

KIRKLEES LOCAL PLAN EXAMINATION

STAGE 4 HEARINGS

Matter 30 – Huddersfield Housing Allocations: Green Belt Releases

Issue – Are the proposed Green Belt release housing allocations in the Huddersfield Sub-Area justified, effective, developable/deliverable and in line with national policy?

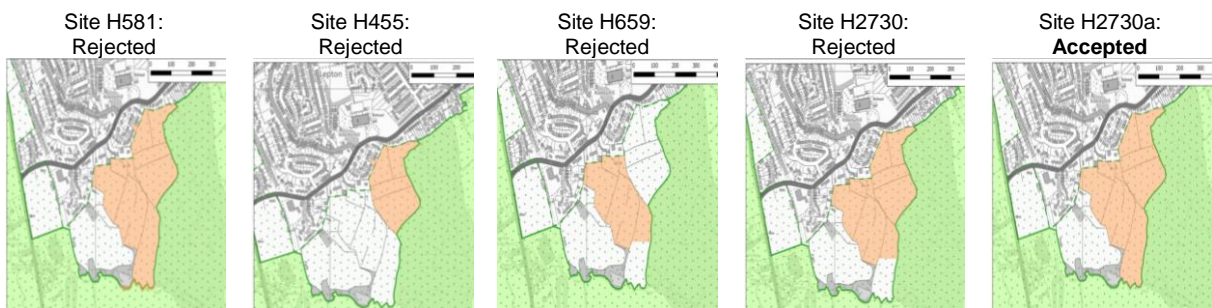
H31: land north-west of Woodsome Drive, Fenay Bridge (68 dwellings)

H2684a: land adjacent Penistone Road/Woodsome Park, Lepton (286 dwellings)

H2730a: land to the south-east of Hermitage Park, Lepton (312 dwellings)

a) How do Sites H2730a and H2684a relate to each other? Should they be combined in a single text box/policy and a joint Masterplan required?

1. Sites H2730a and H2684a were introduced in the PDLP.
2. Their origins, however, go back to the original Draft Plan and earlier, as can be seen in the maps below (larger images can be found in Appendices One and Two):



Lepton Great Wood and LWS24 +LGS3 border these sites.

The Council originally considered H581 only to reject it and replace it in the Draft Plan with H455 and H659, which were rejected after the initial consultation exercise.

The Council then considered H2730, only to reject it and replace it with H2730a shortly prior to the issue of the PDLP.



Sites H32 and H334 were published in the Draft Plan but then rejected by the Council following the consultation exercise.

The two Sites were then combined into H2684 which was considered and rejected by the Council and replaced by H2684a, again, shortly before issue of the PDLP.

