

Kirklees Local Plan Examination Hearing Statement

Our ref 50579/JG/AJk
Date January 2018

Subject **Matter 26 Hearing Statement on behalf of Persimmon Homes West Yorkshire – General approach in Part 2 of the Plan**

1.0 Introduction

1.1 This Hearing Statement has been prepared by Lichfields on behalf of Persimmon Homes West Yorkshire (“Persimmon”) 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 Persimmon (Lichfields representor ID: 969464, Persimmon representor ID: 975291).

Persimmon in Kirklees

1.3 Persimmon has control of the following proposed allocations and is committed to delivering residential development at these sites at the earliest opportunity in accordance with the emerging Plan:

- Housing allocations H102 and H660 at Netherton;
- Housing allocation H502 at Skelmanthorpe; and,
- Part of mixed-use allocation MX1911 in Lindley

1.4 Persimmon also has control of Urban Green Space designation UGS2151 at Rumble Road in Dewsbury (also referred to as rejected housing allocation H357) where planning permission has recently been granted for 149 dwellings, as well as the following rejected housing allocations:

- H575 in Kirkburton;
- H231 in Gomersal; and,
- H476 in Mirfield

1.5 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 strategic allocations (H1747, H2089 and MX1905), as well as other sites which have been demonstrated to be undeliverable as proposed, Persimmon would welcome the opportunity to bring the above rejected sites into the Plan in order to help meet identified housing needs. A suite of technical information is available for each of Persimmon’s sites which show that they are suitable and deliverable for residential development.

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.

2.4 With regards to infrastructure provision, a large number of site allocations have the following wording listed under ‘Other site specific considerations’, including sites H102, H660, and H502:

‘Development may need to contribute to improvements to the strategic road network if committed schemes will not provide sufficient capacity.’

2.5 A more detailed site specific requirement regarding strategic road network improvements is also included on allocation MX1911.

2.6 It is understood that the above wording was taken from an initial consultation response from Highways England to the Regulation 19 Local Plan consultation dated 17th December 2016. A follow up letter from Highways England to Kirklees Council dated 12th April 2017 (see **Annex 1**) sought to retract this general comment regarding strategic road network improvements, and states that ‘other site specific considerations’ that relate to the strategic road network should only be applied to the following allocations:

- H69
- H559
- H1747
- H2089
- E1831
- E1832c
- MX1905
- MX1930

- 2.7 In order to make the plan sound, it is requested that reference to the need for contributions towards improvements to the strategic road network is removed from site allocations H102, H660, H502 and MX1911, as there is no apparent justification for requesting this on the basis of the letter from Highways England. Indeed, a request was made for financial contributions to fund two separate junction improvements at Ainley Top/Cavalry Arms and Crosland Road/Lindley Moor Road during the consideration of planning application ref: 2016/92055 at site MX1911. This request was subsequently found to be unjustified and was withdrawn prior to determination of the application. More detail on this matter is provided in the separate Hearing Statement prepared by Persimmon on site MX1911 (ref: 180117/MB/PT/32).
- 2.8 Policy PLP 4 enables the Council to seek contributions towards additional mitigation measures from applications on allocations, including towards improvements to the strategic road network where necessary.
- 2.9 On a related point, it is also noted that a number of site allocation boxes in Part 2 of the Plan refer to third party access land being required to access sites such as H102 and H660 in Netherton, and H502 in Skelmanthorpe. This is not the case at either of these sites as Persimmon's ownership extends up to the adopted highway. Highways England / local authority ownership does not prevent access when the roads are adopted, as is the case at these sites.

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?

- 2.10 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.
- 2.11 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?*
- 2.12 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 Persimmon highlighted concerns regarding the developable areas of allocations assumed by the Council, and this detail would help alleviate this.
- 2.13 It is noted that the masterplan for site H2089 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, consequently, a number of sites may not physically be able to deliver their full capacities, leading to an overall shortfall of housing.

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

2.14 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.

2.15 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?

2.16 No comment.

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

2.17 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?

2.18 No comment.

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

2.19 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.

2.20 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?

2.21 No comment.

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

2.22 No comment.

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

2.23 Much of the land within the Kirklees administrative boundary, especially to the east of Huddersfield, is defined as falling within the Coal Authority Development High Risk Area. This means that coal mining risks are present at a shallow depth and could affect new developments.

2.24 Applications in these areas need to be accompanied by a Coal Mining Risk Assessment which sets out the proposed mitigation strategy to show that the site can be made safe and stable for the development that is proposed.

2.25 If a site is located within the Coal Authority Development High Risk Area, it is not precluded from development; however, the Council may need to bear in mind any impacts this may have on the viability of proposed schemes if extensive mitigation is required.

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?

2.26 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?

2.27 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)

2.28 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?

2.29 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).’

- 2.30 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.
- 2.31 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, but site H476 in Mirfield, which is entirely Flood Zone 1, has been dismissed. 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, including site H231 in Gomersal.
- 2.32 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)]

- 2.33 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.
- 2.34 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.
- 2.35 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.
- 2.36 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.

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?

2.37 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?

2.38 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.

2.39 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 82 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.

2.40 The separate Hearing Statement on Matter 32, Site MX1911 prepared by Persimmon Homes, (ref: 180117/MB/PT/32) provides additional detail on Site MX1911.

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)

2.41 It is understood that these site allocation modifications have been made following the receipt of the letter from Highways England included at Annex 1 of this Statement and referred to in our response to Question (b) above.

2.42 These modifications are necessary and sound, however similar modifications should also be made to a number of other sites, so that only those sites referred to in the letter from Highways England have strategic highways implications noted within the site allocation wording. Reference to improvements the strategic highway network should therefore be removed from allocations MX1911, H502, H102 and H660.

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)

2.43 No comment.

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

2.44 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?

- 2.45 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 KH4 in Kirkburton), but the adjacent development option has been dismissed (in this instance site H575 - Kirkburton) 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?

- 2.46 No comment.

**Annex 1: Letter from Highways England to Kirklees Council, 12th
April 2017**