

Kirklees Local Plan Examination Hearing Statement

Our ref 50511/JG/AJk
Date September 2017

Subject **Matter 8 Hearing Statement on behalf of KeyLand Developments Ltd
– Approach to site allocations and Green Belt release**

1.0 Introduction

- 1.1 This Hearing Statement has been prepared by Lichfields on behalf of KeyLand Developments Ltd and responds to the questions set by the Inspector in relation to Matter 8.
- 1.2 This Statement should be read in conjunction with our representations submitted during the Local Plan Consultation (2016) on behalf of KeyLand (representor ID: 969464). KeyLand Developments is the property trading business of the Kelda Group and a sister company of Yorkshire Water. It has control over site H596 and has promoted the site for housing development.

2.0 Issue - Is the Plan's approach to identifying site allocations (housing, employment and mixed use), safeguarded land and Green Belt releases soundly based and in line with national policy?

Question (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? Question (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?

- 2.1 Given the scale of housing development needed in Kirklees across the plan period, the likely shortfall in delivery from strategic sites (see our Matter 4 Hearing Statement), and the presence of Green Belt land around all settlements in the District, it is agreed that some Green Belt release is necessary to ensure housing needs are met. Furthermore, it is considered that exceptional circumstances to amend the Green Belt boundary, as required by paragraph 82 of the NPPF, have been demonstrated.
- 2.2 Table A4 of the Housing Supply Topic Paper (EX30) states that 9,706 dwellings will be provided on settlement extensions which extend into the Green Belt, or on sites which are detached from existing settlements and are located wholly within the Green Belt. Despite the apparent lack of a detailed assessment of urban capacity in the main settlements, it is considered that the scale of housing need represents exceptional circumstances which justify the release of Green Belt land to accommodate housing development. It is our view that the amount of Green Belt land which should be released should be higher than that currently proposed in the Plan, given the likely shortfall in housing delivery in the plan period from the allocations currently identified.

Question (c) - What approximate proportion of land in Kirklees which would remain in the Green Belt following the implementation of proposals in the Local Plan?

- 2.3 Green Belt land covers an extensive area of the Kirklees district. Figure D1 of the Unitary Development Plan states that 25,718 hectares of the total plan area is Green Belt land, equating to 71% of the total plan area (36,398 hectares). As the evidence base for the Local Plan does not provide a break down in land area terms of the total amount of Green Belt release proposed, we have used the Council's standard site densities and the information in Table A3 of the Housing Supply Topic Paper to broadly calculate the amount of land which would remain in the Green Belt.

Table 1 Proportion of remaining Green Belt land

Land Use / Designation	Amount of land / dwellings
Total plan area	36,398 hectares
Amount of Green Belt land (UDP)	25,718 hectares
Capacity of Green Belt or partial Green Belt housing allocations in Local Plan (Table A3)	9,706 dwellings
Area of allocations based on 35 dph (using Council's Draft Local Plan standards*)	$9706/35 = 277$ hectares
Remaining amount of Green Belt	25,441
Proportion of remaining Green Belt in plan area	70%

*Note – as set out in our Matter 4 Statement, we consider the use of a standard 35dph density across all sites to be flawed, but have used this above to aid this broad calculation

Source: Kirklees UDP / Housing Supply Topic Paper

- 2.4 As demonstrated in Table 1 above, the proportion of land remaining within the Green Belt following the implementation of the housing allocations (70%) is not materially altered from the current situation (71%). Whilst it is acknowledged that some 'settlement extension' sites could include land within a settlement (i.e. not Green Belt), this will be balanced out in the above calculation by the use of the standard 35 dwellings per hectare density, which is unlikely to be achieved on all sites (see our Matter 4 Hearing Statement).
- 2.5 If additional sites within the Green Belt were considered necessary to meet the housing requirement, it would also not be likely to have a material effect on the overall proportion of Green Belt land. It is acknowledged that there are also proposed Green Belt releases to accommodate employment allocations, but, given the scale of Green Belt land remaining, it is unlikely that the inclusion of these sites would materially alter the proportion of remaining Green Belt land. In summary, only a very small proportion of the current Green Belt is required to meet the needs of the District and therefore, its overall strategic function would not be compromised.

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

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

- 2.6 The approach taken forward in the Green Belt Review (BP25) is considered to be somewhat justified as the approach considers extensions to existing settlements as a first priority, as opposed to new sites wholly within the Green Belt. This approach is somewhat justified where the Council are seeking to allocate numerous smaller Green Belt sites close to existing services, rather than a smaller number of large sites. However, it does not appear that the Council is strictly following such an approach from the sites which have been identified for allocation.
- 2.7 There are a number of 'Green Belt edges' which have been identified by the Green Belt Review as being capable of amendment/accommodating adjacent development, such as edge HT7, but have ultimately not been selected for allocation. Instead, the Plan proposes three larger scale Green Belt releases (sites H2089, H1747 and MX1905) which include the release of Green Belt away from an identified 'edge'. It is considered that the Council's approach may not fully consider the impact on the wider role or purpose of the Green Belt in a particular locality resulting from the development of land within the Green Belt but away from an identified 'edge'.