3. Importantly, the only consultation opportunity which GAIL and the Lepton/Fenay Bridge community have had, was at the Draft Plan stage.
4. Basically, with some minor (but critical) changes along the way, the Council has already rejected seven site proposals such that GAIL finds the decision to include H2730a and H2684a in the Local Plan flawed, hardly credible and impossible to justify.
5. An on-site inspection will show that the two Sites are connected such that the Inspector may decide that a joint Masterplan is required if the Sites are not removed from the Local Plan.
6. This is particularly relevant given the issue of access to/from H2730a; the Council having already expressed significant doubts as to the volume of traffic movements likely to result from a development of 312 dwellings being served by Hermitage Park (a cul-de-sac of just twenty properties), i.e. point 1 (primary site entrance) on the Lepton Amended Indicative Masterplan (Rowley Lane), December 2016 shown in SS9.
7. Indeed, the Housing Allocation for H2730a states that 'primary access to this site will be via adjacent site allocation H2684a to the south with a secondary access via Hermitage Park'.
8. However, the Council's map of H2730a (see Appendix One) does not show any access into Hermitage Park (contrast with H455 and H581).
9. (The Council gave a Red rating in its Transport assessment of the previously rejected Sites H581, H455, H659, H2730 and H334).
10. Also, the developer's Masterplan only refers to point 2 as a 'potential future link' to adjacent land (i.e. H2684a), suggesting that there is no agreement in place between the two landowners and that, therefore, there must be doubts as to site deliverability and brings into question the suitability of H2730a for inclusion in the Local Plan.
11. Staying with traffic flows, whilst it may be suggested that traffic from H2730a would use H2684a to access Penistone Road and thereby reduce pressure on Hermitage Park, consideration also needs to be given to the fact that, unless access to Hermitage Park is completely and permanently blocked, traffic from the proposed 286 dwellings in H2684a (i.e. 598 properties in total across the two Sites) would also be able to use H2730a and, by extension, Hermitage Park to achieve access to Rowley Lane and Wakefield Road.
12. GAIL has previously expressed significant concerns in both its Draft Plan submission and its PDLP representation as to the critical need to consider the potential **cumulative** impact of the two Sites on infrastructure (i.e. transport, education, the provision of health care and flood risk/drainage), the Green Belt, open spaces/character of land, biodiversity and the historic environment.
13. This is essential given that the Council's Sustainability Appraisals have been prepared on an individual site basis and, as such, fail to provide the 'bigger picture' of the full implications of the Local Plan for the Lepton/Fenay Bridge community.
14. As an aside, less than a mile from the two Sites lies H1679 where the Council is proposing 274 dwellings. This development coupled with H2684a, H2730a and the other

proposed developments for Lepton/Fenay Bridge would result in 1,000+ dwellings there is no evidence in the Local Plan of the Council having examined the cumulative impact on the local community of development on this scale.

15. At this stage, it may also be appropriate to point out that whilst the Council refers to H2684a and H2730a as being located in Lepton, the greater extent of the fields lie in Fenay Bridge: both Woodsome Park and Hermitage Park are in Fenay Bridge and the two PROWs through the fields start in Fenay Bridge.
16. This is relevant in so much as the Council's document EX38 only refers to Lepton. There is no reference to Fenay Bridge and it typifies Lepton as being part of the same built up area as Huddersfield.
17. In fact, Lepton and Fenay Bridge only became part of Almondbury Ward (and hence part of the Huddersfield Sub-Area) in 2003 as part of boundary changes and the need to 'even out' Ward population numbers for election purposes. Prior to that, they were both part of Kirkburton Ward which comes under Kirklees Rural and which is seen as having a significantly different physical landscape profile.

b) How does the proposed new roundabout at Penistone Road/Woodsome Road fit with the Indicative Masterplan for Rowley Lane (December 2016)? What are the implications for site phasing?

18. Department for Transport 2016 traffic count data shows Penistone Road to have an AADF of 21,000+ vehicles (count point id. 77648) despite the fact that GAIL understands it to be categorised as road type UAP3 for capacity calculation purposes.
19. This has significant implications for the increased volume of traffic likely to result from the proposed development of H2730a and H2684a given, as stated above, that the Council sees H2684a and the proposed roundabout as also being the primary means of access onto Penistone Road for H2730a.
20. Using data from the 2011 Census Key Statistics on Kirklees Car Availability, the 598 new dwellings from the two developments are likely to result in an additional +/-780 vehicles.
21. However, this underestimates the total number of extra vehicles likely to use Penistone Road/the roundabout as the Council also needs to factor in the cumulative effect of a potential increase in traffic of +/- 2,700 extra vehicles which are likely to result from the proposed housing developments in nearby villages (ie. Clayton West, Scissett, Denby Dale, Skelmanthorpe, Shepley, Kirkburton, Storthes Hall, Stocksmoor, Farnley Tyas and Thurstonland) which are also served by Penistone Road.
22. Staying with the roundabout, any decision on it would still require the Council to make a decision on the Indicative Masterplan for Rowley Lane which is based on Hermitage Park being the primary site entrance.
23. Similarly, if the decision is taken to remove H2684a from the Local Plan but retain H2730a, would the roundabout still go ahead and, if yes, to what timescale (given that the Council is proposing 2024/25 as the start of development for H2730a)?

c) Is there sufficient provision to ensure that development on sites H2730a and H2684a does not cause unacceptable impacts on biodiversity and local habitats?

