



**Selby District Submission Draft Core Strategy
 Consultation on Further Proposed Changes (6th Set)
 June 2012
 Representation Form**

An Examination in Public (EIP) into the soundness of the Submission Draft Core Strategy (SDCS) was held between 20 and 30 September 2011 and between 18 and 19 April 2012 in front of an Independent Inspector.

The Independent Inspector has adjourned the EIP until 5 September 2012 in order to consider the implications of the National Planning Policy Framework (NPPF) on the Submission Draft Core Strategy and for the Council to consult on any further Proposed Changes to the Submission Draft Core Strategy.

Selby District Council is now publishing and inviting comments on a 6th Set of Proposed Changes to the Submission Draft Core Strategy (and associated documents) in order that all parties can make their views known.

The September and April EIP's have already heard the duly made representations on the Submission Draft Core Strategy which were submitted during the formal Publication stage and subsequent consultation on the first 5 Sets of Proposed Changes. The adjournment should not be used as an opportunity to revisit matters which have been fully considered during the September 2011 and April 2012 hearing sessions.

Representations are therefore invited as part of this consultation on the 6th Set of Proposed Changes to the Submission Draft Core Strategy and associated documents.

Please complete separate copies of Part B of this form for each of your separate representations. It would be helpful if you could focus on the "tests of soundness" and indicate if you are objecting on a legal compliance issue.

**Completed representation forms must be returned to the
 Council no later than 5pm on Thursday 19 July 2012**

Email to: ldf@selby.gov.uk

Fax to: 01757 292229

**Post to: Policy & Strategy Team, Selby District Council, Civic Centre,
 Doncaster Road, Selby YO8 9FT**

Part A

The Tests of Soundness

The Independent Inspector's role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. The tests to consider whether the plan is 'sound' are explained under paragraph 182 of the National Planning Policy Framework (NPPF) (March 2012) and states a sound Core Strategy should be:

Positively prepared

- the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

Justified

- the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

Effective

- the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

Consistent with national policy

- the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Contact Details (only complete once)

Please provide contact details and agent details, if appointed.

	Personal Details	Agents Details (if applicable)
Name	<input type="text"/>	<input type="text" value="Melissa Madge"/>
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It will be helpful if you can provide an email address so we can contact you electronically.

You only need to complete this page once. If you wish to make more than one representation, attach additional copies of Part B (pages 3-4) to this part of the representation form.

Part B (please use a separate sheet (pages 3-4) for each representation)

Please identify the Proposed Change (*which can be found on the Published Schedule, CD2f*) to which this representation refers or paragraph number of the NPPF Compliance Statement:

See accompanying letter (19th July 2012)

Question 1: Do you consider the Proposed Change is:

- 1.1 Legally compliant Yes No
- 1.2 Sound Yes No

If you have entered No to 1.2, please continue to Q2. In all other circumstances, please go to Q3.

Question 2: If you consider the Proposed Change is unsound, please identify which test of soundness your representation relates to:

- 2.1 Positively Prepared (Please identify just one test for this representation)
- 2.2 Justified
- 2.3 Effective
- 2.4 Consistent with national policy

Question 3: Please give details of why you consider the Proposed Change is not legally compliant or is unsound and provide details of what change(s) you consider necessary to make the Proposed Change to the Submission Draft Core Strategy legally compliant or sound.

See accompanying letter (19th July 2012)

Question 3 continued

(Continue on a separate sheet if submitting a hard copy)

Question 4: Can your representation seeking a change be considered by written representations, or do you consider it necessary to participate at the oral part of the examination?

4.1 Written Representations

4.2 Attend Examination

- 4.3** If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary
(Your request will be considered by the Inspector, however, attendance at the Examination in Public is by invitation only).

(Continue on a separate sheet if submitting a hard copy)

Representation Submission Acknowledgement

I acknowledge that I am making a formal representation. I understand that my name (and organisation where applicable) and representation will be made publically available (including on the Council's website) in order to ensure that it is a fair and transparent process.

- I agree with this statement and wish to submit the above representation for consideration.

