



The Planning Inspectorate

Report to Scarborough Borough Council

by **William Fieldhouse BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 9 February 2017

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION INTO THE
SCARBOROUGH BOROUGH LOCAL PLAN**

Document submitted for examination on 9 May 2016

Examination hearings held on 16, 17 and 18 August 2016; 6, 7 and 8 September 2016; and 24 January 2017.

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Abbreviations Used in this Report

The Act	Planning and Compulsory Purchase Act 2004 (as amended)
The Council	Scarborough Borough Council
DCLG	Department for Communities and Local Government
HMA	Housing Market Area
LDS	Local Development Scheme
MM	Main Modification
NPPF	National Planning Policy Framework
OAN	Objectively assessed need (for housing)
PPG	Planning Practice Guidance
The Regulations	Town and Country Planning (Local Planning) (England) Regulations 2012
REM	Regional Econometric Model
SCI	Statement of Community Involvement
SHELAA	Strategic Housing and Employment Land Availability Assessment
SHMA	Strategic Housing Market Assessment

Non-Technical Summary

This report concludes that the Scarborough Borough Local Plan provides an appropriate basis for the planning of the Borough providing a number of modifications are made to the Plan. Scarborough Borough Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

The main modifications all concern matters that were considered through the examination process and most were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out sustainability appraisal of them. They were subject to public consultation over a six-week period, and are recommended after my consideration of representations made about them and the findings of the sustainability appraisal.

The main modifications can be summarised as follows:

- A reduction in the overall net housing requirement for the plan period (2011 to 2032) from 9,681 dwellings to 9,450 dwellings to take account of the 2014-based household projections.
- Alterations and additions to housing allocations in policy HC2 that result in the Plan identifying land to accommodate 10,633 net additional dwellings during the plan period.
- Inclusion of a five year requirement of 3,678 dwellings at 1 April 2016, and identification of a five year supply of 3,844 dwellings at that date.
- Inclusion of a housing trajectory to illustrate the expected delivery of housing development over the next five years (2016 to 2021) and for the remainder of the plan period.
- An addition to policy HC1 to set out an approach to allowing new housing outside defined settlement limits if at any time in the plan period the Council is unable to demonstrate a five year housing land supply.
- Revisions to policy SGA1 to ensure that it will be effective in delivering 2,500 new homes in the South of Cayton Strategic Growth Area.
- A reduction in the affordable housing requirements set out in policy HC3 to take account of current national policy and up to date viability evidence.
- Inclusion of reference to an "aspirational but realistic" job growth figure of 5,000 over the plan period.
- Changes to policies EG1, EG3, EG4 and EG5 to ensure that sufficient land and premises will be available to accommodate development required to deliver anticipated economic growth and diversification.
- Changes to policies ENV6, EG7 and TOU1 to ensure that sustainable economic growth and diversification takes place in rural areas including associated with tourism.
- Changes to policies ENV1 and ENV2 to ensure that the Plan is effective and consistent with national policy in relation to renewable energy development.
- Changes to policies DEC1, DEC2, DEC6, HC5, HC6, HC11, HC15, HC16, TOU5, ENV3, ENV5, INF3 and INF6 and various parts of the reasoned justification to ensure that the Plan is sound.

Introduction

General Matters

1. This report contains my assessment of the *Scarborough Borough Local Plan* ("the Plan") in terms of Section 20(5) of the *Planning and Compulsory Purchase Act 2004* (as amended) ("the Act"). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether other legal requirements have been complied with, and whether the Plan is sound in terms of it being positively prepared, justified, effective, and consistent with national policy¹.
2. The starting point for the examination is the assumption that Scarborough Borough Council ("the Council") has submitted what it considers to be a sound plan. The basis for my examination is the Plan submitted on 9 May 2016 which is the same as the document published for consultation in November 2015².
3. The Plan covers the parts of the borough that are not within the North York Moors National Park. These include the urban area of Scarborough; the towns of Filey to the south and Whitby to the north; various smaller rural settlements, some of which are located close to or straddle the National Park boundary; open countryside; and a significant stretch of the North Sea coast. The National Park covers much of the land between Scarborough and Whitby, those two settlements being around 30 kilometres apart.
4. The Plan will supersede the *Scarborough Borough Local Plan* that was adopted in 1999.

Main Modifications

5. In accordance with section 20(7C) of the Act, the Council requested that I recommend any modifications needed to make the Plan sound and legally compliant and thus capable of being adopted. These main modifications are identified in bold in this report [**MM**] and set out in the Appendix.
6. The main modifications that are necessary for soundness all relate to matters that were considered through the examination process with most being discussed at the examination hearings. Following those discussions, the Council prepared a schedule of proposed main modifications and carried out sustainability appraisal and this schedule has been subject to public consultation for six weeks³. I have taken account of the consultation responses, and the discussion at the further hearing sessions concerning two extended housing allocations, in coming to my conclusions in this report. In this light I have made some amendments to the detailed wording of the main modifications, although none of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

¹ *The National Planning Policy Framework* ("NPPF") paragraph 182.

² PSD-2A.

³ PM-01 (SBC, September 2016) was subject to public consultation between 21 September and 2 November 2016.

The Policies Map

7. The Council must maintain an adopted policies map that illustrates geographically the application of the policies in the adopted development plan⁴. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the *Proposed Submission Scarborough Borough Local Plan Policies Map (November 2015)*⁵.
8. The policies map is not defined in statute as a development plan document so I do not have the power to recommend main modifications to it⁶. However, a number of the recommended main modifications to the Plan require further corresponding changes to be made to the policies map in order for the relevant policies to be effective. The Council has also identified some other changes that are needed to the policies map in the interests of accuracy and clarity. All of these further changes to the policies map were published for consultation alongside the main modifications⁷.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map as set out in the documents described above⁸.

Assessment of the Duty to Cooperate and other Legal Requirements

The Duty to Cooperate

10. Section 20(5)(c) of the Act requires that I consider whether the Council complied with any duty imposed on it by section 33A of the Act during the preparation of the Plan – the duty to cooperate in relation to the preparation of a local development document so far as relating to a strategic matter⁹.
11. The Council's *Duty to Cooperate Statement (April 2016)*¹⁰ outlines the strategic priorities and cross-boundary issues where the Council has sought to work collaboratively with other authorities and organisations throughout the preparation of the Plan.
12. The main strategic matters addressed during the preparation of the Plan relate to identifying and meeting housing needs; economic development and employment land provision; the strategic road network and in particular the A64 corridor; archaeology in the Vale of Pickering; landscape matters including the North Yorkshire and Cleveland Heritage Coast and the North York Moors National Park; green infrastructure corridors; Natura 2000 sites; flood risk

⁴ *The Town and Country Planning (Local Planning) (England) Regulations 2012* ("the Regulations") regulation 9.

⁵ PSD-2B.

⁶ Regulations 2, 5 and 6.

⁷ PM-01 (SBC, September 2016).

⁸ PSD-2B and PM-01.

⁹ "Strategic matters" are defined in section 33A(4) of the Act and include sustainable development or use of land that has or would have a significant impact in at least two planning areas or, in a two-tier area, is, or would have a significant impact on, a county matter. NPPF paragraph 156 lists examples of strategic policies.

¹⁰ SD1.

along the River Derwent, River Hertford and River Esk; and coastal change between the River Tyne and Flamborough Head.

13. To address these strategic issues, the Council has engaged with relevant prescribed bodies and other organisations as appropriate both through specific meetings and discussions and active participation in on-going working groups, forums and partnerships involving both professional officers and elected Council members.
14. It is clear from the written evidence before me, and the discussions at the hearing sessions, that the Council has sought to engage constructively, actively and on an on-going basis with the prescribed bodies at appropriate stages during the preparation of the Plan. None of the prescribed bodies have made representations in response to the Plan expressing concerns about the Council's approach to the duty to cooperate. Furthermore, no representations have been made that seriously question whether the statutory duty has been complied with, notwithstanding some concerns about a limited number of cross-boundary issues some of which I return to later in this report.
15. Overall, therefore, I am satisfied that the duty to co-operate has been met.

Other Legal Requirements

16. Section 20(5)(a) of the Act requires me to consider whether the requirements of sections 19 and 24(1), and regulations under section 17(7) and any regulations under section 36 have been complied with. My findings in relation to these, and all other relevant legal requirements, are summarised in the paragraphs below.
17. The content and timing of the Plan is as set out in the *Local Development Scheme* updated in April 2016¹¹.
18. The Council's *Consultation Statement*¹² describes how work began several years ago to replace the existing *Scarborough Borough Local Plan (1999)*. Consultations were carried out on issues and options in 2007; a revised strategy and preferred housing allocations in 2009; further issues and options in 2011; and a draft local plan in 2014. The proposed submission local plan was published for consultation in November 2015.
19. Whilst statutory consultees and other organisations appear to have engaged successfully with the Council during the preparation of the Plan, a number of local residents have expressed concerns about the effectiveness of the public consultation including with regard to meetings and other events; notification procedures; the content of the Council website, letters and representation forms; the extent to which the Council was willing to respond to objections; and the process by which changes were made as policies and allocations evolved over the years. As one participant at the hearing put it, there is a "sense of alienation" amongst some local communities where "unwanted" development is being proposed in the plan.
20. However, there is no substantive evidence before me to lead me to conclude

¹¹ SD5.

¹² SD2.

that the Council has failed to comply with the relevant legislation, national policy and guidance, or its own *Statement of Community Involvement* that was adopted in October 2013¹³ (replacing an earlier version that had been adopted in 2007). That said, I would expect the Council to give careful consideration to the clearly heartfelt concerns of some local residents and to keep its SCI under review with the aim of ensuring that all practical steps are undertaken in the future to effectively engage with local communities on planning matters.

21. The Plan has been subject to an appropriate sustainability appraisal during its preparation, the findings of which are contained in a report dated November 2015 and a non technical summary prepared by the Council in June 2016¹⁴. Further sustainability appraisal has been carried out during the examination in relation to the proposed main modifications¹⁵.
22. An *Assessment under the Habitats Regulations* was published in a report dated August 2016¹⁶. This is an updated assessment to the versions contained in reports published in November 2015 and May 2016, further work having been carried out in response to issues raised in representations and during the examination. In summary, the conclusion is that whilst the Plan, by proposing additional homes and economic and tourist activity, may have negative effects on protected sites in terms of disturbance, trampling and emissions from vehicles, those effects are likely to be negligible and that with appropriate mitigation measures the Plan will not lead to harm to the integrity of protected sites. Natural England is now satisfied that there would be no likely significant effects¹⁷. The proposed modifications were also subject to HRA, and this reached the same conclusion¹⁸. There is no substantive evidence before me to lead me to a different conclusion to that of the assessments, Natural England or the Council.
23. Regulation 8(5) states that where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy. Appendix D to the Plan includes a list of all of the policies in the 1999 local plan that will be superseded.

Conclusion on the Duty to Cooperate and other Legal Requirements

24. I therefore conclude that the submitted Plan has been prepared in accordance with and complies with all legal requirements.

Assessment of Soundness

Main Issues

25. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified a number of main issues upon which the soundness of the Plan depends. These are based on my matters, issues and questions published in June 2016, although these have been narrowed down in light of the responses made during the examination

¹³ SD4.

¹⁴ PSD-2C and EX-6R(SA).

¹⁵ EX6R(SA) and PM-02.

¹⁶ PSD-2D(a).

¹⁷ Letter dated 12 August 2016 [PSD2D(b)].

¹⁸ PM-03.

process. Under these headings my report deals with the main matters of soundness, rather than responding to all points made by representors. However, I also deal with a number of other matters raised in representations towards the end of this report.

Does the settlement hierarchy and strategic distribution of development ensure that development needs will be met in sustainable locations?