24. Section 11 (Conserving and enhancing the natural environment) of the NPPF emphasises the importance of minimising impacts on biodiversity and this appears to be supported by the Council in PLP 30.
25. However, a review of the Sustainability Appraisals for Sites 2684a and H2730a, and the Preliminary Ecological Appraisals for the two Sites (see Site Specific Information SS9) is hugely concerning.
26. The Sites cover 50+ acres and are adjacent to Lepton Great Wood (itself an Ancient Woodland, a Local Wildlife Site and a Local Geological Site).
27. The Council's own Sustainability Appraisals highlight a potential **significant negative impact** on both Sites in respect of SA Objective 14: Maximise opportunities to protect and enhance biodiversity and geodiversity.
28. The Preliminary Ecological Appraisal (PEA) for H2684a confirms that the Site contains habitats of high ecological value for a number of protected species and, critically, lies within the Kirklees Wildlife Habitat Network (including the disused railway line which separates the eastern and western fields of the Site and which has been identified by the Council as being fundamental to both H2684a and H2730a).
29. The PEA details the vast array of legally protected species of fauna (including but not limited to badgers, bats, otters, great crested newts, water voles, white clawed crayfish, barn owls and nesting birds) and c. fifty different floral species which may be found on H2684a and which makes it ecologically highly significant. Drawing on assessments from the West Yorkshire Ecology Service, the PEA concludes that the eastern field is ' particularly important, containing a mixture of habitats that are significant on a local and national level'.
30. Additionally, the PEA states that H2684a is within influencing distance of Lepton Great Wood (the Wood being less than 100 metres from the proposed development).
31. Similarly, the PEA for H2730a comments on its proximity to Lepton Great Wood and the variety of flora and fauna to be found on the Site.
32. It should also be noted that each of the PEAs states that the site field surveys were conducted during the sub-optimal time for botanical surveys, meaning that the reports did not represent a comprehensive indication of the sites' biodiversity and that further surveys are needed.
33. However, both of the PEAs are also noteworthy for what is **not** included; a study of the two appraisals shows that a significant amount of data (including information on legally protected species) has been redacted on the grounds that publication of sensitive information 'could be used to locate species that are subject to high levels of persecution'.

34. Whilst GAIL understands the sensitive nature of certain information, the Council's decision to withhold significant parts of the PEAs effectively prevents a full and detailed assessment of the implications of the proposed housing developments on local biodiversity and local habitats.
35. The decision to withhold information from both the Inspector and the public domain and, instead, restrict access to just the Council and the landowners/developers suggests that the examination of proposals which would result in the building of c.600 properties must be flawed how can an informed decision be made to ensure that unacceptable impacts on biodiversity and local habitats do not occur if information is not made available to the public?
36. GAIL contends that such an approach is unreasonable, lacks transparency and must be viewed as unsound.
37. PLP 30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees including the Kirklees Wildlife Habitat Network. The PEA for H2684a, however, effectively shows that the proposed development will result in irreparable harm.
38. Whilst the PEA confirms that the disused railway line lies within the Kirklees Wildlife Habitat Network, the introduction of H2684a in the PDLP and the link between the eastern and western fields is totally dependent on building a road through the embankment of the disused line to allow for traffic movement from both H2684a and H2730a to Penistone Road.
39. In the original Draft Local Plan, the embankment was protected by UGS930 right up to the old viaduct. This would have maintained the integrity of the wildlife habitat network.
40. In the PDLP, however, UGS930 has been shortened to allow for an access road between the two fields, thereby effectively destroying continuity of the network.
41. Finally, given that the PEA for H2684a confirms that the Site is within influencing distance of Lepton Great Wood, GAIL is concerned that, at the recent Stage 3 Hearing on Matter 21 (Natural and Historic Environment Policies), the Council was unable to demonstrate how it approached the commitment in PLP 30 that 'proposals having a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland will not be permitted unless the development can be shown to be of an overriding public interest'.
42. At the Hearing, the Council was unable to confirm the 'overriding public interest' criteria which would justify irretrievably damaging the natural resources of sensitive sites for both the present and future generations.
43. Instead, the Council stated that it would consider housing developments on a case by case basis.
44. Clearly, such an approach is flawed: the lack of a reasoned and objective framework is only likely to lead to inconsistencies in judgements/decisions.