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 subsequently been fully assessed against relevant Green Belt purposes?

- 2.8 The Local Plan Methodology Statement Part 2 (BP23) does show at paragraph 4.54 that all development options in the Green Belt were assessed in terms of the configuration and relationship of the site to the settlement it abuts, the degree of infill or rounding off that could be achieved and the ability of the option to present a strong new defensible green belt boundary (paragraph 4.54).
- 2.9 Whilst this assessment has taken place, we have reservations regarding the conclusions which have been reached in the assessment. For example, assessment of site H596 in the Rejected Site Options Report (LE4.1) states that the site has been rejected as it would '*represent significant encroachment into the countryside to the detriment of the openness of the Green Belt*'. However, the separate Green Belt Edge Review found that:

'The existing settlement pattern presents opportunities for infill or rounding off between the existing built up area and Windy Bank Lane without undermining the role and function of the green belt.'

- 2.10 The Green Belt Review further concludes that as the current Green Belt 'edge' does not follow a feature on the ground, it does not presently safeguard the countryside from encroachment. There is therefore a discord between the findings of two of the Council's evidence base documents, which raises questions as to whether the sites selected, and rejected, for housing development are justified.

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)

- 2.11 Whilst in principle it is considered justifiable to adopt a 'gateway' approach to Green Belt site assessment, for the reasons set out in our answer to Question (d(iv)) below, we believe that its

application in this instance may have led to some appropriate Green Belt release sites being dismissed prematurely.

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?

- 2.12 Test 1 of the Green Belt Review assessed ‘topographical’, ‘physical’ and ‘environmental’ constraints (listed as tests 1a, 1b, and 1c respectively). It is not clear from the methodology explained in the Green Belt Review report to what degree such constraints are absolute, or if site specific solutions or development options were taken into account. For example, test 1a (topographical constraints) appears to have an assessment grading based on the steepness of the slope along a Green Belt edge. What this does not tell us is whether such a slope is consistent across a site, or if the existing Green Belt edge is vital to the delivery of a site. Circumstances may exist where a site could be served from a road which is within the Green Belt away from the ‘edge’ (i.e. the opposite side of a site), and the land where this potential access could be provided may be flat, and quite different to the topography of the edge on the opposite side of the site. Test 1a is therefore not considered to be soundly based as it may not provide a representative assessment of a development site option.
- 2.13 Test 1b looks at physical constraints either on the Green Belt edge or on land beyond the edge. Paragraph 7.4.8 of the Green Belt Review notes that physical constraints to development on land beyond the boundary include, *inter alia*, schools and school playing fields, the M62 motorway and other significant road infrastructure such as major road junctions, railways and railway infrastructure. Whilst these features may restrict the amount of development which could be delivered at a particular Green Belt edge, they could also serve to provide defensible new Green Belt boundaries. It is not justified for a part of the Green Belt edge to be scored negatively merely by the presence of such a feature, which could in fact be considered as a positive if it provides a more enduring Green Belt boundary than the existing edge, and each site should be considered on its own merits.
- 2.14 Test 2 is designed to assess the Green Belt edge against four of the five Green Belt purposes which are set out at paragraph 80 of the NPPF. The fourth Green Belt purpose, as stated in the NPPF, is to preserve the setting and special character of historic towns. However the Kirklees Green Belt Review has modified this to an assessment of whether Green Belt land preserves the setting of historic assets. This method of assessment is not soundly based, and seeks to create an extra purpose for Green Belt land which is not consistent with national policy. The preservation of the setting of historic assets is a consideration which should be taken into account in the general site assessment stage, and not be applied as part of Green Belt review. If a Green Belt edge does not bound a historic town or settlement (i.e. one which is designated as a Conservation Area or World Heritage Site), it should receive a ‘green’ score for this test.

v. To what extent has the process of assessing Green Belt sites taken account of the extent of remaining gaps between different settlements and the maintenance of separate settlement identity, and emerging proposals in neighbouring authorities that would reduce these gaps?

- 2.15 Test 2a of the Green Belt Review assesses the role of the Green Belt or Green Belt edge in preventing the merging of settlements.

vi. Is it clear how site development options were identified?