The Settlement Hierarchy

26. Policy SH1 of the Plan states that the broad distribution of development will be shaped by the role and function of places based on a settlement hierarchy comprising Scarborough Urban Area (including Scalby, Newby, Osgodby, Eastfield, Crossgates and Cayton); Whitby (including Ruswarp); Filey; service villages (Burniston, East and West Ayton, Hunmanby, Seamer, Sleights and Snainton); and rural villages (with defined settlement limits). Statements setting out the role and function of each part of the hierarchy are included, and Figure 1 illustrates the settlement hierarchy on a diagrammatic plan.
27. This approach has evolved from plan-making work over the last ten years and appears to have a good level of support based on the representations made. It should help to deliver sustainable development across the borough and ensure that the plan's high level vision, aims and objectives are met, including through supporting the roles of settlements, minimising the need to travel long distances, and protecting the natural environment and character of the countryside. The sustainability appraisal confirms that it represents the most appropriate strategic approach for the plan area of those considered at the options stage.
28. It is of course possible to conceive of variations to this strategic approach, and some of these may represent alternative forms of sustainable development. One alternative was discussed at a hearing session; this identified a more compact main urban area; a separate group of settlements to the south (Cayton, Crossgates, Eastfield and Osgodby); and an enhanced role for Filey more comparable with that described for Whitby. However, the extent of the Scarborough Urban Area to some degree reflects the strategic objectives of the Plan and how it will grow and consolidate over the next 15 years or so, rather than it being a simple illustration of its current physical extent. Filey has a different character and a considerably smaller population than Whitby, and it does not provide a comparable range of services, facilities and job opportunities. It is, therefore, appropriate for the two to be categorised differently in the settlement hierarchy.
29. The broad extent of the Scarborough Urban Area and the towns of Whitby and Filey are not clearly depicted on Figure 1. To avoid any ambiguity or possible contradiction between the diagrammatic representation of the settlement plan and the wording of various policies, Figure 1 should be amended to more clearly illustrate these urban areas. Figure 1 also indicates the location of a number of settlements in the North York Moors National Park that are in the borough but outside the plan area. In the interests of clarity, and to ensure there is no apparent contradiction with the National Park's local plan, these should be identified with a different symbol to the "rural villages" within the plan area. These modifications to Figure 1 **[MM02]** should ensure that the

plan will be effective.

30. The Council has suggested a change to each of the settlement hierarchy statements for Whitby and Filey relating to local housing needs. I agree that these would ensure that those statements are consistent with other policies in the Plan, thereby ensuring that it is effective, and consistent with national policy [**MM03 and MM04**].

Housing Distribution

31. The distribution of housing development across the borough is shaped by the settlement hierarchy whilst also taking account of completions since 2011, extant planning permissions, and the availability of suitable land. It is summarised in Table 1 of the Plan as follows:

• Scarborough Urban Area	76%
• Whitby	11%
• Filey	5%
• Service villages	6.5%
• Smaller villages	1.5%

32. The Council clarified during the hearing that Table 1 is not prescriptive or an expression of policy, but rather a summary of the expected yields from the various sources of housing supply identified in the Plan (a matter considered further later on in this report). Whilst there is of course no specific mathematical formula that can be derived from the settlement hierarchy to determine precisely what the most appropriate distribution of housing development across the borough would be, that set out in Table 1 is consistent with the Plan's vision, aims and objectives as well as policy SH1 and the settlement hierarchy statements. Furthermore, if a certain amount of additional supply on appropriate sites were to be identified or brought forward at the settlements identified in the hierarchy this would not be likely to undermine the overall approach provided that this was not disproportionate to the size of the particular settlement. The monitoring indicator for policy SH1 included in the Plan would allow this to be kept under review by the Council on an on-going basis, and in so doing account should be taken of the cumulative impact of development in the various settlements that make up the hierarchy.

Development Limits

33. The final part of policy SH1 states that all areas outside the development limits around the settlements in the hierarchy, which are defined on the Policies Map, will be regarded as countryside meaning that, in accordance with policy ENV6, developments will be limited to uses for which a countryside location is essential. However, there are various other policies in the Plan that specifically allow for certain types of development in the countryside. I consider whether some of these are sound later in this report, but irrespective of that it is necessary for the references to the two other policies included in policy ENV6 to be deleted (as these imply that they are the only relevant policies) and the final sentence to be amended to refer to any other relevant policies in the Plan. The reasoned justification should also be amended accordingly, and a comprehensive list of policies relating to specific forms of development in the countryside should be included. This will ensure that the Plan is effective in

steering development to appropriate locations and managing development in the countryside **[MM047 and MM048]**.

34. This general approach to allowing only certain forms of development to take place outside identified settlement limits does of course restrict where new housing and various forms of commercial development take place. However, this is consistent with the Plan's vision and objectives which seek to protect, conserve and enhance local character including the natural environment and the countryside and deliver growth in a sustainable manner. It is also consistent with national planning policy which recognises the intrinsic character and beauty of the countryside and promotes sustainable transport and the efficient use of resources¹⁹.
35. Furthermore, provided that sufficient opportunities are identified for development to meet identified housing and other development needs within settlement limits, such an approach should not unduly restrict the amount of sustainable development that takes place. That said, national policy requires local planning authorities to ensure that at all times there is a five year supply of deliverable housing land. Whilst it is essential that this is identified now, it is also important that the Plan includes appropriate mechanisms to ensure that it will also be the case throughout the plan period (or at least until it has been reviewed). This is a matter that I return to later in this report.
36. The precise position of the development limits around particular settlements reflects a consistent approach taken during the preparation of the Plan, rather than a simple carrying forward of the limits defined in the 1999 local plan. This should ensure that an appropriate approach is taken across the settlement hierarchy, that the development proposed in the Plan can be accommodated, and that the character of settlements and the countryside is protected.
37. During the examination, the Council identified a number of locations where the development limits around settlements shown on the submitted Policies Map need to be amended in order to ensure that relevant policies relating to those areas can be applied effectively. Where necessary to ensure that the Plan is sound, I deal with those later in this report.

Conclusion on the Settlement Hierarchy and Strategic Distribution of Development

38. I conclude on this first main issue that, subject to the main modifications described above, the settlement hierarchy approach and distribution of new housing should ensure that the Plan includes a sound strategy for the development of the borough over the plan period and that development needs will be met in sustainable locations.

Is the housing requirement justified and does it reflect objectively assessed needs, the economic objectives of the Plan, and the national policy objective of boosting significantly the supply of housing?

Housing Market Area

39. The Council's 2015 household survey shows that in the last five years 69.7% of home moves were internal to the borough, and that fewer than 7% were from

¹⁹ NPPF paragraph 17 and section 4.

adjoining districts. Nearly 80% of those stating an intention to move house in the next five years indicated that it would be to elsewhere in the borough. The 2011 census shows that nearly 85% of economically active residents work in the borough. These factors indicate that the plan area is a reasonably self-contained housing market area.

40. Whitby is around 30km from Scarborough and connected by single-carriageway moorland roads meaning that it is strongly self-contained in terms of travel to work, school catchments and health service provision. Whilst it may also mean that the local housing market based on Whitby is fairly self-contained, no clear evidence was presented to me to indicate why it would be necessary to assess housing needs separately in that area. There is little to suggest that such an approach would result in a different overall assessment of strategic housing needs and requirements in the plan area as a whole, whereas the distribution of new housing across the borough, including to Whitby, is influenced by a range of factors, including demographic and economic trends as well as physical capacity and constraints.
41. I am, therefore, satisfied that assessing housing needs on the basis of a single housing market area is a sound approach.

Objectively Assessed Need for Housing

42. The starting point for the housing requirements set out in the submitted Plan was the Department for Communities and Local Government ("DCLG") 2012-based household projections. Those projections indicated an average increase of 175 households per year in the borough over the plan period 2011 to 2032. However, during the examination the DCLG 2014-based household projections were published; these show a somewhat lower growth rate of 131 households per year.
43. The Council, and most representors that expressed a view on the matter, consider that both the 2012-based and 2014-based household projections significantly understate the actual need for additional homes in the plan area, mainly because they are largely based on past trends during years of recession and low economic growth. Having regard to recent growth forecasts based on the Regional Econometric Model ("REM"), specific investment projects, and other economic intelligence, the Council estimates that there will be 5,000 net additional jobs in the borough by 2032. Due to the ageing demographic profile, the Council considers that this will require, and lead to, significant increases in the number of working age people moving into the borough and a consequent increase in the need for additional homes²⁰.
44. The submitted Plan, which is based on the 2012-based household projections, aims to meet an Objectively Assessed Need (OAN) for a minimum of 9,681 dwellings between 2011 and 2032, an average of 461 per year, in order to meet the growth identified in the 2012-based projections plus the additional in-migration arising from the creation of 5,000 additional jobs. However, based on the DCLG 2014-based household projections, the OAN over the period 2011-2032 should be 9,450 additional dwellings or 450 per year when account is taken of expected job growth and associated in-migration (see below). As this

²⁰ The plan assumes average net in-migration of 581 people per year over the plan period; this compares to an average of 279 people per year over the last 20 years.

need is based on the number of additional households expected in the plan area, the dwelling requirement is net rather than gross.

45. The Council describes the job growth of 5,000 assumed in the Plan to be "aspirational but realistic". As I explain later in this report, I consider this to be a reasonable assumption as it is based on a range of up to date economic evidence in line with national planning policy and guidance. Furthermore, it represents an appropriate basis for the purposes of establishing the OAN figure for housing as to plan for a lower level of job and housing growth could result not only in housing needs not being met and higher house prices, but also act as a brake on the growth and diversification of the borough's economy over the coming years.
46. It has been suggested by some representors that a number of other factors also indicate that OAN should be higher than the DCLG trend-based projections. However, as factoring in the aspirational job growth and associated in-migration assumptions results in the OAN figure increasing substantially from 131 (2014-based projections) to 450 per year, I do not consider that it would be appropriate to inflate it further on the grounds that household formation rates could be greater than assumed or in response to market signals. The average household size in the borough is amongst the lowest in the country²¹, and many of the market indicators suggest a relatively stable situation.

Housing Requirements

47. There is no evidence that existing and emerging local plans for surrounding areas expect Scarborough to accommodate any significant amount of housing need from outside the borough. Whilst development opportunities are understandably limited in the North York Moors National Park, the amount of household growth there is expected to be limited and to some extent has already been factored in to the calculations for OAN in Scarborough as the DCLG household projections relate to the whole of the borough including the parts in the national park.
48. There is little evidence to suggest that the number of second/holiday or vacant homes will increase significantly over the plan period. Furthermore, the Council has confirmed that any new dwellings that are subject to planning conditions restricting the occupancy of second/holiday homes would not be counted towards meeting housing requirements. Provided that this were made clear in the Plan, I am satisfied that the OAN figure need not be increased in order to meet likely demand for second or holiday homes **[MM09]**. Whilst it is likely that some of the additional homes that will be provided during the plan period will be vacant at certain times for transactional and other reasons, the numbers would only be modest and I do not consider it necessary in this case to increase the requirement figure to reflect that, given the large upward adjustment that has already been made to take account of job growth and associated inward migration.
49. Delivering 9,450 new homes over the period 2011 to 2032 would represent a substantial increase compared to build rates over the last decade²², and there is little to suggest that a greater rise would materialise even if such an

²¹ Average household size is projected to fall to 2.03 by 2032 (Council hearing statement for matter 2).

²² Average build rate over the last ten years = 297 dwellings per year (Council hearing statement for matter 2).

aspiration were deemed appropriate and justified. Thus whilst the identified need for affordable housing in the borough is unlikely to be met for the reasons set out in paragraphs 144 to 152 below, increasing the requirement figure would be highly unlikely to lead to the delivery of more affordable homes. Achieving the proposed delivery rates would represent a very significant boost to supply in the borough and this would be likely to have beneficial effects in terms of house prices and affordability. To be effective and justified, policy HC1 needs to be modified to refer to **9,450** net additional dwellings being delivered in the plan period 2011 to 2032 [**MM01** and **MM08**].

Current Five Year Housing Requirement

50. The submitted Plan refers to the number of dwellings built from the start of the plan period (2011) up to 2015. During the examination the Council confirmed that between 2011 and 2016, 1,435 net additional dwellings have been delivered in the plan area; this is 815 fewer than required on the basis of an overall requirement of 9,450. The Council accepts that there has been persistent under delivery, and that the shortfall since 2011 ought to be made up over the next five years. Applying a 20% buffer²³ to both the shortfall and the base requirement (of 450 dwellings per year) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land means that the five year requirement on 1 April 2016 was for 3,678 dwellings²⁴.
51. In order to ensure that the plan can be effectively implemented and monitored, the most up to date five year requirement for **3,678** dwellings (as at 1 April 2016) needs to be explicitly set out in the Plan [**MM09**].

Conclusion on Housing Needs and Requirements

52. The submitted Plan is not sound with regard to housing needs and requirements as it is not justified, positively prepared and consistent with national policy. However, provided that the Plan is modified as described above it would be sound in terms of setting out a justified housing requirement for the period 2011 to 2032 that reflects objectively assessed needs, the economic objectives of the Plan, and the national policy objective of boosting significantly the supply of housing.

Does the Plan identify an adequate supply of housing land and contain sound policies to ensure that it will be effective in meeting housing requirements in a timely manner?