45. Specifically, the Council has failed to show any evidence that there is an overwhelming public interest in developing H2684a and H2730a, nor has it shown that it has considered alternative means of delivering sites for development which would avoid harming Lepton Great Wood.
46. Indeed, if the Council had accepted GAIL's invitation to attend a public meeting of the local community, it would have seen that the overwhelming view of the people attending was against the developments.
47. With this in mind, GAIL carried out a recent survey of the Lepton/Fenay Bridge community and asked the question 'Do you agree with the Council allowing residential developments to take place on these sites, i.e. H2730a and H2684a'.
48. 347 people were asked and 289 replies received (i.e. a response rate of 83%, compared to a typical average response rate of 10 - 15% for external surveys). Of those returned, an overwhelming 98% were opposed to development of the sites.

d) Has the impact of the proposal on heritage assets been adequately assessed and addressed? Should protection and mitigation measures linked to Heritage Impact Assessment (LE98) be specified in the Plan?

49. Paragraph 126 of the NPPF requires the Council to set out a positive strategy for the conservation and enjoyment of the historic environment. GAIL contends, however, that the Council's actions are detrimental to the protection of heritage assets, specifically in relation to Castle Hill and, secondly, the Heritage Impact Assessment on H2730a.

Castle Hill

50. As discussed in question a (above), Sites H2684a and H2730a were introduced as amended Sites in the PDLP without consultation.
51. GAIL has shown, however, that the two Sites can be linked back to the original Draft Plan: H2684a comprising the original H334 and H32 (which were subsequently rejected), whilst H2730a comprises the original H455 and H659 (also subsequently rejected).
52. The housing allocation for each of the four original Draft Plan Sites included the constraint **'the site forms part of the setting of open countryside which contributes to the setting of the Scheduled Monument at Castle Hill'**.
53. The same constraint is also noted in the original Draft Plan housing allocation for H31 (which still figures in the PDLP).
54. This constraint needs to be considered in relation to clause 4.42 of the Draft Plan Site Allocation Methodology (November 2015) which states that **'Castle Hill is a nationally significant Scheduled Ancient Monument and is a prominent feature within the landscape. Any negative impact upon its setting is considered to be an absolute constraint to development'**.

