Q1.6. Does the HRA comply with relevant legal requirements, and is there any substantive evidence to indicate that its conclusions are incorrect?

2.13. Priority Space has no specific comment in relation to this issue.

Q1.7. Is there any substantive evidence to indicate that the Plan would have significant effects on equalities and in particular on groups with protected characteristics that have not been identified in the Council’s assessment?

2.14. Priority Space has no specific comment in relation to this issue.

Q1.8. Is the Plan consistent with national planning policy that expects strategic policies to look ahead over a minimum 15 year period from adoption, or is it otherwise justified?

2.15. The 2019 Framework which states in paragraph 22 that “strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities such as those arising from major improvements in infrastructure. The Plan currently is proposed to cover a period up to 2035, which if adopted potentially in early 2021 would be only 14 years and therefore at least one year short.

2.16. The Council Response to PQ 7 [DMBC7] Preliminary Questions considers that there are 3 allocations in the plan that are identified as having capacity to deliver beyond the end of the plan period (i.e. 2035+). These sites have a combined capacity of 2,292 dwellings. There are 3 employment allocations in the plan which also have additional capacity post 2035 with a further 37 hectares available as set out in the Employment Land Supply Buffer Note at para 2.8 (SDEB9). It concludes that the local plans strategic policies in relation to housing and economic development identifies sufficient land to meet the needs to at least 2036, despite the plan period ending in 2035.
2.17. The 2019 Framework states in paragraph 22 that “strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities such as those arising from major improvements in infrastructure”. The Plan proposes to cover a period up to 2035, which if adopted potentially in early 2021 would be only for 14 years and therefore at least one year short.

2.18. **This approach is not consistent with the Framework.** Furthermore, Priority Space will explore the Council’s approach to the housing need, requirement and supply and the overarching spatial strategy in response to the relevant Matters, Issues and Questions.

2.19. It is concerning that the Council appears to indicate that the requirement to review the plan within five years negates the necessity to have a Plan that looks ahead a minimum of 15 years post adoption. Priority Space does not consider this to be consistent with the Framework.

2.20. In light of these deliberations, Priority Space **considers as a minimum this Plan should be covering a 15 year period from the point of adoption in accordance with national guidance. As a minimum the Plan Period should be extended to at least 2036 to ensure that the Plan is consistent with the Framework, given the timing of the hearing sessions it may be more pragmatic to extend the Plan Period until 2037 to allow time for Examination.**

Q1.9. Will the approach set out in paragraphs 15.12 to 15.14 and Appendix 12 ensure that the Plan can be effectively monitored so that the extent to which its policies are being achieved will be clear?

2.21. Priority Space has no specific comment in relation to this issue.
Q1.10. Does the Plan set an appropriate framework, and allow an appropriate role, for neighbourhood plans having regard to current progress in their preparation in the Borough? In particular: a) Does the Plan appropriately identify “strategic policies”? b) To be effective, is it necessary for the Plan to be modified to include a housing requirement for each designated neighbourhood area?

2.22. Priority Space has no specific comment in relation to this issue.

2.23.

Q1.11. Is the Plan consistent with national planning policy relating to the mitigation of, and adaptation to, climate change?

2.24. Priority Space has no specific comment in relation to this issue.

Q1.12. Are the spatial strategy and allocations in the Plan, including those listed above, consistent with national planning policy relating to development and flood risk?

2.25. National Policy is clear that flood risk in Plan making should be managed through, among other things, the application of a sequential risk based approach, steering new development to areas with the lowest risk of flooding and that development sites should not be allocated if there are reasonably available sites appropriate for the proposed development with lower risk of flooding. National Policy considers that the strategic flood risk assessment provides the basis for applying the test (NPPF, paragraphs 157 and 158).