Identified Sources of Housing Supply

53. Policy HC1 states that the housing requirement will be met through allocations identified under policy HC2, existing commitments, and other development of new housing within settlements where the proposals are compatible with other policies in the Plan. Policy HC2 lists a total of 34 allocated sites and includes an indicative yield in terms of the number of dwellings expected to be built on each. The submitted Plan indicates the supply expected from a number of sources during the plan period as at 1 April 2015:

²³ NPPF paragraph 47.

²⁴ $(450 \times 5) + 815 = 3,065$. $3,065 \times 120\% = 3,678$.

- completions 2011-2015 1,083 dwellings
- extant planning permissions 2,833 dwellings
- "other known sources" 720 dwellings
- allocations 6,350 dwellings

54. Paragraphs 6.16-6.18 of the submitted plan make it clear that whilst windfall sites²⁵ have contributed over 200 dwellings per year over the last decade, no contribution from this source is assumed in the future. This is a reasonable approach for three reasons. Firstly, when an up to date local plan is in place it is likely that significantly fewer dwellings will come forward on such unidentified sites. Secondly, the requirement set out in policy HC1 is a minimum meaning that if additional sites come forward to the identified sources this would be consistent with the Plan's objectives, provided that they are in appropriate locations. Thirdly, this approach builds an important element of flexibility into the Plan that will help to ensure that it is effective in terms of meeting identified housing requirements throughout the plan period.

55. In light of the above, the total supply identified in the submitted Plan would be 10,986 dwellings²⁶. This would represent a surplus of 1,536 over the revised minimum requirement figure of 9,450 dwellings that I have concluded would be appropriate to include in the plan.

56. However, the Council's evidence submitted during the examination updates the figures for the first three sources of supply to 1 April 2016 as follows:

- completions 2011-2016 1,435 dwellings
- extant planning permissions 2,980 dwellings (2,227 in next five years)
- "other known sources" 393 dwellings (288 in next five years)

57. I turn now to consider whether those figures are justified and whether the Plan should be modified to include them.

Completions

58. The figure of 1,435 for the number of completions between 2011 and 2016 is based on regular monitoring by the Council and has not been disputed. The inclusion of figures relating to the monitoring period as close to adoption as possible will ensure that the Plan is justified and will be effective.

Sites with Planning Permission

59. There were extant planning permissions for a total of 3,063 dwellings on 1 April 2016. Whilst the assumed supply of 2,980 dwellings during the plan period from this source factors in only a modest discount (-83, or less than 3%), a greater discount has been made in terms of the supply assumed within five years (-836 or 27%). These discount figures are based on a procedure agreed by the SHELAA Working Group which involves analysing individually all sites

²⁵ Sites which have not been specifically identified as available in the local plan process (NPPF Annex 2).

²⁶ 1,083 + 2,833 + 720 + 6,350 = 10,986.

with permission for 10 units or more, including where necessary through contact with developers and agents. Account has been taken of expected commencement dates, build rates and phasing plans. For sites of fewer than 10 units a discount rate of 14.6% is applied, this being based on past trends in the borough²⁷. There is no specific evidence²⁸ to indicate that the sites with planning permission for 10 units or more assumed by the Council to deliver within five years will not do so, or that the additional completions from this source assumed after 2021 will not occur. Nor is there any substantive evidence before me to indicate that the discount of 14.6% for small sites is inappropriate.

60. I therefore conclude that the Plan should be modified so that the assumed supply from sites with planning permission at 1 April 2016 is 2,980 dwellings during the plan period and 2,227 in the five year period from 2016 to 2021.

"Other Known Sources"

61. "Other known sources" is a category that includes specific sites that did not have planning permission at 1 April 2016, but which the Council expects to be developed either within five years or later in the plan period due to discussions that have taken place with landowners and/or prospective developers. Based on the latest evidence, the Council considers that the total supply assumed from this source should be reduced from 720 dwellings in the submitted plan to 393. Furthermore, the Council considers that only 288 of those dwellings should be assumed to be completed in five years.
62. The Council advised during the hearing that some of these sites have had planning permission granted since 1 April 2016 (94 dwellings); others have been approved subject to the completion of a section 106 agreement (60 dwellings); and others are currently the subject of a planning application (54 dwellings). Whilst, some of the sites are clearly not "available now"²⁹ as they are still in use and others have significant issues to resolve, this has been factored into the assumptions made by the Council about delivery timescales.
63. In light of the above, and because no contribution is assumed to be made from unidentified windfall sites, I conclude that it is not unreasonable to assume that 393 dwellings will be delivered during the plan period from this source and that around 288 of these will be completed by 2021.
64. Modifications are needed to paragraphs 6.12, 6.13, and 6.16 to reflect my findings above in order to ensure that the plan is justified with regard to housing supply from completions, sites with planning permission, and other known sources **[MM09]**.

Sites Allocated for Housing Development in the Submitted Plan

65. In light of the above, before allocations are factored in, the total identified supply is 4,808 dwellings³⁰. This means that the 34 sites allocated in the plan would need to deliver a minimum of 4,642 dwellings during the plan period, rather than 5,130 as stated in the submitted Plan, in order to meet the overall

²⁷ BP3 paragraphs 4.4-4.9.

²⁸ NPPF footnote 11.

²⁹ NPPF footnote 11.

³⁰ 1,435 + 2,980 + 393 = 4,808.

requirement of 9,450³¹. According to policy HC2 in the submitted Plan, the total indicative yield from the 34 allocated sites is expected to be 6,350 dwellings. If this were correct, there would be a surplus of 1,708 over the revised minimum requirement from allocations in the plan period.

66. However, evidence considered during the examination process indicates that the yield from a number of allocated sites is likely to be different to that stated in the submitted Plan. Furthermore, in addition to allocating sufficient sites to ensure that the overall requirement for the plan period can be met, it is necessary to ensure that the Plan identifies a supply of specific deliverable sites sufficient to ensure that the five year requirement of 3,678 at 1 April 2016 can be met³². Given my findings above with regard to completions, sites with planning permission and "other known sources", the allocated sites must be capable of delivering a minimum of 1,163 dwellings by 2021 in order to ensure a five year supply at the current time³³.
67. I deal below with each of the allocations about which significant evidence was considered during the examination in order to reach a conclusion on whether the allocation itself and the indicative yield included in the submitted Plan is justified and whether cumulatively they are likely to deliver the requisite total number of dwellings by 2021 and 2032. There is no substantive evidence before me to demonstrate that the allocated sites that I do not refer to will fail to deliver the indicative yields included in policy HC2 in the submitted Plan.
68. Before turning to individual sites, it is relevant to note that the Council utilised a systematic three-stage assessment process in order to select the 34 allocated sites from hundreds of potential alternatives³⁴; all of the allocations were separately assessed against sustainability objectives³⁵; and viability appraisal was carried out³⁶. There were opportunities to discuss the site selection and assessment processes during the hearing and no substantive concerns were raised about the general methodology adopted by the Council (albeit that there were some issues raised about its application to specific sites). I am satisfied that the approach taken to assessing and selecting sites was thorough, fair and proportionate.
69. It is also relevant to note that the reasoned justification to policy DEC3 explains that for the purposes of establishing the indicative yields for housing allocations, a density of 30 dwellings per hectare has been assumed for the net developable area (100% for sites up to 2 hectares and 70% for sites over 2 hectares) unless there is specific evidence to indicate otherwise for a particular site. Council evidence³⁷, which has not been seriously disputed, indicates that historically the density of development on greenfield sites has actually been greater than this. This suggests that the indicative yields for some of the sites assumed by the Council are more likely to be conservative rather than overly optimistic.
70. In terms of the timing and rate of delivery, national guidance advises that the

³¹ 9,450 - 4,808 = 4,642.

³² Paragraph 51 above.

³³ 3,678 - (2,227 + 288) = 1,163.

³⁴ The site selection process and results are set out in BP3 and CSD6.

³⁵ PSD-2C(a).

³⁶ CD14, EX2R, EX9R and CSD9A (updated July 2016).

³⁷ BP3 paragraphs 4.18 and 6.6.

advice of developers and local agents will be important in assessing lead-in times and build-out rates³⁸. Council evidence indicates that delivery rates on sites of over 100 dwellings have been variable in recent years, but achieving between 40 and 60 completions per year on a site is not unusual³⁹.

HA4 Land at Yorkshire Coast College, Lady Edith's Drive, Scarborough

71. The submitted Plan includes an indicative yield of 100 dwellings for this site. However, the Council advises that as an adjoining area of land is allocated as amenity greenspace⁴⁰, the net developable area for housing will actually be greater than assumed in the submitted Plan meaning that a more appropriate indicative yield is 140 dwellings, this still allowing for smaller areas of informal open space within the area allocated for housing. Policy HC2 and the housing allocation statement for HA4 should be modified accordingly as this will make the Plan effective **[MM10 and MM53]**.

HA5 Land off Lady Edith's Drive, Newby

72. This is a greenfield site on the western edge of Newby and the Scarborough Urban Area not far from the North York Moors National Park boundary. To the west of the site frontage, Lady Edith's Drive is an attractive rural route between the National Park and the urban area, but the fact that the site is separated from the wider countryside by a mature hedgerow and is essentially contained by built development to the north, east and south means that it is reasonably well related to the existing settlement. The National Park Authority does not object to the proposal, and there is no substantive evidence to indicate that it would deter people from visiting the town or the surrounding countryside.
73. The Council and the highway authority are satisfied that safe and suitable access can be provided and that the local road network can accommodate the additional traffic having also taken into account the proposed redevelopment of the Yorkshire Coast College site a short distance to the east⁴¹. A number of mature trees along the site frontage would have to be removed, but as the highway authority requirement is for a set back of 2.4 metres for visibility splays the loss of vegetation is likely to be limited and new planting could be carried out.
74. Whilst development of the site would clearly alter its character and appearance, provided that the layout, design and landscaping were of an appropriate quality there is no reason to conclude that it would materially harm the setting of nearby heritage assets, including Lodge Cottage (a grade II listed building) or Throxenby Hall given the distances these buildings are from the site boundaries.
75. The site is not within a high flood risk area identified by the Environment Agency but there are clearly surface water drainage difficulties to be overcome, and I am aware that planning permission was recently refused as that particular proposal failed to include satisfactory drainage details. However, the Council's drainage engineer, the County Council, and Yorkshire Water are all satisfied that a solution can be found which would allow the site to be

³⁸ PPG ID-3-023.

³⁹ BP 3 Table 5.1.

⁴⁰ Policy HC16 site ref OS5.

⁴¹ Policy HC2 site ref HA4.

developed and also address existing surface water problems in the area.

76. Any proposal would have to assess and mitigate the effect on ecology, including protected species; this could be ensured by normal planning application procedures.
77. The indicative yield of 60 would be slightly higher than that included in the recently refused proposal and that of the adjoining row of detached properties along Throxenby Lane, but it would not be out of character with the surrounding area or necessarily inappropriate for the site. It is not a prescriptive figure, and the number of dwellings that could satisfactorily be accommodated would depend on various factors such as their scale, type, layout and design all of which would be assessed by the Council when determining a planning application.
78. For the reasons set out above, I am satisfied that the allocation of this site for residential development and the indicative yield of 60 dwellings is justified.

HA7, HA8 and HA9 Middle Deepdale, Eastfield

79. These three sites are located to the north of Eastfield in the southern part of the Scarborough Urban Area and would extend two large residential sites that have planning permission and are currently being developed. An east-west link road from the A165 to the A64 is under construction.
80. Whilst the amount of development proposed in the Eastfield / Cayton area is considerable⁴², this will make a significant contribution to delivering the Plan's vision, aims and objectives and the settlement hierarchy strategy aimed at enhancing the Scarborough Urban Area's role as the principal town in the borough. The indicative yields, which total 1,200 dwellings for the three sites, and the likely timing of development set out in the Council's trajectory, are based on informed advice from developers, experience of developing large sites in the area, and knowledge of the local housing market. No dwellings are expected to be completed on any of the three allocations until 2022/23 by which time the current development sites are expected to be nearing completion.
81. For the reasons set out above, I am satisfied that the allocation of sites HA7, HA8 and HA9 for residential development and the indicative yields of 600, 100 and 500 dwellings respectively is justified. However, given the importance of these three allocations, and the South of Cayton Growth Area (HA13/SGA1), to the achievement of the Plan's objectives it is essential that the Council carefully monitors progress on bringing forward these sites, regularly updates the housing trajectory, and keeps the Plan under review as appropriate.

