

EXAMINATION OF THE KIRKLEES LOCAL PLAN**EXAMINATION IN PUBLIC****Response to Inspector's Matters, Issues and Questions****Made on Behalf of Chartford Homes Ltd****Matter 8 – Approach to site allocations and Green Belt release****Issue: Is the Plan's approach to identifying site allocations (housing, employment and mixed use), safeguarded land and the Green Belt releases soundly based and in line with national policy?****Introduction**

- 1.1 Barton Willmore is instructed by Chartford Homes Ltd ('our Client') to submit responses to the Inspectors Matters, Issues and Questions following the submission of the Kirklees Local Plan ('Local Plan') for examination. The Local Plan comprises of two; the Strategy and Policies (SD1) which sets out the vision and strategic policies for growth and development in the district over the plan period and the Allocations and Designations (SD2) which contains site allocations and areas shown on the proposals maps which relate to the Strategy and policies.
- 1.2 Chartford Homes Ltd is a Leeds based housebuilder who have a successful track record of promoting land through the Local Plan process and obtaining planning consents for residential developments throughout Yorkshire.
- 1.3 Our Client's land interest in the district is land to the south of Nutter Lane, Birstall (reference: H3) which the Council have not identified as a proposed housing allocation, despite the previous representations that have been made on behalf of the landowner. The landowner is currently undertaking pre-application discussions with the Council regarding the potential redevelopment of the haulage yard which fronts onto Nutter Lane on the northern part of the site, for a residential development.

Policy PLP 6

a): Has the Council undertaken a robust and comprehensive assessment of development capacity within existing urban areas and other areas outside the current Green Belt?

- 1.4 It is clear from the evidence base documents which accompany the Local Plan that the Council have undertaken a comprehensive assessment of potential development sites, both within urban areas and other areas outside the Green Belt.
- 1.5 The Kirklees Publication Draft Local Plan – Methodology Part 2: Site Allocation Methodology explains that the Council sourced sites from a Call for Sites process, a Council asset review and existing UDP allocations. Having then sourced a collection of sites, the Council undertook detailed assessments of sites, which included obtaining comments from internal and external consultees, and then sieved out sites based upon the finding of the assessments.
- 1.6 As such, in broad terms it is considered that the Council have considered and assessed all sites that were put forward for consideration, and as such a comprehensive assessment of them, however we do not agree with the outcomes, particularly with the Green Belt review methodology.

b): Do exceptional circumstances exist which justify the release of Green Belt land to accommodate some 11,500 new dwellings and additional land for employment uses?

- 1.7 Having undertaken the site assessment process, the Council have determined that land will need to be released from the Green Belt in order to meet the objectively assessed need (OAN) as there is not sufficient supply from existing commitments and proposed allocations of land not within the Green Belt.
- 1.8 The OAN is 31,140 new dwellings between 2013 and 2031 which equates to 1,730 dwellings per annum. There is a requirement to allocate sufficient land for 21,324 new dwellings and it is understood that approximately 10,000 new dwellings can be accommodated within urban areas, and as such 11,500 new dwellings must be allocated on land within the Green Belt. The Council have looked at all alternatives, concluding that insufficient land exists to meet the need.
- 1.9 It is considered that exceptional circumstances have therefore been identified to justify the release land from the Green Belt. Without this, the Council would not be able to meet their OAN.

d): Is the Council's approach to assessing potential sites in the Green Belt for development soundly based and in line with national guidance?

- 1.10 Our Client does not consider the Green Belt review undertaken by the Council is robust and it is not in line with national guidance. The Green Belt review is fundamentally flawed in that it comprises of elements which have no relevance to the purposes of including land within the

Green Belt. Furthermore, the methodology is complicated and convoluted. A full explanation is outlined within our responses to parts i to viii below.

i. Is the approach in the Green Belt Review, based on the assessment of Green Belt edge sites, robust and justified?

