

Kirklees Local Plan Examination Hearing Statement

Our ref 50511/JG/CD
Date January 2018

Subject **Matter 26 Hearing Statement on behalf of KeyLand Developments Ltd – General approach in Part 2 of the Plan**

1.0 Introduction

- 1.1 This Hearing Statement has been prepared by Lichfields on behalf KeyLand Developments Ltd (“KeyLand”) and responds to the questions set by the Inspector in relation to Matter 26.
- 1.2 This Hearing Statement should be read in conjunction with our representations submitted during the Local Plan Consultation (2016) on behalf of KeyLand (Lichfields representor ID: 969464).

KeyLand Developments

- 1.3 Prior to responding to a number of the questions specifically posed by the Inspector, we consider that it is important to set further detail about KeyLand.
- 1.4 Keyland is part of the wider Kelda Group and a sister company of Yorkshire Water. In addition to regenerating former Yorkshire Water sites, KeyLand also works with other landowners to unlock the potential of sites to contribute towards the land supply and delivery much needed new housing.
- 1.5 This is the case in Kirklees. In addition to acting on a number of former Yorkshire Water site, KeyLand are promoting land presently identified as Green Belt at Windy Bank Lane, Hightown, within the Batley and Spen part of the District. Although not presently allocated this site (Ref. H596) could accommodate up to 180 dwellings.
- 1.6 Given the need for additional sites to be identified in the Plan to address the full objectively assessed need for housing and make up for the shortfall in delivery from the three largest allocations (H1747, H2089 and MX1905), as well as other sites which have been demonstrated to be undeliverable as proposed, KeyLand would welcome the opportunity to bring this site into the Plan, in order to help meet identified housing needs. Detailed assessments have supported our submissions to earlier drafts of the Local Plan and pre-application discussions with the Council are ongoing and this has demonstrated no technical constraints to the delivery of housing on this site.
- 1.7 It is in this context that our response to the Inspectors questions are made.

2.0 Issue – Does Part 2 of the Local Plan set out an effective framework for the delivery of allocations and the protection of designation sites, which is robust and in line with national policy?

Question (a) – Does the inclusion of site allocation wording in text boxes, rather than policies, have implications for the effectiveness and deliverability of Part 2 of the Local Plan?

2.1 No comment.

Question (b) – Are the infrastructure and open space requirements of each site clearly set out in Part 2 of the Plan? Is it clear what developers are expected to provide and when?

2.2 Policy PLP 63 states that the requirement for or contribution to new open space provision as part of a new housing development will be assessed having regard to the type of housing proposed, and the availability, quality and accessibility of open space provision in the area, including the provision of playing pitches.

2.3 As new developments and allocations will be built out at different points in time, it is not possible at this stage to say definitively what the access to and quality of open space will be like in a particular area, as these new developments may provide new or improved open spaces which affect this assessment of provision. It is therefore considered that the policy wording within PLP 63 is appropriate and there is no need for additional open space requirements to be included within part 2 of the Plan.

Question (c) - Are other site constraints and related mitigation measures clearly defined in Part 2 of the Plan? Is there sufficient detail to effectively guide development and make it clear what will be permitted? In relation to this:

i. should further information be provided on access points and local highway improvements?

2.4 As currently drafted, Part 2 of the Plan is vague and includes generic wording for each allocation to say whether access points require upgrading, for example, or if improvements to local highway links may be required. The Council has undertaken an assessment of each accepted and rejected allocation, and this should be sufficient to identify clearly what mitigation is required at each site based on that assessment.

2.5 It is considered that further site specific detail should be provided regarding the access points which the Council has assessed for the allocations, and, if improvements to the local highway network are required, these should be clearly set out. For example, where an issue is identified regarding an access point or visibility splay, it may be that an alternative option is available which the Council has not considered. Providing more specific detail on site constraints in the Plan would avoid a situation where developers are unjustifiably requested to provide some form of mitigation on the basis of a vague or generic site constraint wording.

ii. where non-developable areas and landscape/other buffer zones are cited, should further detail be provided to clarify their location and extent?

2.6 Further detail to clarify the location and extent of any non-developable areas and landscape/other buffer zones identified for the allocations would be beneficial for aiding developers and interested parties in understanding the true yield and likely layout of a site. Our

representations to Matter 4 on behalf of KeyLand highlighted concerns regarding the developable areas of allocations assumed by the Council, and this detail would help alleviate this.

- 2.7 It is noted that the masterplan for site H2089 (Dewsbury Riverside) within the Delivery Framework document (Page 53, SS14) shows residential and school development parcels within areas where the same document identifies high voltage power lines, a HSE Blast Zone, landscape buffers and areas of land where the gradient is greater than 1 in 7. These constraints will restrict residential development in these areas of the site, and as a consequence the site capacity will likely need to be reduced.

iii. where sewers or power lines cross a site, should potential mitigation be specified?