HA10 Braeburn House, Moor Lane, Eastfield

82. The submitted Plan includes an indicative yield of 10 dwellings for this urban brownfield site. However, recent discussions with a prospective developer indicate that a scheme for 30 dwellings is likely to be brought forward. Policy

⁴² The two extant planning permissions at Middle Deepdale are for a total of 1,350 dwellings; HA7, HA8 and HA9 are expected to deliver a total of 1,200 dwellings; HA13 is expected to deliver a total of 2,500 dwellings; and there are three further smaller sites allocated in the area.

HC2 and the housing allocation statement for HA10 should be modified accordingly as this will make the Plan effective **[MM12 and MM54]**.

HA11 Land to west of Church Lane, Cayton

83. The submitted Plan includes an indicative yield of 40 dwellings for this site. However, recent discussions with a prospective developer indicate that a scheme for 60 dwellings is likely to be brought forward. Policy HC2 and the housing allocation statement for HA11 should be modified accordingly as this will make the Plan effective **[MM12B and MM54B]**.

HA12 Land to east of Church Lane, Cayton

84. This site comprises part of an existing caravan park along with some adjoining greenfield land on the north east edge of Cayton. On the other side of Limekiln Lane to the south is the 12th century Church of Saint John the Baptist, a grade I listed building within the Cayton conservation area which covers the historic core of what was originally a linear village with dispersed buildings and farmsteads. On the opposite side of Church Lane to the west is 20th century residential development outside the conservation area, and to the north and east lies the remainder of the caravan park. Substantial mature hedgerows form the site's boundaries with Church Lane and Limekiln Lane.
85. The settings of the grade I listed church and this part of the conservation area have clearly changed over the years, and these heritage assets are now closely adjoined by 20th century housing to the east and west. However, the mature hedgerows along Limekiln Lane and the southern part of Church Lane effectively screen the caravan park and ensure that an essentially rural setting is retained immediately to the north of the church and conservation area. The loss of these hedgerows and the erection of modern buildings close to the southern boundary of the site would undoubtedly cause harm to the setting of the heritage assets.
86. In response to an objection from Historic England, the Council has proposed a number of modifications to the housing allocation statement intended to ensure that the design, layout and landscaping of development on the site would minimise any harm that would be caused to the setting of the heritage assets. These include the retention and enhancement of the existing vegetation at the southern end of Church Lane and along Limekiln Road; the provision of open space at the southern end of the site with a depth of at least 40 metres; and a requirement for buildings on the southern part of the site to be single-storey. On this basis, whilst some views to and from the heritage assets would no doubt be altered to some degree, I am satisfied that any harm to their settings would be likely to be limited and certainly less than substantial.
87. Thus, whilst I attach great weight to the desirability of preserving or enhancing the settings of the grade I listed building and the conservation area⁴³, I conclude that the social and economic benefits arising from the development of 80 new homes on this site, which is well related to the settlement and local services, would outweigh any limited harm to the historic environment.

88. For the reasons set out above, I am satisfied that the allocation of this site for

⁴³ Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and NPPF section 12.

residential development and the indicative yield of 80 dwellings is justified but that the housing allocation statement needs to be modified to clearly set out the requirements that need to be met in order to ensure that any harm to the settings of the heritage assets is effectively mitigated **[MM55]**.

HA13 / SGA1 South of Cayton Strategic Growth Area

89. The submitted Plan includes an indicative yield of 2,500 dwellings for this site. However, the Council clarified during the examination that 1,575 of these dwellings are expected to be built in the plan period, with the remaining 925 being delivered after 2032. In order for the Plan to be justified and effective, this needs to be made clear in policy HC2 **[MM13]**.
90. Even on this basis, this site is expected to deliver around 25% of the total number of dwellings on allocated sites in the plan period meaning that it is of critical importance to the success of the Plan. An experienced developer has acquired an interest in around 75% of the site, a significant amount of technical work has been undertaken, market demand and viability assessed, and a phased approach to development starting in 2020/2021 agreed with the Council. Whilst there can be no certainties that a large complex scheme such as this will progress as planned, the evidence indicates that the development is likely to go ahead and that the projected timescales and delivery rates are achievable provided that the Plan sets out an appropriate policy framework.
91. Policy SGA1 and paragraphs 10.1 to 10.5 in the submitted Plan contain various ambiguous statements and unclear mechanisms and requirements, including about a proposed link road, other infrastructure, masterplans, phasing, and other elements of the planning process. As drafted, therefore, this important part of the Plan is unlikely to be effective in facilitating the development of the strategic site in a coordinated, comprehensive and timely manner as intended by the Council and the prospective developer. However, this can be rectified by redrafting policy SGA1 and associated reasoned justification, and through the inclusion of a plan giving an indication of the future road layout **[MM52]**.

HA14 Land off Rimington Way, Osgodby

92. The submitted Plan states that this site is 3.52 hectares. However, the Council has advised that was based on boundaries that were incorrect and that it will change the Policies Map to accurately show the housing allocation and adjoining area of proposed amenity green space⁴⁴. On this basis the housing allocation is 4.26 hectares and the open space 2.74 hectares; this should be reflected in policies HC2 and HC16 **[MM14 and MM27]**. Furthermore, the housing allocation statement needs to be amended to delete unjustified requirements relating to the detailed design of future development **[MM56]**.

HA15 Land off Stakesby Road, Whitby

93. The submitted Plan includes an indicative yield of 80 dwellings for this site. However, recent discussions with the site promoter indicate that a scheme for 50 dwellings is likely to be brought forward. Policy HC2 and the housing allocation statement for HA15 should be modified accordingly as this will make the Plan effective **[MM15 and MM57]**.

⁴⁴ Policy HC16 site ref OS6.

HA18 Land adjacent Captain Cook Crescent, Whitby

94. The submitted plan includes an indicative yield of 40 dwellings for this site. However, recent discussions with a prospective developer indicate that a scheme for 60 dwellings is likely to be brought forward. Policy HC2 and the housing allocation statement for HA18 should be modified accordingly as this will make the Plan effective **[MM15B and MM57B]**.

HA20 Land to the south of Upper Bauldbyes, Prospect Hill, Whitby

95. This site is well related to the existing built up area of Whitby which is identified in the Plan as the focus for housing and other development in the northern part of the borough. There are no infrastructure or other constraints that cannot be overcome, and provided that the design, layout and landscaping were appropriate and normal planning procedures followed there is no reason why development should materially harm the character or appearance of the area, heritage assets or ecological interests. The need to respect, incorporate and where possible improve public interpretation of heritage assets, including Monks Trod and Upper Bauldbyes, is referred to in the housing allocation statement.
96. The submitted Plan includes an indicative yield of 50 dwellings. However, recent discussions with a prospective developer indicate that a scheme for 70 dwellings is likely to be brought forward which the Council is satisfied would be acceptable in principle with access to the site being provided from Anchorage Way and/or Shackleton Close. Policy HC2 and the housing allocation statement for HA20 should be modified accordingly as this will make the Plan justified and effective **[MM15C and MM58]**.

HA22 / OS9 Land to north of Scarborough Road, Filey and HA23 / OS10 Land off Church Cliff Drive, Filey

97. Sites HA22 and HA23 comprise agricultural land on the northern edge of Filey, a town that the Plan identifies as providing services in the southern part of the borough and where development should secure an appropriate mix of new housing. HA22 is expected to yield 60 dwellings and HA23 to yield 30 dwellings, and both are adjoined by sites (OS9 and OS10) allocated in the plan for the provision of natural and semi natural greenspace in accordance with policy HC16.
98. A significant amount of flooding has occurred in and around Filey over the years, including of the existing residential development on the northern edge of the town. In response, a Flood Alleviation Scheme ("FAS") for Filey has planning permission and implementation is expected to start early in 2017; this will comprise a series of ditches, embankments and attenuation ponds at various locations around the town. It is not my role to address concerns raised by some local residents about the FAS as it is not a proposal in the Plan, although the likelihood that it will be implemented is a material consideration.
99. Despite the clear concerns of local residents that sites HA22 and HA23 are prone to surface water flooding following heavy rainfall, the Borough Council, the County Council, and the Environment Agency all agree that the sites are at

low risk of river or sea flooding⁴⁵. The Council's drainage engineer confirmed at the hearing that development of sites HA22 and HA23 would be compatible with the FAS, but also that such development is not dependent upon the FAS provided that appropriate site specific drainage arrangements were implemented. The Council confirmed that this would be ensured through normal procedures for dealing with any forthcoming planning applications and that permission would be refused if a scheme was not in place that met the drainage requirements of the County Council, the Environment Agency and Yorkshire Water. I am, therefore, satisfied that there is no reason why development of sites HA22 and HA23 would not be safe from flooding during its lifetime or that it would increase flood risk elsewhere.

100. Filey Brigg and North Cliff, part of the Flamborough and Filey Coast proposed Special Protection Area, are to the east and north of the sites with public access available from Church Cliff Drive via the adjoining country park and caravan site. However, the number of additional visits to this environmentally sensitive area arising from around 90 additional dwellings would be limited and unlikely to lead to any material harm. Natural England does not object to the allocations, and the HRA concluded that the Plan's proposals would be likely to have a negligible effect on protected sites.
101. An appeal was dismissed around 25 years ago in relation to a proposal for outline planning permission on site HA23, the Inspector at the time concluding that the proposal would visually intrude into the adjoining country park thereby diminishing its rural character and attractiveness to visitors. However, the part of the country park nearest to HA23 is currently used as a caravan site and car park with associated built facilities, and provided that the proposed development was appropriately designed and landscaped any visual impact on the more rural parts of the country park and cliff top areas would be limited. Whilst no doubt visitors to the caravan park will engage in outdoor social and recreational activities, including during the evenings, the intervening distances are such that this is unlikely to result in unacceptable living conditions for future occupants of dwellings on the allocated sites.
102. Site HA23 is on the opposite side of Church Cliff Drive to the listed buildings at Church Cliff Farm and sufficient distance away to mean that an appropriately designed scheme would not harm the setting of those heritage assets.
103. There are no other technical or infrastructure issues that cannot be satisfactorily addressed, and the landowners confirm that the sites are available for development.
104. Sites OS9 and OS10 would become less useful for agriculture if the FAS is implemented as expected, and the landowner is supportive of their allocation as proposed greenspace. Provided that these areas are appropriately landscaped, this would create an attractive edge to the settlement and an informal recreational facility for local people that would link to existing public open spaces. Furthermore, there is no reason why a well designed scheme would be likely to lead to undue disturbance, loss of privacy or security problems for residents of the nearby existing or proposed houses.
105. However, whilst I am satisfied that the creation of natural and semi natural

⁴⁵ Flood risk zone 1.

greenspace on sites OS9 and OS10 would be appropriate and beneficial meaning that the allocations are justified, there are no formal mechanisms in the Plan to ensure that they will be delivered. The Council advised at the hearing that it is not its intention to allow residential or other development on sites OS9 or OS10, and therefore to be effective in ensuring this it is necessary to exclude them from the development limits of Filey. This requires a main modification [**MM59 and MM60**]; the Policies Map will also need to be altered.

106. For the reasons set out above, I am satisfied that the allocations of sites HA22 and HA23 for residential development, and the indicative yields of 60 dwellings and 30 dwellings respectively, are justified. Furthermore, I am also satisfied that the allocation of sites OS9 and OS10 as greenspace is justified subject to the modifications that I have described.

HA26 Land off Sands Lane, Hunmanby

107. In order to ensure that the plan is effective, the housing allocation statement needs to clearly refer to the need for the development to incorporate a buffer to ensure no adverse effect on the ability to access and maintain the railway line [**MM61**].

HA29 Land to north and east of The Nurseries, East Ayton

108. Development of this site would represent a modest-sized addition to the north east corner of East Ayton, a Service Village that the Plan aims to maintain as a local centre and where development is intended to meet local needs. The site is well related to the existing built form, and there is no substantive evidence before me to indicate that the site could not accommodate around 40 dwellings in a satisfactory manner.

109. I am therefore satisfied that the site is suitable for residential development and that indicative yield of 40 dwellings is justified.

HA31 Land to west of Farside Road, West Ayton

110. The Council advises that planning permission was granted for residential development of this site prior to 1 April 2016 and that it should now be included in the housing trajectory within that category. To avoid double counting and to ensure that the Plan is justified and effective, this site should therefore be deleted from the list of allocations in policy HC2 [**MM19**]. The Policies Map will need to be amended accordingly.