Signed

Dated

19/07/2012



Land and Development Practice
CHARTERED TOWN PLANNERS & SURVEYORS

Our ref: 9962/AK/MM/EM/0703

19th July 2012

Selby District Council
The Policy and Strategy Team
Civic Centre
Doncaster Road
Selby
North Yorkshire
YO8 9FT

Dear Sir/Madam

**PUBLICATION OF THE NATIONAL PLANNING POLICY FRAMEWORK (FRAMEWORK)
– IMPLICATIONS FOR SELBY DISTRICT COUNCIL’S CORE STRATEGY (CS) – INLINE
WITH SIXTH SET OF PROPOSED CHANGES – DOCUMENT REFERENCE: CS/CD2F**

1.0 Introduction

- 1.1 This letter sets out LDP Planning’s considerations on whether the policies within the CS meets the test of soundness and complies with the requirements of delivering sustainable development in accordance with policies in the Framework.
- 1.2 The over arching principle running through the Framework is that *‘sustainable development is about positive growth – making economic, environmental and social progress for this and future generations.’* It is accepted that policies within the SDCS do not need to mirror the Framework, as both applicants and decision makers should read both documents in conjunction. However, all policies in the CS need to engage with the main principles in the Framework.
- 1.3 The following sections set out the policies within the CS that LDP Planning wishes to bring to the Council’s and the Inspector’s attention in relation to potential conflict with the Framework.



Considerations in line with CS/CD2f

2.1 Part (c) of part A of CP1 (Proposed change number PC6.25) has been amended to reflect paragraph 55 of the Framework. However, it is considered the amendments to this section do not reflect fully the guidance in paragraph 55 Framework, as part (c) of part A of CP1 outlines that the reuse of existing buildings in the open countryside will only be supported if it is proposed to become an employment development or an affordable home. Instead paragraph 55 of Framework does support market homes subject to meeting the following special circumstances:

- *'...the essential need for rural workers to live permanently at or near their place of work in the countryside; or*
- *Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *The exceptional quality or innovative nature of the design of the dwelling. Such a design should:*
 - *Be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
 - *Reflect the highest standards in architecture;*
 - *Significantly enhance its immediate setting; and*
 - *Be sensitive to the defining characteristics of the local area.'*

Criterion 1 above is referred to in alternative policies in the SDCS and it is accepted the council does meet its requirements. However, it is considered that in light of the above options for the sustainable development in rural areas, the current wording of part (c) of part A of CP1 is too restrictive in its current form and does not address fully the requirements of paragraph 55 of the Framework. It is concluded that the proposed amendments to the policy are not consistent with national policy and should be found unsound.

2.2 The council's decision to amend paragraph 4.46 of the SDCS (Proposed change number PC6.34) to allow development on garden land in Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages is welcomed. However, it is questioned why the council has chosen not to change Policy CP1A? By not amending CP1A or not proposing a new policy, it is considered the council is not fully meeting the

requirements of paragraph 53 of the Framework, as it requires LPAs to set out a policy that applicants can comply with. Therefore, until this is addressed it is considered the SDCS will be found unsound due to the lack of clear policy guidance, which is a requirement of the Framework that councils need to meet.

2.3 Proposed change PC6.34, which would restrict garden development in Secondary Villages is however unacceptable. In many smaller villages large gardens are likely to be the only suitable land available for development and these often represent appropriate small scale infill plots. Housing on such sites should be determined in relation to impact on character and appearance and not completely ruled out.