- 2.8 When sewers or power lines cannot be moved to accommodate development, either due to viability or technical reasons, we consider that it is important that potential mitigation measures are specified. In many cases, where sewers or power lines cross a site the net developable area and site yield should be adjusted accordingly to account for this. As raised in our submissions to Matter 4 of this examination and referred to above, many of the proposed allocations do not appear to have fully taken account of the impact of these constraints on site yields, and consequently the Plan may not ultimately deliver the amount of homes it specifies.

- 2.9 Site H87, for example, is noted in the site specific considerations as needing a 'buffer zone around overhead power lines within any site layout', however no deduction has been made to the net site area to account for this (0.87ha gross, 0.87ha net, 35dph density).

iv. should Part 2 of the Plan specify the protection and enhancement of Public Rights of Way (PROWs) on allocation sites, and the provision of links to adjoining PROWs and the Core Walking, Cycling and Riding Network where appropriate?

- 2.10 No comment.

v. should Part 2 of the Plan specify mitigation measures relating to the historic environment, where relevant?

- 2.11 No comment.

vi. should Part 2 of the Plan specify the protection of key habitats/mature trees/hedgerows/boundary walls/other landscape features which are notable on a particular site?

- 2.12 No comment.

vii. should constraints on/near allocations, including heritage assets, environmental designations, noise sources & hazardous installations, be specifically named?

- 2.13 Similar to our comments in response to questions C (i) and (ii) above, it is considered that constraints such as heritage/archaeological assets, noise sources and hazardous installations should be specifically named within Part 2 of the Plan.

- 2.14 Specifically naming these constraints will assist developers when they are preparing development proposals for the sites. It will also remove ambiguity where it is not clear where the constraint is located, or which constraint the Plan is referring to. For example, sites H102 and

H660 are identified as having a noise source close to the sites, however it is not easily recognisable what this noise source is, and if it will have any impact on the layouts of the sites.

Question (d) – Should Part 2 of the Plan specify when Masterplans are required in association with an allocation site? Which sites would this apply to?

2.15 No comment.

Question (e) - Should the Plan specify where planning permission has already been granted, for reasons of effectiveness?

2.16 No comment.

Question (f) – What are the implications of a site being located within a High Risk Coal Referral Area?

2.17 No comment.

Question (g) – What approach has the Council taken to sites that fall within HSE zones, in the vicinity of hazardous installations? Is this approach justified and effective?

2.18 The Council has, in some instances, noted where sites are affected by high pressure gas pipelines but no deduction to the net developable area has been made. Site H2089 is an example of this, where the Delivery Framework document (SS14) shows a ‘HSE Blast Zone’ bisecting the entire site, seemingly through areas identified for residential and educational use. The net developable area and the site yield should reflect such a constraint.

Question (h) - What scale/form of ‘enhanced affordable housing and green infrastructure’ is proposed in association with Council-owned allocations?

2.19 No comment.

Question (i) – Where proposals state that a site ‘would benefit from a drainage masterplan’, is this a requirement or an option? (for example, sites H755 on page 29, H173 on page 85 and H612 on page 99)

2.20 No comment.

Question (j) - Are the allocations consistent with paragraph 100 in the National Planning Policy Framework (NPPF) which states that Local Plans should apply a sequential, risk based approach to the location of development to avoid where possible flood risk and manage any residual risk, taking account of the impacts of climate change?

2.21 The Flood Risk Technical Paper (BP24) states that, for housing allocations, all areas of sites which fall within Flood Zone 3 have been removed from the total net developable area. For areas of proposed allocations which fall within Flood Zone 2 it states:

‘...there are considered to be no reasonably available alternatives in lower flood risk areas (Flood Zone 1). This is because land in the urban area is either proposed to be allocated, already has planning permission, supports established and stable uses or has been assessed as part of this plan making process and rejected for housing (see the local plan site allocations methodology).’

- 2.22 This technical paper, or the Site Allocations Methodology Paper (BP23) do not provide any information of the weighting that was applied to flood risk in comparison to other constraints which may have led to a site allocation option being dismissed.
- 2.23 Paragraph 101 of the NPPF states that '*development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding*'. In the case of the Kirklees Local Plan, there are a number of sites which are proposed to be allocated where houses will be at risk of flooding (Flood Zone 2), and where other suitable and deliverable sites in Flood Zone 1 and within the same housing market area have been dismissed. For example, site H40 in Mirfield is allocated for housing despite 0.6ha of the site being in Flood Zone 2. Also, in Cleckheaton, site MX3349 (discussed further below) has been selected for allocation despite a number of Flood Zone 1 options in the Batley and Spen sub-area being dismissed. This includes the Keyland site at Windy Bank Lane, Hightown (Ref. H596)
- 2.24 On the basis of the above, it is considered that the Plan is not consistent with paragraphs 100 and 101 of the NPPF.