HA32 Land to west of The Grange, High Street, Burniston; HA33 Land to north of Limestone Road, Burniston; and HA34 Land to south of Limestone Road, Burniston

111. Development of these sites would represent three modest-sized additions to the edges of Burniston, a Service Village that the Plan aims to maintain as a local centre and where development is intended to meet local needs. In total they would be likely to increase the size of the village by around 140 dwellings during the plan period. The cumulative impact of this has been assessed by the Borough Council and County Council, including in terms of traffic, school capacity and other infrastructure and no constraints have been identified that could not be overcome.

112. HA32 is close to the village centre and well related to the existing built form, the landowners are supportive of the allocation, and there is no substantive evidence before me to indicate that the site could not accommodate around 60 dwellings in a satisfactory manner whilst preserving the character and appearance of the Burniston Conservation Area. The Council and highway authority are satisfied that safe and suitable access arrangements can be made, including in emergency situations.
113. HA33 is an L-shaped site to the rear of properties on Stone Quarry Road, The Limes, and Ashdown Rise. Provided that the design, layout and landscaping were of an appropriate quality, development of around 40 dwellings should not materially harm the setting of this part of the village or be visually intrusive in the wider rural landscape. Whilst views from a number of surrounding homes would clearly change, there is no reason why a well designed scheme would have an unacceptable impact on the living conditions currently enjoyed by existing residents. Any proposal would have to assess and mitigate the effect on ecology, including any protected species, but this could be ensured by normal planning application procedures. Part of the site is low lying and subject to surface water flooding; indeed at the time of my site inspection there was a substantial pond in the north east corner. However, the site is in an area that is at low risk of river or sea flooding⁴⁶, and the Borough Council's drainage engineer, the County Council, the Environment Agency, Yorkshire Water, and the prospective developer are all satisfied that a viable solution can be found which would allow the site to be developed and also address existing surface water problems in the area. Furthermore, the Council confirmed at the hearing that any proposal that was not accompanied by adequate drainage details would not be granted planning permission.
114. HA34 is located opposite existing residential development along Limestone Road and on Limestone Grove, and the proposal would effectively mirror that existing pattern of development on the western edge of the village. Whilst most of the existing dwellings nearby are bungalows, and this would need to be respected, there is no overriding reason why all buildings on the allocated site would have to be single-storey. Details of scale, design, layout and landscaping would all be assessed at the planning application stage, and it is not necessary for the Plan to prescribe a particular height of development in this location.
115. I am therefore satisfied that the allocations of sites HA32, HA33 and HA34 for residential development and the indicative yields of 60 dwellings, 40 dwellings and 40 dwellings respectively are justified.

Overall Conclusions about Sites Allocated for Residential Development in the Submitted Plan

116. In light of my findings above, I conclude that the sites allocated in the Plan are likely to deliver 5,445 dwellings by 2032 meaning that the overall supply would be 10,253 dwellings⁴⁷. This would represent a surplus⁴⁷ of 803 dwellings or around 8% compared to the revised requirement of 9,450 dwellings for the plan period as a whole.

⁴⁶ Flood risk zone 1.

⁴⁷ $1,435 + 2,980 + 393 + 5,445 = 10,253$.

117. However, based on the Council's own revised trajectory the allocated sites identified in the submitted Plan would deliver 1,019 dwellings by 2021⁴⁸. This is based on the latest information from landowners and developers, and takes account of the availability of sites, viability, infrastructure and other technical requirements, phasing plans, and historic delivery rates on sites in the borough. Whilst I am satisfied that the Council's assumptions about deliverability within five years are reasonable, the supply of 1,019 dwellings from allocated sites within that period would mean that the overall identified five year supply would be 3,504⁴⁹. This would represent a shortfall of 174 against the five year requirement of 3,678 dwellings at 1 April 2016 that I have already identified.
118. The failure of the submitted Plan to identify a five year supply of deliverable sites during the latest monitoring period means that it is not positively prepared or consistent with national policy and would not be effective in meeting identified housing needs. This is accepted by the Council who, in response, has proposed the inclusion in the Plan of a number of additional and extended allocations which it considers will boost the current deliverable supply. I shall now look at each of those in turn.

Extended and Additional Sites to those Allocated in the Submitted Plan

HA28 Land to west of Napier Crescent, Seamer

119. The submitted Plan includes an indicative yield of 60 dwellings on a 3 hectare site located on the edge of Seamer, a Service Village that the Plan aims to maintain as a local centre and where development is intended to meet local needs. The Council has proposed that the allocation be extended to 8.37 hectares by including additional grade 2 agricultural land to the north and to the rear of existing houses on Beacon Road as far as Stoney Hags Road to the east. Based on discussions with a prospective developer, the Council expects that this would increase the yield to 225 dwellings, 175 of which it anticipates would be delivered by 2021.
120. The development of the original allocation would extend Seamer towards the neighbouring small village of Irton to the west which retains an essentially rural character, in part due to it being physically separate from Seamer. However, provided that no access was taken from Ayton Road (B1261) and that a significant and well-landscaped area of greenspace was provided on the southern part of the site including along that road frontage, a physical and visual gap between the two settlements could be retained in that important location that contributes positively to the rural setting of both Irton and Seamer. This is an explicit requirement of the housing allocation statement in Appendix A of the Plan. With appropriate design and layout, the two existing public footpaths across the site could be satisfactorily accommodated.
121. The extension of the allocation to the north would mean that development would stretch further up the gently-sloping hillside on agricultural land on the northern fringe of the Vale of Pickering which has a generally simple, open and

⁴⁸ 30(HA3) + 54(HA5) + 140(HA6) + 30(HA10) + 60(HA11) + 50(HA13) + 90(HA14) + 20(HA15) + 10(HA16) + 60(HA18) + 70(HA20) + 30(HA21) + 20(HA22) + 30(HA23) + 45(HA25) + 60(HA26) + 60(HA28) + 100(HA30) + 20(HA32) + 40(HA33) = 1,019.

⁴⁹ 2,227 + 288 + 989 = 3,504.

uniform character but does not have any special designation or status. Development would clearly change the character of the site, but the eastern part would be contained by existing houses along Stoney Hags Road, and provided that the design, layout and landscaping were of an appropriate quality it would not cause significant harm to the character or appearance of the wider rural landscape. Indeed, the proposal offers the opportunity to create an enhanced northern edge to Seamer through high quality landscaping along the northern boundary of the site; this and the development limit boundary would mean that the countryside to the north would be protected from further expansion by relevant policies in the Plan. The site is some distance from the Seamer conservation area with 20th century buildings in between meaning that development would be unlikely to affect the setting of the designated heritage asset.

122. Development of the site would lead to a significant increase in the amount of traffic using Stoney Hags Road, the mini roundabout on Scarborough Road, and other parts of the local road network. It is clear from evidence and representations made by local residents that the local roads are extremely busy at times, that traffic speeds can be well in excess of the 30 miles per hour limit and that there have been a number of accidents in the locality in recent years. However, the Council and the local highway authority are satisfied that, with appropriate mitigation measures (the details of which would be determined if a planning application were to be submitted), the local road network could satisfactorily accommodate the additional traffic that would be generated. The evidence before me certainly does not indicate that the residual cumulative impacts would be severe, the national policy test for preventing development on transport grounds⁵⁰.
123. The site is part of a large area of best and most versatile agricultural land around Seamer that also extends a considerable distance to the west. It is clear that all of the borough's housing needs cannot be met in appropriate locations on land of poorer quality, and the limited size of the site means that the economic harm that would be caused by the loss of the agricultural resource would not be great. There is no substantive evidence to indicate that the site is of particular ecological value, and the effect of development on ecology would be assessed, and any mitigation measures ensured, through the normal planning application process.
124. The development of 225 dwellings in this location would require an increase in the capacity of Seamer and Irton Primary School including in terms of additional teaching, ancillary and outdoor space. Given the restricted size of the existing school site, the provision of an adequate playing field would require the use of additional land adjoining or within easy walking distance of the school that is not currently in its control. However, there are a number of potential options available that are currently being investigated, and both the Council, who own some land nearby that would be made available if necessary, and the local education authority consider that this would be achievable including through the use of planning obligations in line with policy INF5. Furthermore, whilst increasing the size of the school to the extent required would be likely to lead to mixed age group classes, something that is not popular amongst parents, the local education authority advises that this is not

⁵⁰ NPPF paragraph 32.

uncommon in North Yorkshire and that the available evidence indicates that this does not adversely affect educational outcomes. I am satisfied that it is likely that the school capacity could be increased in a satisfactory way, and that there is a reasonable prospect that this matter could be resolved such that it would not unduly delay development.

125. A prospective housebuilder has an interest in the whole site and has undertaken technical assessments that show that there are no drainage or other infrastructure constraints that cannot be overcome. A planning application is due to be submitted in Spring 2017 and the scope of planning obligations, including for affordable housing, highway improvements and education provision, has been broadly agreed. Given this, and the fact that the housebuilder has experience of delivering sites of this scale at a rate of around one dwelling per week, it is reasonable to assume that development could start around the end of this year and that 175 dwellings could be completed by 31 March 2021.
126. For the reasons set out above, I conclude that the extended site proposed by the Council is suitable for residential development and that it is likely to make a significant contribution to housing land supply within the next five years. I therefore recommend modifications to policy HC2 and the housing allocation statement to make appropriate references to the name of the site, its size (8.37 hectares), expected yield (225 dwellings), and access arrangements **[MM17 and MM62]**. The Policies Map will need to be amended accordingly.

HA30 Land to south of Racecourse Road, East Ayton

127. The submitted Plan includes an indicative yield of 100 dwellings for a 4.57 hectare site on the south east edge of East Ayton, a Service Village that the Plan aims to maintain as a local centre where development is intended to meet local needs. The Council has proposed that the allocation be extended to 6.45 hectares by including additional agricultural land fronting Racecourse Road extending eastwards as far as existing development at Betton Farm. The site comprises three parcels, one of which has planning permission, another is the subject of a current planning application, and the third is being promoted for development by the landowner. Based on discussions with the parties with interests in the land, and technical assessments which show that there are no highway safety, infrastructure, drainage or other constraints that cannot be overcome, the Council expects that the extended site would yield a total of 140 dwellings, 120 of which it anticipates would be delivered by 2021.
128. The Council has considered a number of options for development on the open land to the south of Racecourse Road and north of Seamer Road. I agree with its assessment that a well designed and landscaped development on the northern part of this land, as proposed, would have a limited impact on the wider rural landscape as it would be located opposite existing houses on Racecourse Road and be contained by development to the west and east. In contrast, extending further to the south would represent a more intrusive form of development in the countryside that would harm the setting of East and West Ayton as experienced when approaching from the east along Seamer Road.
129. The development of 140 dwellings in this location would require an increase in

the capacity of East Ayton primary school. Whilst the necessary additional teaching and ancillary space could be accommodated on the existing site, its limited size means that it would be necessary to ensure that access to a playing field within easy walking distance was provided. The Council and the local education authority consider that there are a number of potential suitable options to achieve this and that it could be secured through the use of planning obligations in line with policy INF5. Furthermore, whilst increasing the size of the school to the extent required would be likely to lead to mixed age group classes, something that is not popular amongst parents, the local education authority advises that this is not uncommon in North Yorkshire and that the available evidence indicates that this does not adversely affect educational outcomes. I am satisfied that it is likely that the school capacity could be increased in a satisfactory way, and that there is a reasonable prospect that this matter could be resolved such that it would not unduly delay development.

130. For the reasons set out above, I conclude that the extended site proposed by the Council is suitable for residential development. Given that there is not a housebuilder currently committed to the development of the site, and the need to secure full planning permission and for planning obligations to be in place, including for education provision, it is unlikely that development would start before 2018. However, assuming a build rate of around 35 dwellings per year, this would mean that up to 120 dwellings could be completed by 31 March 2021. I therefore recommend modifications to policy HC2 and the housing allocation statement to make appropriate references to the size of the site (6.45 hectares) and its expected yield (140 dwellings) **[MM18 and MM63]**. The Policies Map will need to be amended accordingly.

Land south of Brigg Road, Filey

131. The Council has proposed that 2.85 hectares of land that comprises an open field and part of a caravan park be allocated for residential development with an indicative yield of 80 dwellings. The site is well related to the existing built up area of Filey which is a town that the Plan identifies as providing services in the southern part of the borough and where development should secure an appropriate mix of new housing. It is available for development, and there are no infrastructure or other constraints that could not be overcome.
132. I therefore conclude that this site is suitable for residential development and that it is reasonable to assume that it could be built out within the next five years. I therefore recommend modification to policy HC2 to include this 2.85 hectares site as a housing allocation (HA35) with an expected yield of 80 dwellings **[MM16]**. A housing allocation statement should be included in the Plan setting out issues and requirements relating to a buffer zone to the south of the site to ensure that future occupants of the proposed dwellings do not suffer from undue noise and disturbance from outdoor social and recreational activities associated with the remaining caravan park; a buffer zone to the east along the adjoining railway line to ensure that access for maintenance purposes is retained; and access arrangements. With regard to the latter, the Council has advised in response to a representation made at the proposed modifications stage that access can be provided from Brigg Road and/or the adjoining Muston Road development; this should be reflected in the Plan **[MM64]**. The Policies Map will need to be amended accordingly.