- 1.11 The Council's assessment of Green Belt edge sites is wholly inappropriate as a method of assessing lands role within the Green Belt. For example, test 1a considers the topographical nature of the Green Belt edge, and then rates the site utilising a RAG rating system. None of the five Green Belt purposes as outline in paragraph 80 of the National Planning Policy Framework (NPPF) make reference to a sites topography or even imply that this is a consideration with regards to the Green Belt. It is not therefore robust or justified. On this basis a 19% slope with adverse impacts on all purposes of the Green Belt is looked at more favourably than a 20% slope with no impact.
- 1.12 The next text, test 1b considers whether there are any physical constraints, which are outlined within the Green Belt Review (April 2017) as taking account of the following factors – existing built form with and around the area under consideration; the presence of listed buildings, conservation areas, ancient monuments; potential barriers such as roads, railways, rivers and canals, high voltage power lines; and mineral working or waste disposal in the vicinity. None of these relate directly to the five purposes of the Green Belt and should not form part of a Green Belt review, and as such the Council's assessment is flawed.
- 1.13 In terms of the third test, 1c, this considers whether Green Belt edge sites have any environmental constraints. These include whether there are any protected trees and ancient woodland; areas designated for wildlife protection; proximity of the Peak District National Park; flood risk and buffer zones related to hazardous installations, pipelines, power lines and landfill gas. Once again, these are not matters which relate to the five Green Belt purposes and there is no justification for assessing the suitability of Green Belt land in respect of environmental constraints.
- 1.14 The Green Belt edge assessment is fundamentally flawed as it is not assessing sites against the five purposes outlined within paragraph 89 of the NPPF and is in actual fact a site assessment, rather than a Green Belt assessment. Our concerns regarding this approach are further exacerbated by the fact that if a Green Belt edge was assessed as severe (red) under any of the three tests, it did not progress to test 2 of the Green Belt assessment. As a result, sites such as our Clients land to the south of Nutter Lane, Birstall (reference: H3) have been dismissed purely because they did not pass test 1, which is in itself a completely flawed test.

1.15 In summary, the assessment of Green Belt edge sites is as far as we are aware, unique to Kirklees Council, and it is flawed in its approach and can be not be considered a suitable approach to assessing land within the Green Belt. The assessment is convoluted and considers factors which are irrelevant to assessing whether land continues to serve a purpose within the Green Belt. Our Clients site (reference: H3) is solely dismissed due to 2 small streams , despite being completely screened, surrounded on all sides by development and comprising part previously developed land, with no adverse impact on the purposes of the Green Belt.

ii. As part of the overall site allocations methodology, is there clear evidence to show that site options not captured or full appraised in the Green Belt Review have been subsequently been fully assessed against relevant Green Belt purposes?

1.16 No, sites which have not been captured or fully appraised in the Green Belt review have not subsequently been assessed against the relevant Green Belt purposes. For example, our Clients land to the south of Nutter Lane, Birstall (site reference: H3 and BS14 for the Green Belt edge assessment) is assessed as part of the Green Belt edge assessment, and the results of this are set out in Appendix 2a of Green Belt Review (April 2017) document. The Council identified that due to the presence of Scotland Beck and Nova Beck, there was severe (red) physical constraint and as such the Council did not carry the site through to test 2 (Green Belt purposes). The relevant extract from the Green Belt Review is shown below:

Ref.	TEST 1: CONSTRAINTS			Existing use	TEST 2: GREEN BELT PURPOSES				Conclusion	Test 2 score
	1a Topographical	1b Physical	1c Environmental		2a Prevents merging	2b Checks Sprawl	2c Safeguards from encroachment	2d Preserves setting & character		
BS14	Minor	Scotland Beck, Nova Beck	Flood zones 2 and 3a, protected trees							

1.17 An assessment of our Clients site was undertaken as part of the wider site assessment process, which is included within the Rejected Site Options Report July 2017, however, this concentrates on constraints such as transport, education, historic environment, flood risk and biodiversity. The site assessment does include comments on the 'Green belt' and 'Green belt edge', however, neither undertake an assessment of the site against the five Green Belt purposes.