2.26. NPPG makes it clear that if all development cannot be allocated on land at low risk of flooding, a Level 2 Strategic Flood Risk Assessment should inform the subsequent stages of the Sequential Test (Diagram 2 – Application of the Sequential Test for Local Plan Preparation). Due to the complex nature of flooding in the Doncaster area, the Flood Maps for Planning and the Level 1 SFRA are inadequate tools for informing the sequential test.
2.27. Doncaster Councils Topic Paper 2 [DMBC2] states that “The council acknowledges that, in order to assess the likelihood of potential sites passing the exception test, and therefore being compliant with the NPPF, we must produce a Level 2 SFRA once the EA models are completed”. This is a clear acknowledgement of the requirement for a Level 2 SFRA in order to be consistent with National Policy. However rather than adopting a precautionary approach to delay the Plan to ensure that site selection can be informed by a Level 2 SFRA, the Council are proceeding with the Local Plan. Doncaster Metropolitan Borough contains some of the most complex flood issues in the country and a Plan which does not fully reflect this complexity and is knowingly inconsistent with national policy should not be regarded as sound. We consider that knowingly allocating sites prior to the production of a Level 2 SFRA assessment in such a complex area is inappropriate. This issue has not been addressed in the Councils response to the preliminary questions [DMBC 7].

2.28. The Submission Local Plan attempts to satisfy the requirements of NPPF Flood Risk Sequential Test and Exception Test, using the Level 1 Strategic Flood Risk Assessment November 2015 [SDEB 13] and the Doncaster Sustainability Appraisal [CSD 7].

In Carcroft the Sustainability Appraisal indicates that site 165/186 performs well in terms of access to bus services and the cycle network. Priority Space note that it is relatively distant from the train station and employment opportunities. Site 273 however performs better than the allocated site in terms of access to services, access to primary and secondary school and GP services, and performs as well as the allocated site in terms of access to the bus network and cycle network. It is well located in relation to existing employment provision in Carcroft. Priority Space consider that the allocation of site 273 instead of or in addition site 165/186 (with a reduced capacity) will support the regeneration of Carcroft as well as promoting the sustainable patterns of development. Given the flooding constraints in Carcroft Priority Space consider that the allocation of additional land in Carcroft should be informed by a Level 2 SFRA. In the absence of this a site specific SFRA has been prepared. This includes the consideration of the Sequential Assessment and exception test in relation to site 273, as summarised in Priority Space original representations, which demonstrates that the development of 273 will not result in flood risk to existing property and considers that the site passes the sequential test. Priority Space note that the council have indicated in the response to regulation 19 representation on site 273, that no sites are being allocated in the borough in areas of flood risk, this is not the case, and serves to demonstrate the inconsistency in approach being taken.
2.29. The approach to site selection and flood risk is not consistent with the provisions of the NPPF and NPPG. The Sustainability Appraisal, Site Selection and Sequential Test approach lack rigour and have an inadequate evidence base. Progressing with the Local Plan with these deficiencies will result in allocations that do not meet the national guidance requirements. The EA are undertaking further modelling, and even now there is updated flood model data which should be reviewed to inform a review of the Sequential Test and Site Selection.

2.30. There is an urgent need to prepare a Level 2 SFRA, or at least update the Level 1 SFRA which should be informed by the latest available flood information. The performance of sites against the Sustainability Appraisal objectives and Sequential Test should be revisited in the light of findings of a Level 2 SFRA. This process should apply a consistent and robust approach to flood risk consistent with national policy, and reflect the significance of flood risk constraint in Doncaster and the implications of flood risk on the deliverability of sites.

2.31. At present the approach to the Plan and site selection is not consistent with national policy relating to development and flood risk and is unsound.

Q1.13. Is the Council’s viability evidence proportionate and up to date having regard to relevant national policy and guidance? Are the policy requirements set at a level such that the cumulative cost of all relevant policies will not undermine deliverability of the Plan?

2.32. Paragraph 34 of the Framework established the importance of viability to ensure that development identified in the Plan should not be subject to such scale of obligations and policy burden that their ability to be delivered might be threatened.

2.33. Appendices 3-10 of the Viability Report 2019 [SDEB 48] demonstrated viability issues for a number of site typologies including all typologies in low value areas. Typologies in low value areas were unviable when tested against the base assumptions. The study concluded that in high and medium value areas site typologies were comfortably viable. However there are some circumstances where there are viability pressures in medium value areas, significantly the additional policy costs and sensitivities were tested against the study’s base assumptions which notably included 15% affordable housing and not 23% sought by Policy 8. Furthermore, it
should be noted that this assessment did not consider the cumulative/in combination impact of all of the policy requirements.