Land at Dean Road, Scarborough

133. The Council is proposing that this 1.3 hectare brownfield former hospital site within the Scarborough Urban Area be allocated for residential development with an indicative yield of 95 dwellings. The site, which is close to the town centre, is also identified in policy TC4 as being potentially suitable for a mix of town centre uses. Discussions with a prospective developer indicate that a mixed use scheme including 95 flats is likely to be brought forward in the near future. Such a mixed use scheme would make efficient use of this urban site, and no infrastructure or other constraints that could not be overcome have been identified.

134. I therefore conclude that this site is suitable for residential development and that it would be likely to make a significant contribution to housing land supply within the next five years. I therefore recommend modification to policy HC2 to include this 1.3 hectare site as a housing allocation (HA36) with an expected yield of 95 dwellings **[MM11]**. A housing allocation statement should be included in the Plan advising on access arrangements and that a mixed use scheme would be appropriate in context of policy TC4 **[MM65]**. Paragraph 7.70 needs to be modified to refer to residential development being proposed as town centre uses in accordance with policy TC4 **[MM38]**.

Conclusions on the Extended and Additional Sites to those Allocated in the Submitted Plan

135. The two extended and two additional sites that I have concluded should be included in the Plan would result in a total increase in the expected yield from allocations of 380 dwellings during the plan period giving an overall total of 5,825. Policy HC2 needs to be modified accordingly **[MM20]**. Up to 310 additional dwellings could be delivered by 2021⁵¹. This would mean that the total five year supply from allocated sites would be around 1,329 dwellings⁵².

Overall Housing Land Supply 2011 to 2032

136. Having regard to my conclusions above about completions in the period 2011 to 2016 and the number of dwellings that are likely to be delivered by 31 March 2032 on sites with planning permission, other known sources, and allocated sites, the overall identified supply is **10,633** dwellings during the plan period⁵³. This represents a surplus of 1,183 or 12.5% over the revised requirement of 9,450 dwellings.

Five Year Supply Now and Throughout the Plan Period

137. Having regard to my conclusions above about the number of dwellings that are likely to be delivered by 31 March 2021 on sites with planning permission, other known sources, and allocated sites, the five year supply as at 1 April 2016 was around **3,844** dwellings⁵⁴. This is 166 more than the five year requirement of 3,678 dwellings that I have identified. Thus, even if some of

⁵¹ 115(HA28) + 20(HA30) + 80(HA35) + 95(HA36) = 310.

⁵² 1,019 + 310 = 1,329.

⁵³ 1,435 + 2,980 + 393 + 5,825 = 10,633.

⁵⁴ 2,227 + 228 + 1,329 = 3,844.

the "other known sources" did not materialise within five years, or some of the allocated sites did not deliver as quickly as anticipated, it is likely that sufficient land will be available to meet the five year requirement to 2021 particularly bearing in mind that the assumed yields for some sites may be on the low side and because windfalls are likely to continue to make some contribution. As the five year requirement includes a 20% buffer, it is not reasonable to expect the identified five year supply to be significantly in excess of that figure.

138. In order to ensure that the Plan is justified and effective, the five year supply at 1 April 2016 should be explicitly stated in the reasoned justification to HC1 along with an explanation as to how it has been calculated including through reference to the shortfall in delivery in the period 2011 to 2016 (815 dwellings) being made up in the next five years, and the application of a 20% buffer to the base requirement as well as to this shortfall. I have added some additional figures to those included in the proposed main modifications in order to ensure clarity in these respects **[MM09]**.
139. Windfalls and rural exception sites (policy HC2) are likely to deliver some additional dwellings to those expected to come forward on identified sites throughout the plan period; this will help to ensure that a rolling five year supply is maintained at all times. However, as nearly 3,000⁵⁵ of the dwellings on allocated sites are not expected to be delivered until after 2021, and many of these are dependent on the large sites at Middle Deepdale and the South of Cayton Strategic Growth Area progressing as expected, policy HC1 should be modified to include a positive approach to the consideration of housing proposals outside development limits of a scale and in locations well related to the settlement hierarchy if at any time during the plan period the Council is unable to demonstrate a five year supply of deliverable housing sites **[MM08]**.
140. This will ensure that the Plan is effective in maintaining a five year supply at all times whilst delivering the overall vision, aims and objectives in accordance with the settlement hierarchy set out in policy SH1. The reasoned justification should be amended to explain this new element to the policy, and to make it clear that if there is a persistent and significant under delivery then the Plan will be reviewed **[MM09]**. This will ensure that the Plan is positively prepared, effective, justified and consistent with national policy.

Housing Trajectory

141. The housing requirement and expected rate of housing delivery over the five years from 1 April 2016 and during the remainder of the plan period should be illustrated on a housing trajectory. This should indicate the anticipated scale and timing of delivery for all housing allocations, sites with planning permission for at least 10 dwellings, and "other known sources" **[MM68]**. Whilst this will need to be regularly updated by the Council, the inclusion of such a trajectory in the Plan will make it clear what the position was in the latest monitoring period before adoption. This will ensure that the Plan is justified and can be effectively implemented and monitored.

Other Sites Suggested for Residential Development

142. A number of representors have proposed that sites be allocated for housing

⁵⁵ 6,750 - 3,844 = 2,906.

development either in addition, or as alternatives, to those included in the submitted Plan and proposed modifications. However, the Council has assessed all of the sites that it has proposed be allocated, and all others put forward by representors throughout the plan-making process, using its standard methodology which I consider to be thorough, fair and proportionate. For the reasons set out above, I am satisfied that, subject to the main modifications that I have described, the Plan would identify sufficient suitable housing land to meet identified needs within the next five years and to 2032. It is not, therefore, necessary for additional sites to be allocated in order to make the Plan sound or for me to assess the merits of all of the other sites suggested by representors.

Overall Conclusions on Housing Land Supply

143. The submitted Plan is not sound with regard to housing land supply. However, subject to the additional allocations and other modifications that I have described above, I am satisfied that the Plan will be effective in meeting housing requirements by identifying an appropriate supply of "deliverable" and "developable" sites⁵⁶ and containing sound policies to ensure that sufficient dwellings will be delivered in a timely manner over the plan period.

Is policy HC3 likely to be effective in ensuring that identified needs for affordable housing are met in the housing market area to an extent that is justified and consistent with national policy?

144. The Council's latest SHMA⁵⁷ indicates that there is a need for 2,630 additional affordable homes in the borough over the next five years, and that 161 per year will be required over the remainder of the Plan period. The extent to which this identified need can be met will depend on a number of factors, including the availability of public resources to help fund provision but also the economic viability of the housing sites proposed in the Plan.

145. Policy HC3 in the submitted Plan sets out a requirement for all forms of residential development, with the exception of residential institutions and homes provided by almshouse charities, to make provision for affordable housing. The nature of the provision required varies according to the scale of the development and location within the borough. The policy makes it clear that in some cases, rather than on-site provision, financial contributions will be sought in line with the Council's *Affordable Housing Supplementary Planning Document*⁵⁸. Where on-site provision is required, a minimum of 70% of the affordable housing units should be rented, and a minimum of 50% of the rented should be social rented unless the Council is satisfied that an alternative mix meets proven local need⁵⁹. The policy also allows for affordable housing provision to be varied when justified by independent viability evidence.

146. The Council's *Local Plan Viability Report (2016)*⁶⁰ provides evidence about the viability of the housing development proposed in the submitted Plan. The analysis is based on assessments of 12 sites, these being chosen on the basis that they are reflective of different housing markets, and the type, size and

⁵⁶ NPPF footnotes 11 and 12.

⁵⁷ CSD8.

⁵⁸ CSD10.

⁵⁹ This part of policy HC3 has been clarified by one of the Council's suggested additional modifications [EX8R(AM)].

⁶⁰ CD14.

location of development sites allocated in the Plan. The report indicates that, whilst all but one of the sample sites would be viable if no policy requirements were applied, the cumulative impact of the policy requirements set out in the Plan would render a significant amount of the housing development proposed in the plan unviable (including on site HA13, the Strategic Growth Area south of Cayton). The results of sensitivity testing indicate that if build costs or external costs rose then all but one of the sample sites would be unviable.

147. In May 2016, following a legal judgment, national planning guidance was revised to make it clear that contributions for affordable housing should not be required for small sites (developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000m²)⁶¹.
148. In light of the above, the submitted Plan is clearly not sound with regard to its approach to affordable housing as policy HC3 would be unlikely to be effective and is not justified or consistent with current national policy guidance. The Council accepts this, and consequently carried out further work during the examination and proposed modifications to policy HC3⁶². These would have the effect of reducing the proportion of affordable housing that would be required on sites of more than 10 dwellings to the following levels (with no requirement for sites of 10 dwellings or fewer):
- Scarborough Urban Area 10%
 - Filey, Hunmanby and southern parishes 15%
 - Whitby, northern and western parishes 30%
149. The Council also suggests that policy HC3 should include reference to "vacant building credit" in line with national guidance; that the specific requirement for social rented provision should be deleted, that particular element of the policy not being justified; and that additional reference be made to reassessing the viability of a site in certain circumstances if the affordable housing requirements are not met in full on viability grounds, this being necessary to make the Plan effective.
150. The Council advises that the modified affordable housing requirements would be likely to result in the delivery of just over 1,000 affordable homes on the sites allocated for residential development in the plan over the plan period. Clearly this would mean that the identified objectively assessed need for additional affordable housing would not be met in full. However, the available evidence demonstrates that this level of provision would strike an appropriate balance between maximising the delivery of affordable housing and maintaining the viability of the development proposed in the Plan.
151. The Housing and Planning Act 2016 includes a general duty for local authorities to promote the supply of "starter homes", including through the preparation of local plans and other means. The Act also includes a new definition of affordable housing to encompass starter homes. However, whilst the Government is committed to seeing starter homes being built on housing sites across the country, the relevant parts of the 2016 Act have not been

⁶¹ PPG ID-23b-031-20160519, and Written Ministerial Statement 28 November 2014.

⁶² CSD9-A, EXR9(A), and Council written statement for matter 5.

commenced, secondary legislation is not yet in place, and national planning policy has not been updated. It would not, therefore, be appropriate at the present time for policy HC3 to include a requirement for the provision of starter homes. However, if starter homes are required to be provided by legislation and national policy, it could affect the implementation of policy HC3. The Council confirmed during the examination that it would keep this matter under review, and take action if necessary at the appropriate time. This could include the preparation of a Supplementary Planning Document or an early review of policy HC3. In order for the Plan to be justified, effective and consistent with emerging national policy, this should be made clear in the reasoned justification.

Conclusion on Affordable Housing

152. The submitted Plan is not sound in terms of its approach to affordable housing. However, this can be rectified if policy HC3 and the reasoned justification are modified as described above **[MM22]**. This would ensure that the Plan is consistent with national policy which seeks to ensure that the full objectively assessed need for affordable housing in the housing market area is met as far as is consistent with policies set out in the NPPF⁶³ and that sites should not be subject to such a scale of planning obligations and policy burdens that their ability to be developed viably is threatened⁶⁴.

Are the policies relating to Homes, Communities and Design justified and consistent with national policy, and are they likely to be effective?

Background

153. In addition to policies relating to the need for and supply of market and affordable housing that I have already considered, the submitted Plan contains a number of policies relating to homes, communities and the design of development.

Housing Mix and Types

154. Policies HC5 and HC6 in the submitted Plan are intended to help achieve a balanced housing market in the borough. However, part (a) of policy HC5 does not add significantly to policies HC3 and HC4 on affordable housing, whilst part (d) refers to Lifetime Homes Standards which have been replaced by new national Technical Standards. The remaining parts of the policy lack specificity meaning that they are unlikely to be effective, and there is not sufficient evidence available to justify more precise requirements. Furthermore, the Council advises that the main issue associated with the mix and type of housing provision to be addressed in the Plan area is meeting the needs of an ageing population, a matter that is dealt with explicitly in policy HC6. This policy encourages the provision of appropriate housing for older persons, although reference to all units being designed to be wheelchair accessible should be deleted as it duplicates the requirements of the building regulations.