1.18 Again, this further emphasises the fact that the Council's Green Belt assessment is flawed as sites have been sieved out of the process having not been assessed against the five Green Belt purposes. As noted in paragraph 1.21 of this statement, our Clients site would have achieved a low score (2), had it been carried forward to Test 2.

iii. Is the 'gateway' approach in the Green Belt Review justified? (whereby failure to meet Test 1 meant Test 2 on Green Belt purposes was not engaged, and failure to meet Test 2a meant no further assessment against other Green Belt purposes)

- 1.19 In this instance the gateway approach that has been undertaken by the Council is not justified. As noted above, the initial tests set out in Test 1 are not appropriate Green Belt assessments, and all sites put forward which are located within the Green Belt should have been tested against the Green Belt purposes, which are essentially those set out in Test 2.
- 1.20 There are significant concerns regarding this approach, as it means that sites which no longer serve the purposes of the Green Belt, and which score better in the Test 2 assessment than those sites which are being proposed as an allocation, have been dismissed unnecessarily.
- 1.21 For example, our Clients site at land to the south of Nutter Lane, Birstall (reference: H3) would in our opinion return a low score had it been assessed as part of Test 2. Our assessment would be as follows:

2a – prevents merging

The site represents a contained area of open land located adjacent to the settlement boundary of Birstall. Development of this site would not lead to the merging of two settlements, as the existing form of development to the east and west of the site is within the settlement. Furthermore, the development would not lead to the closing of an existing strategic gap between settlements. The site would therefore be rated as 'Green', i.e. the site is deemed to be part of an extensive gap between settlements.

2b – checks sprawl

The site is bound by development on all sides and is very well contained. The settlement boundary of Birstall abuts the south, eastern and western boundaries, whilst the existing haulage yard, and Oakwell House and Oakwell Cottage abut the site to the north. A new Green Belt boundary could be drawn across the site, which would in effect join the built development adjoining the eastern and western boundary of the site, thus ensuring the built form of the settlement does not project any further north. In line with the Green Belt assessment matrix set out in Appendix 1 of the Green Belt Review (April 2017) document, the site would be rated as 'less important'.

2c – safeguarding countryside from encroachment

The site clearly forms part of the urban edge rather than the open countryside given that is contained by development on all sides. If you are stood towards the southern end of the site there is a clear sense of being located within a settlement. It is noted that the Council

assess the site as being extensive enough to appear as an area of countryside, which we strongly disagree with.

2d – preserving setting & special character of historic assets

The Council acknowledge that there are no historic towns within Kirklees. This is conclusive in respect of our Clients site and as such, it is rated as 'less important'. Incidentally, the Council's decision to then assess sites in respect of heritage assets is flawed and should be disregarded, as this is contrary to the Framework.

- 1.22 Our site would in our opinion have scored 1 in the Green Belt role points. Even if tests 2b and 2c were rated as moderate (for which there is no evidence) the most the site could score is 3. Either way, the Council are proposing to allocate sites located within the Green Belt for housing, which score 3, 4 and 5 in this assessment. This further emphasises the flawed nature of the Green Belt assessment.
- 1.23 For ease of reference we have put together a table which demonstrates the sites which the Council are proposing to release from the Green Belt and allocate for housing in settlements which neighbour our Clients site at Birstall. This shows that the Council are proposing to allocate 12 sites which are rated as 3 or above. Had our Clients site not been dismissed through Test 1, it is considered that the site would have scored more favourably against the five Green Belt purposes. A copy of the table is appended to this statement.

iv. Are the other assessment tests in the Green Belt Review justified and soundly based? To what degree are the identified topographical, physical and environmental constraints absolute, and were site-specific solutions or partial development options taken into account? Is test 2d consistent with Green Belt purposes as defined in the NPPF and as they relate to Kirklees?

- 1.23 As noted above our Client does not consider the assessment tests (outside of the five Green Belt purposes) as being justified and soundly based. Several of the topographical, physical and environmental constraints are not absolute and should not have led to the Council automatically sieving sites out of the process.
- 1.24 The topography of a site and its ability to be developed is a consideration for the individual developer/landowner and is not absolute and is not therefore appropriate as a means of assessing whether a site is suitable for removal from the Green Belt. Furthermore, the presence of a physical barrier is not necessarily absolute and the examples mentioned in the Green Belt Review (April 2017) document are not necessarily comparable. For example, it is accepted that a railway line or a major road such as a dual carriageway or motorway can form a strong defensible boundary, however, a high voltage power line or watercourse