2.34. Priority Space remain concerned that there is little evidence to support an affordable housing target of 15% in low value areas. Further viability evidence is required to support the target of 23% in combination with the policy requirements of the Plan, including, mix, housing design standards, and density. The viability assessment shows that a significant proportion of sites will not be able to achieve affordable housing due to viability matters. The Government is keen to avoid such a situation where viability assessments are being submitted regularly to vary planning policy obligations. Priority Space considers that the proposed approach will necessitate the use of viability assessment at planning application stage and believes applying this approach will undermine the deliverability of the Plan.

2.35. In response to the PQ [DON INSP2 PQs], a Whole Plan Viability Testing – Addendum has been prepared [DMBC 11]. The purpose of the addendum responded to concerns that the cumulative impact of all the policies was not modelled.

2.36. The results within the addendum demonstrate that there are significant viability concerns for all typologies in low value areas with the exception of low cost developer urban extension-greenfield. Priority Space consider this will impact on deliverability of these sites and ultimately the Plan. The addendum again demonstrates that there are issues with viability on occupied brownfield sites in medium value areas. Of note 24% of sites are within low value areas [DMBC 7], and whilst a number benefit from permission we have reviewed land supply and have identified a number of sites that are stalled, and identified sites with viability issues.

2.37. Priority Space review indicates that up to 652 dwellings should be discounted from the allocated sites due to deliverability issues and lapsed applications. In addition, we note that sites such as Site 838 for 671 dwelling, whilst subject to recent planning applications with recommendations to Grant subject to Section 106 Agreement, are noted to be unviable and are reliant on grant funding from Homes England.

2.38. Taking the latest information into account Priority Space consider that there is a potential for the requirements to undermine the delivery of the Plan. The Addendum notes that a cautious approach has been taken to sales values, however these have not been updated and due to the current pandemic there is potential for viability to be negatively affected in the short/medium term potentially impacting on deliverability of the Plan and five year supply.
2.39. Priority Space consider that there will be an increased reliance on viability testing on a site by site basis due to the policy requirements being set too high for low value and in some circumstances medium value area. This is contrary to the approach being sought by national policy and guidance.

Q1.14. Is policy 66 justified and consistent with national policy and guidance relating to the use of planning obligations? Is the Council’s suggested change necessary to make the Plan sound?

2.40. Priority Space concerns are expressed in response to policy Q1.13, and relate to ensuring that policy requirements do not undermine the deliverability of the Plan. The latest information [DMBC 11] does not address concerns raised within our representations.

Q1.15. Is policy 67 consistent with national policy and guidance relating to the use of viability assessments at the planning application stage?

2.41. In relation to concerns raised in Q.1.13 Priority Space considers there may be some instances where this policy and the use of trigger points in Part B can be utilised to bring forward the delivery of homes.

2.42. However, Priority Space have concerns around the implementation of this policy and how frequently it will be used. The use of trigger points could add further burdens to any developer who will need to reproduce viability assessments on a potentially regular basis, going against Government initiatives that seek to reduce the need for viability assessments. Priority Space considers that this policy causes unnecessary uncertainty and additional risk for developers, particularly in low and borderline medium value areas. The policy could therefore become an impediment to the development process and compromise the deliverability of large sites, particularly those phased and implemented over long periods of time. This is of particular concern when the Viability Assessment demonstrates that a number of typologies are unviable necessitating viability assessments at planning application stage.

2.43. This is not consistent with national policy and guidance and should be considered unsound.
Proposed Change

2.44. To overcome the objection and address soundness matters, the following changes are proposed:

- Prepare a Level 2 SFRA to support Plan and update the Sustainability Appraisal, Strategy, and Site Selection accordingly.
- Review the outcomes and conclusions of the sustainability appraisal and outcomes of the site selection process to ensure that the process is consistent and objective and that it clearly and consistently used to inform the Plan. Allocate more sustainable sites, including site 273.
- Extend the Plan Period until at least 2036 to ensure a sufficient supply of housing and employment land and appropriate housing trajectory.
- Review the policy requirements for housing development in Low and Medium value areas.