155. Policy HC5 and the associated reasoned justification in paragraphs 6.51 and 6.54 should therefore be deleted **[MM23]**; paragraphs 6.52 and 6.53 (relating to student accommodation) be moved to the housing supply section **[MM21]**;

⁶³ NPPF paragraph 47.

⁶⁴ NPPF paragraph 173.

and policy HC6 should be amended **[MM24]**. This would ensure that the Plan is justified and effective in helping to achieve a mix of housing based on current and future demographic trends, market trends, and the needs of different groups in the community⁶⁵.

Good Design

156. Policy DEC1 sets out principles of good design. These should assist in delivering sustainable development in accordance with the Plan's vision, aims and objectives, although the reference to buildings being made "more" energy efficient is not justified and therefore needs to be modified **[MM05]**. Subject to this, the policy would be consistent with national policy that makes it clear that the Government attaches great importance to the design of the built environment and requires local plans to include robust and comprehensive policies that set out the quality of development that will be expected for the area⁶⁶.

Electric Vehicle Charging Points

157. Policy DEC2 is intended to ensure that every new dwelling that has a garage or marked-out parking space within its curtilage should include an electrical socket suitable for charging electric vehicles, and that certain non-residential developments should include provision for well managed rapid charging points. As written in the submitted Plan, certain elements of the policy are unclear meaning that it would not be effective or justified. The Council has clarified that the minimum requirement would be a single phase 13 amp electrical socket, and that such provision would not be required on parking spaces provided for residential care homes or apartments. On this basis the policy would not be unduly onerous or be likely to make development unviable. Furthermore, the policy would support the delivery of renewable and low carbon energy and associated infrastructure, and ensure that development is planned in ways that reduce greenhouse gas emissions⁶⁷. A main modification is therefore recommended to policy DEC2 and associated reasoned justification **[MM06]**.

Archaeology

158. Archaeological remains are likely to exist in many parts of the plan area, although the area to the south of Scarborough, including around Cayton and Middle Deepdale where a significant amount of development is proposed, are of particular significance. Policy DEC6 in the submitted Plan aims to protect, enhance and promote archaeological heritage, and specific guidance is provided for certain sites where significant remains are likely to be found. The approach set out is in most respects appropriate, although the "presumption in favour of the preservation [of archaeological remains] in situ" goes beyond the expectations of national planning policy and has not been justified. This requirement should therefore be deleted and replaced with a reference to avoiding or minimising any conflict that may arise between development proposals and archaeological interests **[MM07]**. Subject to this, I am satisfied that the Plan includes a positive strategy for the conservation and enjoyment of the historic environment and that heritage assets of archaeological interest

⁶⁵ NPPF paragraph 50.

⁶⁶ NPPF paragraphs 56 and 57.

⁶⁷ NPPF paragraphs 93 and 95.

should be conserved in a manner appropriate to their significance⁶⁸.

Community Facilities

159. Policy HC9 sets out support for new and expanded community facilities in accessible locations, and policy HC11 deals specifically with health care and education facilities. As set out in the submission Plan, policy HC11 would not be effective as part (a) is unclear as to where the proposed new facilities would be. Furthermore, parts (b) and (c) need to be amended to provide an appropriate framework for the development of new and/or improved health care facilities and the potential redevelopment of existing facilities where this forms part of a wider health service delivery strategy, an approach that the National Health Service advises may be appropriate. I therefore recommend a main modification to policy HC11 [MM25] to ensure that the Plan is effective in ensuring that facilities and services are able to develop and modernise in a way that is sustainable⁶⁹.

Gypsy and Traveller Site Provision

160. Recent assessments undertaken by the Council found no evidence of need for additional sites for gypsies, travellers or travelling showpeople, and there is no other evidence before me to suggest otherwise. Should the situation change, the Council is committed to undertaking a partial review of the Plan to bring forward sites to meet identified needs. In the meantime, policy HC7 states that proposals for sites to provide accommodation for gypsies, travellers and/or travelling showpeople will be permitted provided that a number of criteria are met. Based on the evidence before me, I am satisfied that this approach is justified and consistent with national policy⁷⁰.

Conclusion on Homes, Communities and Design Issues

161. As described above, a number of main modifications are required in order to ensure that the Plan is sound with respect to homes, communities and design issues.

Are policies relating to tourism and the conversion of rural buildings justified and consistent with national policy, and are they likely to be effective?

Background

162. A large proportion of the Plan area is open countryside, parts of which adjoin the North York Moors National Park, and there are extensive stretches of coast either side of Filey, Scarborough and Whitby. Tourism is fundamental to the local economy, with more than seven million visitors being attracted to the area each year by the seaside resorts, dramatic coastline, beaches and rural landscapes. The Council's *Visitor Economy Strategy (2014-2024)* aims to strengthen the tourism offer, and the Plan seeks to assist in achieving this objective. The Council describes the proposed approach to development in the countryside as being "more positive" than that set out in the 1999 local plan⁷¹.

⁶⁸ NPPF paragraph 126.

⁶⁹ NPPF paragraphs 69 and 70.

⁷⁰ Planning Policy for Traveller Sites (DCLG 2015) paragraph 11.

⁷¹ Council hearing statement for examination matter 6.

In the context of current national policy⁷², I am satisfied this is appropriate provided that the relevant policies also ensure that the quality of the rural and coastal environment is afforded due protection.

Development Affecting the Countryside

163. Policy ENV6 is an overarching policy that seeks to ensure that the countryside will be protected, maintained and where possible enhanced by restricting development outside settlement limits to uses that require a countryside location. I have already concluded that this general approach is sound, although it is necessary for certain changes to be made to the wording of policy ENV6 and the associated reasoned justification to ensure that the Plan is effective by clarifying the relationship with other policies that deal with specific forms of development in the countryside, some of which I deal with below **[MM48 and MM49]**. The Council proposed that part (e) of policy ENV6 be qualified by the addition of "not including visitor accommodation". However, I am not persuaded that this is necessary to make the Plan sound, particularly as such development is explicitly dealt with by TOU4 (which would be referred to in paragraph 8.58 as modified).

Conversion of Buildings in Rural Areas for Residential Use

164. Policy HC8 acknowledges that some changes of use or conversions to residential are permitted development and is intended to apply when permission is required. The Council explained at the hearing that there are uses such as petrol stations and public houses in rural parts of the Plan area that are likely to continue to be subject to such proposals. The policy seeks to establish whether an alternative non-residential use, for example a rural business or tourism-related use, could be accommodated before allowing conversion to a dwelling. This should help the rural economy to diversify and grow whilst minimising the need for new buildings in the countryside. If, following appropriate marketing, it is demonstrated that this is not possible, the policy then allows residential conversion, subject to a number of criteria intended to protect the character and appearance of the area, highway safety, and the amenities of the occupants of nearby buildings. In the context of the Plan making appropriate provision to ensure that housing needs can be met on identified sites without the need to rely on windfalls, and the Plan's aims relating to the rural economy, I am satisfied that such an approach is justified and consistent with national policy.

Conversion of Buildings in Rural Areas to Business Use

165. Policy EG7 allows the conversion of suitable rural buildings to non-residential business uses provided that a limited number of criteria are met, these being intended to protect the character and appearance of the area and highway safety. This approach is consistent with national policy and the aims of the Plan, although criterion (c) and the reasoned justification need to make it clear that it is not intended to prevent the future expansion of successful businesses established in such a converted building **[MM37]**. This would ensure consistency with policy EG6 and therefore that the Plan is effective.

New Tourism Facilities

⁷² NPPF paragraphs 17, 28, 51, 55, and 109.

166. Policy TOU1 is intended to support and encourage the diversification of the tourism industry, and would apply to development proposals in urban and rural areas. To be clear and therefore effective, it needs to refer to the expansion of facilities as well as to their enhancement. Furthermore, as drafted in the submission Plan, the policy effectively limits its support and encouragement to proposals that would help to reduce the seasonal nature of the tourism industry. Whilst it would be beneficial to allow appropriate development that generates tourism at times of the year that are currently less popular, ruling out other forms of tourist development is not justified. A main modification would rectify both of these shortcomings in the submitted Plan and ensure that it is justified and effective **[MM39]**.

Visitor Accommodation and Facilities in the Countryside

167. Policy TOU4 deals specifically with visitor accommodation and facilities in the countryside and, in line with policy TOU1, is generally permissive. However, such development in the Plan area, which can include caravan parks and groups of new holiday homes, can be significant in scale meaning that it is important for the policy to give effective and appropriate protection to the character and appearance of the countryside and coast as well as ensure that the local road network can safely accommodate the additional traffic. Criterion (b) should ensure that such development successfully integrates into the surrounding landscape due to the natural topography and established screening provided that the reasoned justification is modified to explain that in some circumstances existing vegetation may need to be augmented with appropriate planting **[MM40]**.

Amusement Arcades

168. Policy TOU5 restricts new amusement arcades and extensions to existing facilities to certain specified locations. This is justified in so far as it relates to amusement centres of the open fronted arcade type designed to attract holiday makers. However, the reasoned justification needs to be amended to make it clear that the policy does not apply to adult gaming centres that offer a closed and discreet use of electronic machines that are principally situated within shopping areas as to restrict those to the locations referred to in policy TOU5 would not be appropriate **[MM41]**.

Conclusion on Tourism and the Conversion of Rural Buildings

169. Certain policies in the submitted Plan relating to the conversion of rural buildings and tourism are not sound but can be made so by the main modifications described above.

Does the Plan identify sufficient employment land and contain effective policies to ensure that the needs arising from aspirational but realistic economic growth assumptions can be met in suitable locations?

Expected Job Growth and Land Requirements

170. The Council has produced evidence that indicates that a total of 5,000 net

additional full time equivalent jobs could be created over the plan period⁷³. This is based on several forecasts from the Regional Econometric Model, sectoral analysis, some currently planned significant investment projects, the needs of local businesses, and consultation with relevant organisations.

171. It is, of course, impossible to predict with certainty how the economy will change over a 15 year period. However, I am satisfied that the assumption that 5,000 additional jobs may be created in the Plan area is aspirational but realistic and represents a sound basis for land use planning in the context of national policy⁷⁴. In order for the Plan to be effective and justified, this figure should be explicitly referred to in the introduction to the economic growth chapter **[MM28]**.
172. To accommodate this level of job growth, and having regard to the likely land needs of future businesses, the Council estimates that 34.5 hectares of additional land will be needed for B1, B2 and B8 uses over the plan period. This takes account of the fact that much of the growth is likely to be in sectors that are located in existing buildings or on sites that are not designated as employment land, for example in town centres or on other urban or rural sites. There is no substantive evidence before me to indicate that the Council's calculation is anything other than an appropriate estimate, and it is therefore important that the Plan identifies at least that amount of land but also includes mechanisms to provide some flexibility to ensure that demand is not constrained by a shortage of available and suitable sites.

Employment Land Supply

173. Policy EG1 refers to the provision of 49.1 hectares of employment land. However, this figure includes some land allocated in the *Whitby Business Park Area Action Plan* that is actually outside the Plan area, it being in the North York Moors National Park. It is necessary, therefore, to modify policy EG1 and the reasoned justification so that it correctly states the quantity of employment land that is identified in the Plan (40.35 hectares), including the relatively small proportion of the Whitby Business Park that is in the Plan area **[MM29 and MM30]**.
174. Scarborough Business Park is a well established location for a variety of industrial, business and storage and distribution uses and a significant amount of public and private sector investment has been undertaken to facilitate a considerable amount of further development. The business park's scale and position in relation to the main urban area and strategic road network means that it is justifiably identified as the main location for further B1, B2 and B8 developments.
175. Policy EG3 identifies two "committed" major employment sites (24.2 hectares at Scarborough Business Park and an adjoining 11 hectares to the south of Plaxton Park industrial estate), and three employment "allocations" (two plots totalling 2 hectares at Scarborough Business Park and 1.9 hectares at Hunmanby Industrial Estate). All of these sites are currently undeveloped and available for development, and along with the land at Whitby Business Park, they ensure that sufficient land is identified to meet anticipated needs as

⁷³ BP4, CSD17 and CSD18.

⁷⁴ NPPF paragraph 154.

described above.