Question (k) – Has flood risk been factored into indicative site capacity estimates? [for example, sites E1879 (page 9), H1647 (page 34), H202 (page 47), H307 (page 59), H85 (page 64)]

- 2.25 Although there are some instances where site capacity estimates have been adjusted as a result of flood risk, there are many sites where no adjustment has been made, and an inconsistent approach appears to have been taken.
- 2.26 For example, site MX3349 (Land adjacent to Westgate, Cleckheaton (Batley & Spen)) is noted as falling partly within Flood Zone 3, as well as having a number of other technical constraints, including a noise source and listed building in the vicinity of the site. The gross area of the site is 6.93 hectares, but the net site area has been reduced to 6.08 hectares to take account of habitat areas. No reduction has been made to remove the areas in Flood Zone 3 (despite being noted in the Plan), or Flood Zone 2 which more extensively covers the southern part of the site.
- 2.27 MX3349 is allocated as a mixed use site; however the allocation description only shows the site as having a single residential use with a capacity of 223 dwellings. This equates to a density of 37 dwellings per hectare across the net developable area, and, presumably, based on the wording of the allocation, includes land within Flood Zone 3, which has not been factored into the assessment of capacity.
- 2.28 The Flood Risk Technical Paper (BP24) makes it clear that only Flood Zone 3 has been selected as a constraint to development which has led to site capacity estimates being reduced. However, this approach has been inconsistently applied. Notwithstanding the concerns highlighted above regarding Flood Zone 2 areas in response to Question (j), it is requested that all sites with areas of land within Flood Zone 3 are either rejected in favour of sequentially preferable sites, or have their net developable areas and yields sensibly and proportionately reduced. Therefore in following the sequential approach required by Paragraph 100 of the NPPF, land should not be allocated in these higher flood risk areas where alternative and suitable sites exist in Flood Zone 1. The Keyland site at Windy Bank Lane, Hightown is an example of such a site.

Question (l) – Part 2 of the Plan specifies that employment sites are allocated for ‘employment uses’. Does this cover Use Classes B1 to B8, or are other uses accepted? Is the Council’s approach justified and clearly articulated?

2.29 No comment.

Question (m) – On employment and mixed-use sites, how have the indicative capacity floorspace figures been derived? Has a particular proportion of different B use classes been assumed?

2.30 The Local Plan Methodology Statement Part 2 (BP23) shows that the Council has assumed that mixed use sites will be developed with a 50/50 split of employment and residential uses, following a density of 35dph for residential use and a ‘standard ratio of area/employment type’ for employment use. It is considered that this is too simplistic an approach, and the mixed use site at Lindley (MX1911) demonstrates that this approach will lead to a shortfall in housing land provision.

2.31 At Site MX1911, the Plan identifies a capacity of 533 dwellings and 53,125 square metres of employment space. So far, the Council has granted permission for 361 dwellings and 29,501 square metres of employment space. Only one parcel of suitable and deliverable development land remains within the draft allocation which is in the control of Taylor Wimpey and is capable of providing approximately 90 dwellings. If this were to be implemented, there would be an overall shortfall of 80 dwellings and 23,624 square metres of employment space from this one allocation alone. Additional sites need to be identified to make up this shortfall.

Question (n) - Are the proposed site allocation modifications relating to effects on the wider highway network necessary for reasons of soundness? (ADMM4, 5, 7, 11-20, 24, 26, 27, 29, 32, 33, 37-40, 48, 50, 53, 58, 61)

2.32 No comment.

Question (o) - Are the proposed site allocation modifications relating to the effect on the South Pennine Moors SPA necessary for reasons of soundness? (ADMM8-10, 36, 41-46)

2.33 No comment.

Question (p) - Should the estimated housing capacity for each safeguarded land allocation be identified in Part 2 of the Plan?

2.34 No comment.

Question (q) - Are there any implications for the site selection process, arising from the Council’s re-assessment of RAG Green Belt edge ratings relating to Test 2d, as set out in Examination document ID17?

2.35 Whilst we do not have any comments to make on the specific re-assessment of Green Belt edges made in ID17, we maintain our view that the review of Green Belt edges and subsequent proposed allocation of land, or rejection of site development options, is inconsistent. There are a number of instances where the Green Belt Review has found that edges are capable of accommodating adjacent development with little degree of conflict with Green Belt purposes (such as edge HT7 in Hightown), but the adjacent development option has been dismissed (in

this instance site H597 – Windy Bank Lane) with no apparent justification for the differing conclusions reached.

Question (r) - Are the environmental and historic designations listed in Chapters 8 and 9 of Part 2 of the Plan up to date and accurate? Are any modifications necessary?

2.36

No comment.