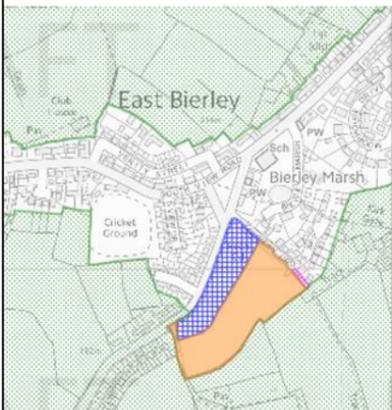
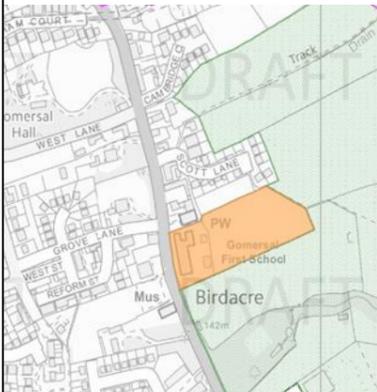
should not necessarily preclude the development of a site and make it unsuitable for release from the Green Belt.

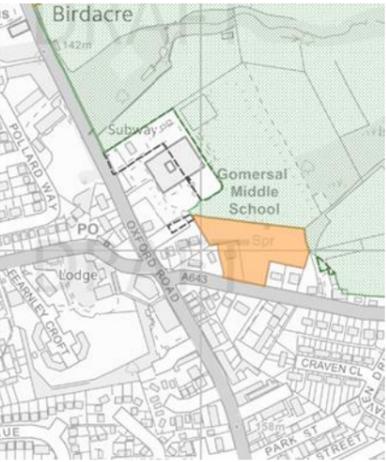
- 1.25 It is noted that our Clients site (reference: H3) was excluded during Test 1 and not taken any further as there was considered to be a physical constraint due to the presence of Scotland Beck and Nova Beck and as such as rated 'red'. This is expanded upon in the Rejected Site Options Report (July 2017), which states "*the site contains two open watercourses on the boundary whose relationship with their countryside setting would be compromised. These features and their related important wildlife habitats are best protected by the green belt designation*". Quite frankly, this conclusion is wrong and completely unjustified. As noted with the same document, under the biodiversity heading, it states "*the Scotland Beck and Nova Beck form the sites eastern and western boundaries. Both are UK BAP priority habitat. They are tree lined and lowland mixed deciduous woodland/wet woodland habitat is also UK BAP habitat. Stand off of 10m required from top of banks*".
- 1.26 This demonstrates that mitigation measures can be provided to ensure the biodiversity areas can be protected and to claim that the development would be detached from the settlement if a 10m buffer is incorporated is just not true or accurate. To have dismissed this site purely on this basis, highlights the fundamental flaws in the Council's approach to the Green Belt Review.

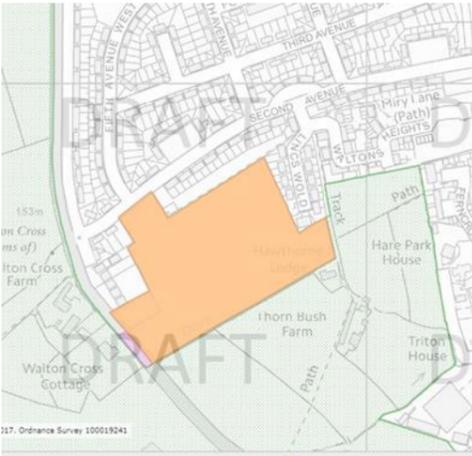
viii. Have all sites which scored well in the site assessment process for housing been allocated for this purpose?