2.4 Concerning the council's proposed amendments to policy CP3 (Proposed change number C6.51) it is questioned whether the proposals are inline with the requirements of Section 6 (Delivering a Wide Choice of High Quality Homes) of the Framework. Particular attention is drawn to the council's proposed phasing of the release of land within Tadcaster. It is considered the council's approach to Tadcaster release of developable land does not meet the requirements of footnote 12 of the Framework which outlines:

*'To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be **viably developed** [emphasised] at the point envisaged'*

The council does not meet the requirement of the above quote, as it is well documented that the predominant landowner in Tadcaster is Samuel Smith Brewery and the company does not wish to see the area developed. Samuel Smith Brewery has fought almost every application submitted in Tadcaster and the surrounding area and has taken numerous of Selby council's decisions to approve schemes to Judicial Review. It is accepted the council's proposal of phasing requiring land to be released at 5 years (Phase 2) and 3 years (Phase 3) and the option to undertake a review of the Local Plan early, does allow some flexibility and some assurances that development in the settlement will come forward. However, the knowledge of Samuel Smith Brewery's actions over the years does raise questions of whether the wording of CP3 is offering viable development options. Therefore, the council should consider harder measures to ensure Tadcaster does grow over the plan period. The council propose to compulsory purchase land and to work with landowners to ensure development, these measures are considered not to be a viable option given the market and government

planned budget cuts to local authorities. It is therefore concluded that the council's approach is not effective and does not pass the test of soundness.

- 2.5 Overall LDP Planning supports the recommended changes to CP10, based on the Frameworks requirement for rural economies, such as Selby Council's, to be prosperous. However, the proposed addition to paragraph 6.25 (Proposed change number PC6.72) misses the government's requirement in bullet point 1 of paragraph 28 of the Framework that requires local plans to recognise the need:

'...to support the sustainable growth and expansion of all types of business and enterprises in rural areas, both through conversion of existing buildings and well designed **new buildings** [emphasis added]'.

It is recommended that for the CS to be found sound the council should consider addressing the above quote and include the reference to the support of 'new buildings'.

- 2.6 It is also recommended that the Council consider the above quote and ensure that the proposed changes to CP9 (Proposed change number PC6.74) incorporates its recommendations, as in its current revised form it does not reflect the governments aim to support all types of enterprises whether existing or new sustainable development. Until this element is addressed in the wording of policy CP9 it is considered it should be found unsound, in light of it not being positively prepared and it not being consistent with national policy.

- 2.7 It is considered that Policy CP11 (Proposed change number PC6.77) in principle meets the requirements of the Framework, in that economic growth should be supported within sustainable towns and villages. However, the section of Policy CP11 that refers to '*local shops and services outside established town centres*', should be made clearer that, in line with the Framework (Paragraph 70), proposed services will be received positively in order to create a strong sustainable community. Given that Selby District Council is a rural authority and in light of the significant support the Framework gives to promoting the rural economy Policy CP11 needs to be amended. It is concluded that policy CP11 is not consistent with national policy and therefore does not pass the test of soundness.

- 2.8 In CS/CD2f the council has not considered CP13 in light of the Framework. It is considered that the principal of Policy CP13 meets the requirements of the

Framework, in that future development should encourage sustainable development. Point 1 of paragraph 96 of the Framework sets out that applicants should comply with adopted policy in relation to the use of decentralised energy supply unless it can be demonstrated that it is not feasible or viable to meet the Local Plan requirements. The current wording of Policy CP13 does not reflect this element of flexibility and reasonableness, therefore, it is considered that the policy does not meet the requirements of the Framework.

2.9 Of further concern is criterion 3 of Policy CP13, this requires that:

"Developers to employ the highest viable level of:

- *Code for Sustainable Homes on residential developments; and*
- *BREEAM standards for non-residential schemes."*

This approach provides uncertainty for developers and applicants. It leaves matters open to interpretation and potential conflict. It also may result in inconsistency of delivery and compliance. The council should seek to provide certainty through this policy by confirming what level should be achieved by specific dates; similar to the approach taken by Hambleton Council. This approach gives developers certainty and Viability Assessments can then be based upon sound principles.

2.10 A further consideration that the council should take into account is the longevity of the 'bolt on' renewable approach that is currently suggested, such as requiring 10% of the developments energy needs being produced on site via photovoltaic cells or similar. These forms of technical solutions have a limited lifespan and could result in a situation where by energy is generated on site in the first instance but once these technologies breakdown, the occupier may revert to using mains supplies. By promoting Building Fabric Improvements, such as increased insulation or Airtightness and Mechanical Ventilation & Heat Recovery, the energy consumption of a building is significantly reduced thereby reducing its energy consumption requirements. This form of solution will make a greater and sustained contribution to resource efficiency in the long term and should be provided for within Policy CP13.