55. GAIL suggests that this methodology is clear, concise and unequivocal such that the proposed building of 571 properties (i.e. the four rejected Sites plus H31) would have had a significant negative impact on the setting of Castle Hill.
56. With the four original Sites having been rejected, GAIL finds it incredulous that H2684a and H2730a were introduced in the PDLP and, importantly, without the setting constraint which was noted in the Draft Plan.
57. The question has to be asked 'why was the constraint omitted from the PDLP when the amended Sites comprise the original rejected Sites'?
58. The issue becomes further complicated by looking at the PDLP Site Allocation Methodology of April 2017 with clause 4.46 showing the following amended wording: *'Castle Hill is a nationally significant Scheduled Ancient Monument and is a prominent feature within the landscape. The impact of development on its setting has been considered and further detail can be found in the Castle Hill Setting Study. Where a site **may** have a negative impact on its setting, this **may** be a constraint to development or appropriate mitigation identified by way of a Heritage Impact Assessment'*.
59. This must lead to a second question: 'if time and effort was spent getting the methodology 'right' at the outset of the work on the original Draft Plan (as must surely have been the case), what credible, objective and sound reasons exist to justify the introduction of revised methodology in the PDLP'?
60. The PDLP Sites of H2684a, H2730a and H31 now represent 666 proposed dwellings, i.e. a 16%+ increase on the original Draft Plan proposals which GAIL contends lacks credibility, has not been positively prepared and is unjustified.
61. No doubt, the Council will respond that the amended methodology etc. is supported by the findings of the August 2016 Castle Hill Setting Study carried out by the Atkins Group.
62. However, the Atkins Study itself states that:
- the significance of Castle Hill is derived from its setting,
 - the view east from Castle Hill (i.e. towards Lepton and Fenay Bridge) is distinctly rural in character and contributes to the openness of the hilltop ,, and the historical significance of the Site (i.e. Castle Hill),
 - views to and from the hilltop are the most important factor in the setting of the site, and are the most substantial factor in which Castle Hill's significance can be derived from its setting, and
 - it is clear that future development in the setting of Castle Hill has the potential to harm its setting and significance.
63. Given the changes to Site Allocation Methodology and the findings of the Atkins Study, GAIL believes that the Council has failed to safeguard and protect Castle Hill and failed to effectively meet the requirements of paragraphs 132 – 134 of the NPPF.

Heritage Impact Assessment on H2730a

64. The Assessment was commissioned by the Council and focuses on Crow Trees, a Grade II Listed Building, ie. a building of national importance and more than special interest.
65. The building's Associative and Illustrative Historical Values are considered to be high. Additionally, with structures on the site dating back to the 12th century, the Assessment comments that there is potential for the site to reveal more information about the structures.
66. Also, reference is made to historical value to the areas of the allocated site which are adjacent to the property, the value being primarily within the open nature of the land which would have formed a historic view of the property and the historic field boundaries.
67. It should be noted that the Assessment states that development of H2730a would have a significant impact on Crow Trees due to the presence of historic field boundaries and the open nature of the land (with the field boundaries between area 1 and area 2 having high significance given that they relate to the curtilage of the property).
68. Mindful of the above, Historic England submitted a representation on Matter 21 at the Stage 3 Hearing and came to the conclusion that merely retaining views of Crow Trees from the public footpath would not effectively mitigate harm to the building and that harm could only be effectively mitigated by deleting area 1 from the Site.
69. GAIL firmly believes that any protection/mitigation measures relating to LE98 should be incorporated into the Local Plan to ensure the effective monitoring of any development.

e) Are the sites available and deliverable in the timescales set out in the Council's housing trajectory?

70. Based on the Council's Housing Supply Topic Paper, July 2017 (EX30), there must be significant doubt as to its ability to deliver the housing phasing table detailed in Appendix 4 of the Paper, i.e.:
 - a) Site H2730a delivery between 2024/2025 and 2030/2031
 - b) Site H2684a delivery between 2020/2021 and 2025/2026
 - c) Site H31 delivery between 2020/2021 and 2022/2023
71. As stated above, whilst the developer of H2730a sees Hermitage Park as the primary site entrance (see SS9), the Council has expressed major reservations as to its suitability as the access/exit point to the extent that it has identified H2684a as the access point provided both sites are developed at the same time.
72. However, there is no evidence of there being any agreement between the landowners/developers to this effect.
73. Moreover, Farnley Estates (the owner of H2684a and H31) is currently up for sale. There is no indication as to when a sale might be concluded and, if and when the land is sold,

the Council can only speculate that a new owner would want to proceed with any housing development.