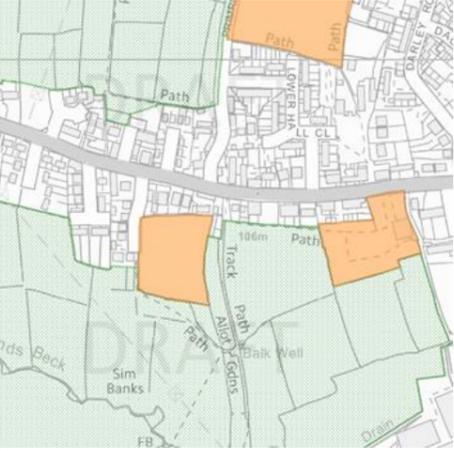
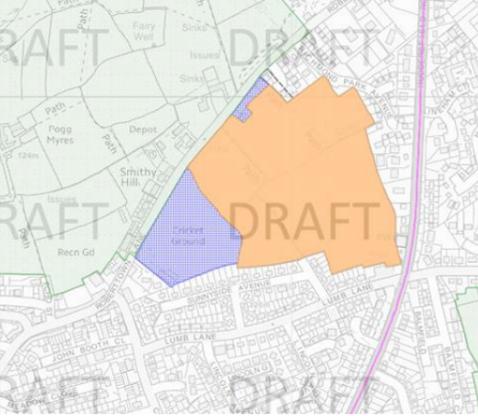
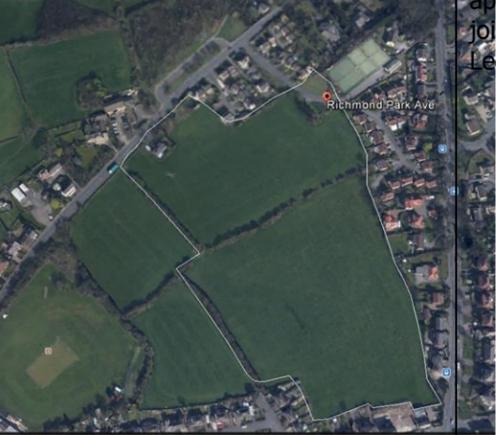
- 1.27 No, our Clients site (reference: H3) would score well in the Test 2 assessment, but it was not carried forward to this stage. The table enclosed at Appendix 1 demonstrates our point well, that sites are being proposed for allocation, which score more poorly than ours. This only occurs because our site failed the Green Belt edge assessment, which is flawed.

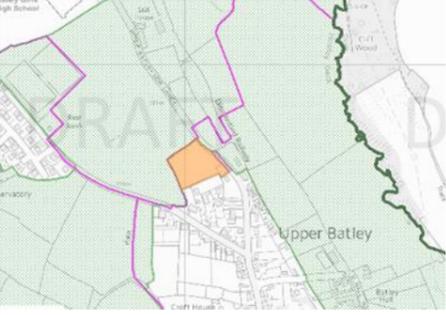
APPENDIX 1

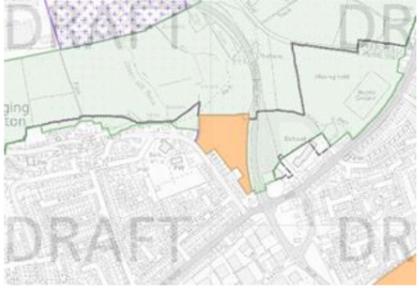
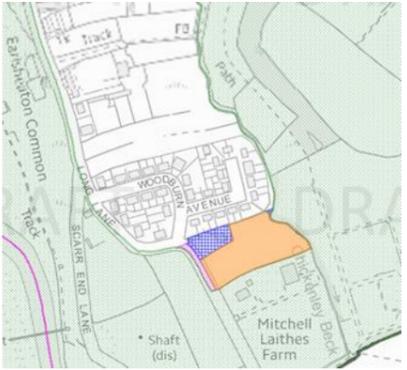
Reference	Size Capacity	Site Size (Ha)	Location	Site Image	Prevents Merging	Checks Sprawl	Safeguards from Encroachment	Preserve Setting & Character	Conclusion	Test 2 Overall Score	Accepted Options Appraisal Green Belt	Site – Appraisal Green Belt Edge
B/EB9 H531	381	11.97			Restricted Gap see B/EB8 and B/EB10	Numerous opportunities for containment from existing development at Manor House, track and field boundaries	Some relationship with wider countryside	No impact	Potential for containment and possibly rounding off. Existing separation from Birkenshaw should be retained	3	Orange This site is reasonably well related to the settlement and is contained by road, track and field boundaries. The extent of the site doesn't encroach onto Birkenshaw. It would join with ribbon development on Hunsworth Lane but there is already an existing access at this point and the recreation ground would maintain the existing open approach to the village, but which would need to be removed from the green belt	Orange The existing settlement pattern and containment provided by field boundaries does present some opportunity for settlement expansion or rounding off without undermining the role of the green belt
GS5 H2667	48	1.42			Restricted area of green belt with important strategic role	More fragmented land use pattern provides potential containment but restricted area of green belt	Existing urban uses, including the school, already encroach. Very limited opportunity for rounding off	Adjoins conservation area	Some opportunity for minor rounding off but this is a restricted and partially contained green belt area with an important strategic role. Any settlement extension would need to be considered in relation to BS2	5	Green The location, configuration, degree of containment of this site means that it could be released without undermining the strategic role of this of green belt. It is bounded to the north and west by existing development and to the east and south by strong boundary features, meaning there is no risk of further sprawl or encroachment	Red Although the existing settlement pattern provides some limited opportunities for minor infill or rounding off, the extensive nature of the field pattern means that any settlement extension is unlikely to be achieved without significant land release, which could compromise the overall strategic role of the green belt in this location