176. However, as drafted policy EG3 is unclear as to whether a different approach is intended to be taken with respect to "allocated" and "committed" sites particularly with regard to potential future applications for the "renewal" of permission relating to the "committed" sites. To ensure that the policy is effective it should be amended to simply refer to all of the identified sites as being "allocations" and the deletion of the clause referring to the renewal of permissions **[MM31]**. Consequential amendments are also needed to paragraph 7.20 **[MM32]** and the employment land statements in Appendix B **[MM66 and MM67]**. These changes will ensure that the Plan sets out a clear and positive approach to the development of all of the proposed employment sites.
177. Whilst market demand for land to the south of Plaxton Park industrial estate⁷⁵ has been limited in recent years, and it may be the case that the serviced plots to the west⁷⁶ would be more attractive to potential developers in the short term, for the reasons set out above I am satisfied that the overall amount of land allocated for employment uses in the Plan is justified. No particular constraints have been identified to indicate that the land is unsuitable for B1, B2 and B8 uses or that such development would be unlikely take place on it later in the Plan period when market conditions could be quite different. Moreover, subject to the main modifications described earlier in this report, the Plan identifies sufficient suitable land to meet identified housing needs. It is not, therefore, necessary or appropriate to modify the Plan to allow residential development on part of the land to the south of Plaxton Park industrial estate.
178. Policy EG4 is entitled "safeguarding the strategic role of Scarborough Business Park" and relates to a large area of undeveloped land to the south of the "committed" sites outside of the development limits identified on the Policies Map. Policy EG4 states that this land will be "reserved for the expansion" of the business park, but also allows for development within the "safeguarded area" in certain circumstances. Because the land is outside the development limits, and due to various ambiguities in the way that the policy and reasoned justification are drafted, it is unlikely to be effective. This is clearly of some concern to those with an interest in the land. The Council clarified in its written evidence and at the hearing that the policy is intended to ensure that the business park can expand in a southerly direction as far as the railway line, which forms a long term defensible boundary with the open countryside, when it is required, and to prevent inappropriate development taking place that would compromise this objective.
179. A number of alterations to the wording of policy EG4 are needed to ensure that it will be effective in achieving this aim **[MM33]**. The reasoned justification also needs to be amended, including to refer to the need for an assessment of the potential impact on the strategic road network of any development taking place on the expansion land, this not having been undertaken during the preparation of the Plan **[MM34]**. Furthermore, for the policy to be effective, the Policies Map should be amended to include the expansion land within the defined development limits. This would be consistent with the approach taken to development limits and allocations elsewhere in the Plan area, and will

⁷⁵ EMP-C2 in the submitted Plan.

⁷⁶ EMP-C1 in the submitted Plan.

require an amendment to the reasoned justification **[MM36]**. For similar reasons to those set out in paragraph 177 above, there is no justification for modifying the Plan to allow for residential development on part of the expansion land.

180. In addition to the allocated sites and expansion land at Scarborough Business Park, policy EG3 allows the development of industrial and business uses on other land and in buildings within the settlement limits of towns and villages. This is a positive and appropriate approach, although the reference to "new industrial development" in the last sentence of the policy needs to be amended to be consistent with the terminology used elsewhere in the Plan in order for it to be clear and effective **[MM31]**. As already discussed, various other policies allow certain types of economic development to take place in rural areas subject to a number of criteria being met.

Safeguarding Existing and Proposed Employment Land and Premises

181. Policy EG5 of the submitted Plan aims to safeguard existing and proposed employment sites, but allows development for other uses in a limited number of defined circumstances. A number of amendments are needed to clarify the types of land and premises that it applies to, and to delete the reference to there being "substantial environmental, amenity or employment benefits" in order for the defined circumstances to be met as this particular requirement has not been justified **[MM35]**. The amendments will ensure that policy EG5 will be effective and consistent with national policy which seeks to avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose⁷⁷.

Conclusion on Economic Growth and Employment Land

182. Overall, therefore, whilst there are a number of deficiencies in the economic growth chapter of the submitted Plan it can be made sound by the main modifications that I have described. Subject to these, the Plan identifies sufficient employment land and contains effective policies to ensure that the needs arising from aspirational but realistic economic growth assumptions can be met in suitable locations across the Plan area.

Is the approach to town centres and retail development justified and consistent with national policy, and are the relevant policies likely to be effective?

183. As required by national policy⁷⁸, the Plan identifies a hierarchy of town centres and sets out policies aimed at ensuring their vitality and viability and to steer main town centres uses to appropriate locations.

184. Policy TC2 states that "large scale" town centre uses that are not within defined town and district centres and have met the sequential test will be subject to an impact assessment. "Large scale" is defined as a gross floorspace of 500m² for retail uses and 2,500m² for other town centre uses. The threshold for retail uses is justified by the Council's evidence which shows that there is limited capacity for additional retail floorspace over the Plan period, especially in the

⁷⁷ NPPF paragraph 22.

⁷⁸ NPPF paragraph 23 and 161.

convenience category, meaning that anything other than small scale "top up" convenience stores serving a local area (which would be below the 500m² threshold) would be likely to have an adverse impact on existing centres if allowed in other locations. I am, therefore, satisfied that this approach is consistent with national policy which states that impact assessments should be required for retail, leisure and office development outside town centres if the development is over a proportionate, locally set floorspace threshold⁷⁹.

185. The Council advises that the boundary of the Falsgrave District Centre shown on the submitted Policies Map is incorrect as a Sainsbury's supermarket ought to be included. Whilst, for the reasons set out earlier, this is not a change that I can formally recommend as a main modification, it is clear that it is necessary in order for policies TC1 and TC2 to be effectively applied.

Conclusion on Town Centre Uses

186. The submitted Plan is sound with respect to town centre and retail issues, although the Policies Map should to be amended in relation to the Falsgrave District Centre to accurately reflect the extent of existing main town centre uses.

Is the approach to renewable energy justified and consistent with national policy, and are the relevant policies likely to be effective?

187. National policy is clear that planning plays a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure, and that local planning authorities should adopt a proactive strategy and consider identifying suitable areas for renewable and low carbon energy sources and supporting infrastructure where this would help secure development of such sources⁸⁰.

188. Policy ENV1 states that proposals for the development of renewable energy technologies will be permitted subject to there not being an unacceptable impact with regard to a number of specified criteria. These are not unduly restrictive, and would ensure appropriate protection of the environment and other interests. This represents a positive approach towards most forms of renewable energy development in the plan area, although to be clear and therefore effective the opening sentence needs to be redrafted **[MM42]**.

189. In the case of wind energy development (other than small scale which is covered by policy ENV2), part C of policy ENV1 sets out two additional requirements that would have to be met, these being that the site is located within an area defined as being suitable for such a use in a neighbourhood plan and that, following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

190. Whilst this reflects recent national planning guidance⁸¹, it is clearly a more restrictive approach than that set out for other forms of renewable energy development. However, I am satisfied that the Council has given appropriate

⁷⁹ NPPF paragraph 26 and PPG ID-2b-016.

⁸⁰ NPPF paragraphs 93, 94 and 97.

⁸¹ PPG ID-5-033-150618.

consideration to whether suitable areas for large scale wind turbines could be identified, and agree that the assessments based on landscape character areas and sensitivity factors such as statutory environmental and landscape designations indicate that the capacity to accommodate such development anywhere in the Plan area is limited and that meaningful areas could not be identified⁸². The opening sentence of part C of policy ENV1 needs to be amended to be precise about which forms of wind energy development it applies to **[MM42]**.

191. Policy ENV2 states that small scale wind turbines will be approved where they meet the requirements of policy ENV1 and two other criteria. However, as drafted this policy is unlikely to be effective because "small scale" is not defined and it is not clear which elements of policy ENV1 such proposals are expected to comply with.
192. The evidence indicates that turbines up to 25 metres generally meet the energy requirements of farms or other local businesses in the Plan area, and that turbines around 30 metres in height are likely to be capable of being accommodated in the landscape without unacceptable harm. The Council has suggested that "up to 35 metres in total height" would be an appropriate definition of "small scale" and I have no reason to come to a different conclusion.
193. The Council explained at the hearing that the criteria in parts A and B of policy ENV1 are intended to apply to small scale turbines, as is the requirement in part C for there to be local community backing. However, I am advised that experience in the Plan area shows that such development is often uncontroversial and that those criteria are likely to be met in many cases involving wind turbines up to a height of 35 metres.
194. In light of the above, the inclusion of a separate policy relating specifically to small scale wind turbines up to 35 metres in height being potentially suitable anywhere in the plan area is justified, and policy ENV2 can be made effective by some amendments **[MM43]**.

Conclusion on Renewable Energy

195. Whilst the submitted Plan is not sound with respect to renewable energy, it can be made so by the main modifications to policies ENV1 and ENV2 that I have described.

Have the impacts on the transport network been adequately assessed and are the transport policies justified and likely to be effective?

196. Policy INF1 sets out priorities for improving accessibility; paragraph 9.13 table 1 identifies four road junctions requiring improvements; and policy INF2 states that land will be safeguarded to construct a Dunslow Road to A64 left turn filter lane. Policy INF3 requires development to contribute to sustainable transport; one amendment is needed with regard to the encouragement for the use of

⁸² BP6 summarises the considerable amount of work that has been undertaken at the regional, sub regional and local level over several years.

park and ride to ensure that it is justified and effective **[MM50]**.

197. Whilst concerns have been raised in representations about the impact that the development proposed in the Plan would have in terms of traffic generation, congestion and road safety, the Council, local highway authority and Highways England are all satisfied that the Plan contains appropriate mechanisms to ensure that there would be no unacceptable impacts on either the local or strategic road network. I am satisfied that the evidence before me indicates that appropriate assessments of the cumulative impacts of the development proposals have been carried out⁸³, and nothing that I have read, heard or seen leads me to a different conclusion to that of the organisations with statutory responsibilities for the planning of the area and safety and management of the road networks.

198. Network Rail have expressed concern that development could have implications for rail infrastructure including level crossings, signalling, passing loops, car parking, cycle facilities, access arrangements, ticketing facilities and platform extensions. However, the Council advises that none of the development proposed in the Plan would have a direct impact on railway land, and that the amount of additional use of level crossings and railway infrastructure is likely to be limited. In light of this, and given that policy INF5 sets out mechanisms to ensure that new or upgraded infrastructure will be provided if this is made necessary by development, I do not consider that any changes are needed to the Plan in relation to this issue.

Conclusion on Transport

199. I conclude that just one main modification is needed with regard to these transport matters to ensure that the Plan is sound.

Other Matters

200. A number of main modifications are required relating to various parts of the Plan that I have not considered in connection with my main issues above:

- Policy HC15 relating to open space and sports facilities needs to be amended to ensure that it is effective and justified **[MM26]**;
- Policy ENV3 relating to flood risk needs to be amended to ensure that it is consistent with national policy **[MM44]**;
- Policy ENV5 and additional text after paragraphs 8.30 and in paragraph 8.51 relating to the Water Framework Directive need to be amended to ensure that the policy is effective and justified **[MM45, MM46 and MM47]**; and
- Policy INF6 relating to telecommunications development needs to be amended to ensure that it is effective **[MM51]**.

201. A number of additional concerns to those that I have considered throughout this report have been raised in representations. However, none of these affect my findings on the main issues, or lead me to conclude that the Plan is not sound as defined in the NPPF. It is not my role to respond to every point made

⁸³ BP7 and CD12.

by interested parties, or to recommend changes to the Plan on the grounds that it may improve it or ensure that it addresses something in a particular way that suits the preferences of an interested party.

202. There are, therefore, no other matters that lead me to conclude that any further main modifications are needed in addition to those described throughout this report and listed in the Appendix.

Summary of Compliance With Legal Requirements

203. For the reasons set out in paragraphs 10 to 24 above, I have concluded that the Plan meets all relevant legal requirements. The results are summarised in the table below.

Duty to Cooperate	The Duty to Cooperate under sections 20(5)(c) and 33A of the Act have been complied with.
Local Development Scheme (LDS)	The Plan has been prepared in accordance with the Council's LDS dated April 2016.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in 2007 and updated in 2013. Consultation on the Plan and main modifications has complied with its requirements and the relevant regulations.
Sustainability Appraisal	Sustainability appraisal has been carried out and is adequate.
Habitat Regulations Assessment (HRA)	An HRA has been carried out and this concludes that the Plan will not lead to harm to the integrity of protected sites.
National policy	The Plan complies with national policy except where indicated and main modifications are recommended.
2004 Act (as amended) and 2012 Regulations	The Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

204. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

205. The Council has requested that I recommend main modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the *Scarborough Borough Local Plan* satisfies the requirements of Section 20(5) of

the 2004 Act and meets the criteria for soundness in the *National Planning Policy Framework*.

William Fieldhouse

Inspector

This report is accompanied by an Appendix containing the Main Modifications