74. Additionally, whilst Farnley Estates owns the eastern and western fields which comprise H2684a, access between the two fields to allow access for H2684a (and, potentially) H2730a traffic onto Penistone Road is totally dependent on the third party landowner of the disused railway line embankment delivering the land.
75. At the time of writing, GAIL is not aware of any secure and legally binding undertaking which guarantees the land would be available; without this, the third party landowner is at liberty to 'walk away' from any understanding which may currently exist.
76. GAIL is also aware of two Definitive Map Modification Order applications which have/are being submitted in respect of H2730a and H2684a. The outcome of these applications may also affect the availability/deliverability of the two Sites.

f) What effect would the proposed boundary changes and allocations have on the Green Belt and the purposes of including land within it? In particular, how would the existing gap between Lepton and Highburton be affected? Are there exceptional circumstances that justify altering the Green Belt? If so, what are they?

77. H2730a, H2684a and H31 are crucial in ensuring the separation of communities and preventing urban sprawl.
78. To develop the three Sites would result in significant and extensive urban sprawl and the irreversible joining together of the communities of Waterloo with Fenay Bridge/Lepton through to Highburton and Kirkburton, contrary to the provisions of the NPPF.
79. The three Sites also represent 50+ acres of Green Belt which would be permanently lost if the proposed allocations go ahead.
80. Part of H2730a was the subject of a Public Enquiry in October 2001 when the then Inspector concluded that the Site '**.... has a close and positive relationship with Lepton Great Wood and provides part of the countryside context within which the Wood exists. I have come to the planning judgement that it is part of the countryside which is desirable to keep permanently open I am satisfied that there is no compelling reason to exclude the site from the Green Belt on the basis that it may be needed for development in the longer term**'.
81. Whilst the above comments are not legally binding, they are highly persuasive: H2730a, its setting and the character of the land are no different now to 2001 such that the Inspector's conclusions are still valid and, GAIL suggests, still as compelling.
82. As has been shown above and in the accompanying maps, the Council has previously rejected seven site proposals before arriving at H2730a and H2684a.
83. Critically, the Council has made the same comment for each of the seven sites: '**There are no exceptional circumstances to justify the removal of this site or any part of this site from the Green Belt**'.

84. Having subsequently confirmed that H2730a and H2684a each comprise all of the previously rejected sites, GAIL fails to understand that the Council now seeks to justify their allocation on the basis that 'exceptional circumstances exist to amend the green belt boundary as this site is required to meet the objectively assessed need for housing in the district'.
85. H2730a and H2684a represent the sum of the sites which were previously rigorously and objectively assessed prior to their rejection such that their inclusion in the Local Plan can only be viewed as being illogical and perverse.
86. As GAIL commented at the Stage 3 Matter 8 Hearing, to convert unexceptional circumstances into exceptional circumstances simply by labelling them as such lacks any sense of rigour.
87. Whilst advancing the view that exceptional circumstances now apply to justify altering the Green Belt, it is as well to note that the Council seems content to accept that development of H2730a and H2684a may result in **significant negative impacts** on a number of key Sustainability Appraisal Objectives, i.e.:

H2730a

- SA 8 Protect and enhance existing and support the provision of new recreation facilities and areas of open space and encourage their usage
- SA 11 Secure the efficient and prudent use of land
- SA 12 Protect and enhance the character of Kirklees and the quality of the landscape
- SA 14 Maximise opportunities to protect and enhance biodiversity and geodiversity

H2684a

- SA 5 Protect local amenity including avoiding noise and light pollution
- SA 11 Secure the efficient and prudent use of land
- SA 12 Protect and enhance the character of Kirklees and the quality of the landscape
- SA 14 Maximise opportunities to protect and enhance biodiversity and geodiversity
- SA 16 Prevent inappropriate new development in flood risk areas and ensure that development does not contribute to increased flood risk for existing property and people

H31

- SA 5 Protect local amenity including avoiding noise and light pollution

88. Kirklees states that H2730a and H2684a are required to meet Objectively Assessed Need (OAN). The 'Need', however, is no different now from when the seven rejected sites were previously considered.
89. Additionally, it is clear that the Council is not obliged to meet all of its OAN especially where the adverse impact of doing so would significantly outweigh the benefits, and that the Council must ensure that the OAN for housing must be consistent with the policies set out in the NPPF.