GS5 H489	22	0.67			Restricted area of green belt with important strategic role	More fragmented land use pattern provides potential containment but restricted area of green belt	Existing urban uses, including the school, already encroach. Very limited opportunity for rounding off	Adjoins conservation area	Some opportunity for minor rounding off but this is a restricted and partially contained green belt area with an important strategic role. Any settlement extension would need to be considered in relation to BS2	5	Green Although the overall area in which this site lies is a restricted area of green belt separating Gomersal and Birstall, the site itself is small in relation to the size of the strategic gap and is well related to the settlement. The site is entirely bounded by trees which separates it from its wider setting and its degree of containment means there is no risk of sprawl or encroachment and impact on openness would be limited	Red Although the existing settlement pattern provides some limited opportunities for minor infill or rounding off, the extensive nature of the field pattern means that any settlement extension is unlikely to be achieved without significant land release, which could compromise the overall strategic role of the green belt in this location
SCL5 H49a	34	0.98			Extensive gap	Housing on B6120, field boundaries provide potential containment but extensive in places and limited opportunities for containment	Part of wider countryside, existing boundary weak on the ground	No impact	No risk of sprawl as motorway presents an absolute barrier. Numerous opportunities for some limited rounding off. Opportunity to provide strong new boundary. Development should be restricted so as not to sprawl down slope as this would be unrelated to the settlement	3	Orange This site is well related to the settlement edge, is contained on 3 sides and represents rounding off of this part of Scholes. The eastern boundary while not strong, is present so a new green belt boundary can be found which would prevent sprawl. The site appears as countryside but its relationship with the wider countryside is limited by its containment	Orange The existing settlement form and field patterns present opportunities for settlement extension or rounding off without undermining the role of the green belt in this location

CK19 H2066	17	0.59			Extensive gap	M62, field boundaries, landform provide potential containment	Limited visual relationship with wider countryside urban edge	No impact	Extensive area with similar character of fragmented field pattern, contained by motorway. Numerous opportunities for limited extension or rounding off without significant detriment to the green belt	3	Green This site is a house and its garden on the edge of the urban area and distinctly different in character from the land beyond it. The boundary of the residential property would present a strong and defensible boundary and the enclosed nature of the site means that there is no risk of sprawl or further encroachment or significant impact on openness. There has already been a degree of encroachment in this area as 900A has been built in the green belt. There is also therefore the opportunity to create a strong new boundary	Orange The existing settlement and land use pattern presents numerous opportunities for limited infilling or rounding off without impact on openness or prejudicing the strategic role of the green belt in this location
HT7 H198	125	3.6			Extensive gap	Windy Bank Lane, Hare Park Lane, field boundaries provide containment	Largely separated from wider countryside by Windy Bank Lane. Existing undeveloped edge with urban greenspace (former school site) does not follow a feature on the ground	Listed building	Development particularly west of Fern Croft would have limited impact on openness	3	Green The green belt element of this site would represent a small-scale extension into the green belt where impact on openness would be limited. The existing green belt boundary with the now demolished school doesn't follow a feature on the ground and this option would present the opportunity to create a strong new green belt edge	Orange The existing settlement pattern presents opportunities for infill or rounding off between existing built up area and Windy Bank Lane without undermining the role and function of the green belt