- 2.16 The process for identifying site development options is set out at Section 3 of the Local Plan Methodology Statement Part 2 (BP23); paragraphs 5.2 – 5.4 of the Housing Technical Paper (SD23) and paragraphs 3.2 – 3.6 of the Housing Supply Topic Paper (EX30). A variety of sources are listed in these documents, but it is unclear whether any of these sources were prioritised over others.
- 2.17 It is noted that paragraph 5.3 of the Housing Technical Paper (dated April 2017) states that ‘evidence of a willing landowner is required’ for a site to be considered available for development within the plan period. However, paragraph 3.4 of the Housing Supply Technical Paper (dated July 2017) states that ‘evidence of a willing landowner is desirable’. This suggests that the Council has not been able to secure evidence of a willing landowner on some of its proposed allocations, and therefore calls into question the deliverability of such sites. It is suggested that the adopted Plan should only contain sites for allocation where evidence of a willing landowner can be demonstrated.
- 2.18 What is not clear from the Green Belt Review and Site Assessments is how different development options along the same stretch of Green Belt edge have been assessed. Green Belt edge HT7 in Hightown runs from number 5 Hartshead Court on Windy Bank Lane north-easterly to Walton Heights and then south to Hare Park Lane. The Green Belt Edge assessment concludes that development adjacent to this edge would have limited impact on openness, and that the existing undeveloped edge with urban greenspace (former school site) does not follow a feature on the ground, and therefore does not strongly prevent encroachment. Site H596, which is located adjacent to this edge, has been rejected as a housing option; however the Council is proposing to allocate the former school site (H198). It is considered that sufficient evidence has not been provided as to why it is deemed acceptable to partly amend this Green Belt edge, and that Windy Bank Lane and Hare Park Lane should form the new Green Belt edge. Indeed, the Green Belt review itself comments that it is Windy Bank Lane and Hare Park Lane which provide containment.

vii. How have sustainable development requirements and the need to promote sustainable patterns of development been taken into account in decisions on site options, in accordance with paragraphs 84 and 85 in the NPPF? Are there specific examples of sites which scored well in the technical appraisal and Green Belt Review but were rejected for reasons linked to the sustainability of a settlement?

- 2.19 It is considered that sustainable development requirements and the need to promote sustainable patterns of development has not been given sufficient weight in the decision making process on site options.
- 2.20 There are a number of examples of site options which scored well in the technical appraisal, and the Green Belt Review, and are also sustainably located, which have been rejected. A prime example of this is site H596, which is considered to be a highly sustainable site, as explained in further detail in our response to Question (d(viii)) below.

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

- 2.21 Not all sites which scored well within the Council’s site assessment have subsequently been put forward for allocation.

2.22 Site H596, which is within the control of KeyLand Developments, was given a ‘green’ score on Transport, Public Health, Flood/Drainage, Biodiversity and Other Constraints in the Rejected Site Options Report. The Council’s overarching reason for choosing not to allocate the Windy Bank Lane site appears to be due to its existing Green Belt designation, but as has been explained in our responses above, the Green Belt Review found that edge HT7 was capable of accommodating a settlement expansion, and the Council has still decided to modify this edge with the proposed allocation of site H198 which immediately adjoins this rejected option.

2.23 In our previous representations to the 2016 consultations, we demonstrated that those categories in which the site scored negatively in the Council’s assessment (Environmental Protection and Historic Environment) contained flawed conclusions which were not supported by robust evidence, and conflicted with the Council’s findings and decision to allocate adjacent site H198. A suite of supporting technical information has been submitted to the Council as part of our previous representations to justify the suitability and deliverability of site H596, which is considered to be necessary to help meet the objectively assessed housing need in Kirklees, within the plan period.

Question (e) - Is the Council’s approach to other proposed changes to the Green Belt boundaries, including those arising from the digitising exercise, small site assessment, consequential changes and proposed additions, justified and robustly based? Have exceptional circumstances been broadly demonstrated?

2.24 KeyLand has no comments to make on this specific question.

Question (f) - The Plan identifies a number of safeguarded sites on land not currently within the Green Belt. Is this approach justified and in line with national policy and guidance?

2.25 The approach of using safeguarded land policy to allocate sites on land **not currently within** the Green Belt is a misuse of safeguarded land policy. The purpose of identifying ‘safeguarded land’ when undertaking a Green Belt review, is to select land which **is currently within** the Green Belt, but could be developed in the long term, after the current plan period or following a Local Plan review, taking into account current and future land use proposals and allocations. This is made clear in paragraph 85 of the NPPF. Identifying safeguarded land prevents the repetitive review of Green Belt boundaries, which should be enduring (NPPF paragraph 83). The general approach of the Plan identifying safeguarded land is therefore supported and justified.

Question (g) - What evidence is there to demonstrate that safeguarded sites which have been assessed as unsuitable or undeliverable for housing development over the Plan period will be capable of delivery for this use in the longer term?

2.26 The Council’s evidence in the Green Belt Review demonstrates that there are suitable Green Belt release options which the Plan is not proposing to pursue, such as site H596. If identified safeguarded land sites are not suitable or deliverable, then other sites should be identified which can be demonstrated as deliverable and are in the control of a willing landowner and developer.