2.11 LDP Planning support the council's proposed changes to paragraph 7.56 and CP14 (Proposed changes number PC6.83-86), as the amendments will ensure clarity of how applicants and developers should interpret the policy.

3.0 Other Comments arising from the Framework

3.1 Whilst addressing the elements of Framework, it became clear that the Council has not allocated a policy solely to protecting the District's landscape within the CS. The current reference to landscape within the CS is therefore weak and does not meet the requirements of the Framework. Particularly paragraph 113 which requires:

'LPAs to set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'

And paragraph 114 of the Framework, which requires:

'LPAs should:

- *Set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure...'*

It is considered that until an appropriately worded policy is incorporated into the CS to guide applicants in protecting landscape, the document should be found unsound.

3.2 Olympia Park is the only strategic site identified in the (Policy CP2A) CS and it is expected to deliver a significant number of residential units and employment opportunities for the District's population. It is LDP Planning's contention that the policy does not meet the following housing requirements:

3.3 Point 2 of paragraph 47 of the Framework outlines the Councils need to:

'...identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land.'

3.4 Footer 11 of the Framework defines 'deliverable' as:

'...sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that the development of the site is viable.'

3.5 It is our understanding that even the large house builders would only be looking to delivery a maximum of 50 units a year on sites of this scale. It is therefore considered questionable whether allocating 1000 houses to Olympia Park would meet the requirements of this element of the Framework.

3.6 The Framework identifies a similar stance for employment land, as paragraph 22 outlines that:

'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.'

3.7 A significant part of this site has been historically identified through Selby District Local Plan for employment purposes. Throughout the lifetime of the Selby District Local Plan the site identified has not come forward for development. Given this lack of delivery it is considered that the allocation of a high percentage of the District's employment land at Olympia Park is questionable.

3.8 Based on the above comments the policy regarding Olympia Park should be found unsound. Additionally, LDP Planning is aware that an application for the development of the site has been submitted to Selby Council. Whilst this is not the forum to voice concerns regarding the viability of the application, it is worth raising with the Council and the Inspector the implications of approving the scheme prematurely prior to the adoption of the CS. Should the application be approved prior the adoption of the CS, the policy referring to the strategic site is no longer required and therefore its presence in the document is unjustified and unnecessary. This could have implications on the

soundness of the document. The Council should consider the implications of York Council recent approval of a new development at Monk Cross, which subsequently led to the council having to withdraw its Core Strategy from Examination.

3.9 Whilst the overall scale of housing development proposed across Selby District was debated as part of the April EIP and at the Inquiry it was agreed the Council would base its population projections on the latest 2010 SNPP data. It is considered however, the council's figure may need to change based on the recent release of the 2011 census population data. The ONS has announced a 45% increase of the population figure for England and Wales since the release of the 2001 figures; the cause of the unknown increase has been put down to bad management of migration data since 2001. It is accepted that some areas of England and Wales will have a greater proportion of the population increase than others. However, ONS has announced that all the regions have a higher population than what was originally anticipated. For Selby there is a population increase of 300 compared to the data used in the 2010 SHMA. As the Census is an unparalleled source of information and should form the basis for key decisions in the public and private sector over the next ten years, it is considered that its findings should form part of the CS to ensure its soundness over the planned period. LDP Planning is aware that the debate on housing development does not form part of the September 2012 Inquiry, but with the release of up-to-date data it is considered the debate should be reopened, or as a minimum written data should be submitted to the Inspector for his consideration.

4.0 Conclusion

4.1 The Framework requires the three elements, social, economic and environmental, to be considered when creating sustainable settlements, it is concluded that alterations to the CS need to be undertaken to ensure that its strategic policies meet the requirements of the Framework. It is therefore concluded that the CS should be found unsound in light of the Framework requirements, until our above comments are addressed.

Yours faithfully,
LDP PLANNING



Melissa Madge