LV3 H278	27	0.78			Extensive gap	Field boundaries provide potential containment	Limited visual relationship with wider countryside, strong urban edge	No impact	Development contained by track and Tanhouse Beck could have limited impact on openness	2	<p>Orange</p> <p>The part of this site that projects into the green belt represents a small-scale extension. It's located on a south facing slope but shouldn't result in prominent development because in this location the degree of slope is less severe and the site is contained by a natural hedge/tree boundary which will prevent sprawl. This should also ensure that new development is no more prominent than the extent of the existing allocation to the north</p>	<p>Red</p> <p>The existing settlement pattern and land use features present some opportunity for settlement extension without compromising the role and function of the green belt although there are incidents of steep slopes where development could intrude into long distance views</p>
RT6 H442	272	7.79			Restricted gap to Liversedge. Settlements appear joined on Leeds Road	Development fronting Roberttown Lane provides containment	Development on rising ground could be prominent when viewed from the north	No impact	Green belt in this location prevents the further coalescence of Roberttown and Liversedge but the settlements are already joined, Field boundaries and land use	3	<p>Orange</p> <p>While the strategic role of this parcel of green belt is not strong, as Roberttown and Liversedge are already merged to some extent south of the site, the green belt overwashes Roberttown Lane in order to include this area of open land within the green belt. This is a well contained site bounded by the existing settlement, Roberttown Lane and the cricket ground and so there is no risk of sprawl</p>	<p>Orange</p> <p>The existing settlement pattern and land use features present some opportunity for limited infilling without undermining the role of the green belt in this location</p>

MF18 H205	21	0.69			Extensive gap	Some opportunities for containment from field and property boundaries but risk of ridge line development	Development would be prominent from south west on rising ground	No impact	Development risks being prominent particularly to the south	3	Green Physically separated from wider green belt at Mirfield Moor by the line of Slipper Lane. It is an entirely contained area and appears as residential curtilage. The removal of this site from the green belt would have minimal impact on openness and would not undermine the role and function of the green belt	Orange Reasonably area of green belt that is separated from the wider green belt by the line of Leeds Road but which retains a countryside character. It's contained on 2 sides by existing residential development. It serves no strategic role in terms of preventing the merger of settlements and represents an area of urban fringe where there are a number of properties in the green belt close to the settlement edge. The land rises to the north and east where development could be more prominent
BE2 H662	33	0.94			Restricted gap	Potential for some containment along Upper Batley Low Lane. Need to retain separation from Birstall	Existing boundary weak in places. Potential for limited rounding off	No impact	Minor opportunity to create new strong boundary with limited rounding off. Must ensure gap with Birstall retained	4	Green Limited impact on openness. Already enclosed and is separate from and different in character to land around it. Removal of site from green belt allows an opportunity to create a new strong green belt boundary. Its location and extent wouldn't significantly erode the undeveloped nature of Upper Batley Low Lane	Orange This location overwashes a narrow undeveloped gap along Upper Batley Low Lane which allows the green belt to penetrate to the west and include important open space within it. The land use pattern presents a very minor opportunity for settlement extension without significantly compromising the gap

DE4 H661a	61	1.76			Restricted gap – see BE12 & BE13	Potential for containment from roads but their alignment would not allow for satisfactory settlement form	Part of wider countryside	No impact	Limited potential to contain development. New strong eastern boundary would need to be found	5	Orange Reasonably well contained and well related to the existing settlement form. Northern extent of site does begin to project into more open land north but does have defensible boundary which would prevent sprawl. Degree of containment limits the relationship of the site with the wider countryside. Could be removed from green belt without undermining the role and function of the green belt	Orange The extent of the gap and existing settlement pattern does however present some limited opportunity for settlement extension without fundamentally compromising the green belt role
DE13 H307	15	0.66			Restricted gap. (continuity with Wakefield green belt but developed immediately south of the Wakefield boundary)	Woodland, field boundaries provide potential containment	Little relationship with wider countryside	No impact	Development could have limited impact on openness but necessity to retain green belt separation from Wakefield boundary	3	Orange Sits between settlement edge and properties on Long Lane. Could represent small settlement extension. No risk of sprawl. Limited impact on function of strategic gap with Wakefield	Orange The existing settlement pattern and land use features present some opportunity for settlement extension providing the gap is maintained