90. Planning Guidance issued in March 2014 also makes it clear that unmet housing need is unlikely to outweigh the harm to the Green Belt to constitute the very special circumstances to justify development of a site in the Green Belt.

91. Separately, it is relevant to note that the Council gave a Red rating on its Green Belt assessment of the previously rejected sites H334, H581, H455, H659 and H2730.

92. Finally, H2730a is phased for delivery between 2024 and 2031. Given that clause 47 of the NPPF states that local authorities are required to ensure five years housing supply, is there any justification for removing the Site's Green Belt status now when the Council's housing needs may well change in the intervening period?

Conclusion

93. There is a clear determination on the part of the Council to ensure that H2730a, H2684a and H31 are included in the Local Plan.

94. For the Council to achieve this objective and satisfy the NPPF Soundness test, its analysis and judgements need to be objective, consistent and capable of withstanding rigorous scrutiny.

95. In its previous Draft Plan submission, PDLP representation and this Statement, GAIL has looked to highlight:

- **the Council's failure to objectively assess the development/infrastructure needs and the potential impact of its proposals for the Lepton/Fenay Bridge community,**
- **its failure to provide sound and reasoned evidence to justify its proposals, and**
- **its failure to comply with the policies of the National Planning Policy Framework.**

96. As such, GAIL's recommendation is that H2730a, H2684a and H31 are removed from the Local Plan.

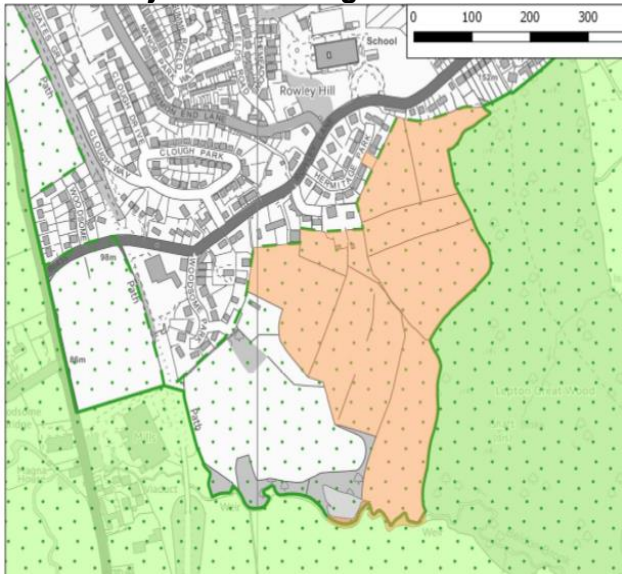
John Davies

Chair of GAIL (Green Alert In Lepton)

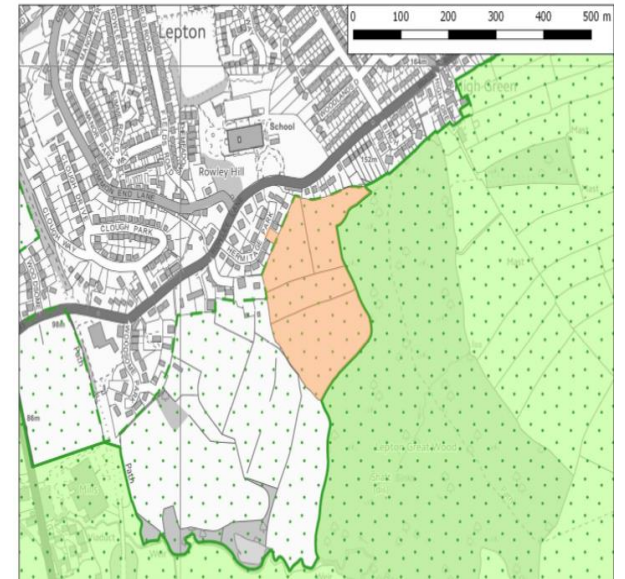
20th January 2018

APPENDIX ONE

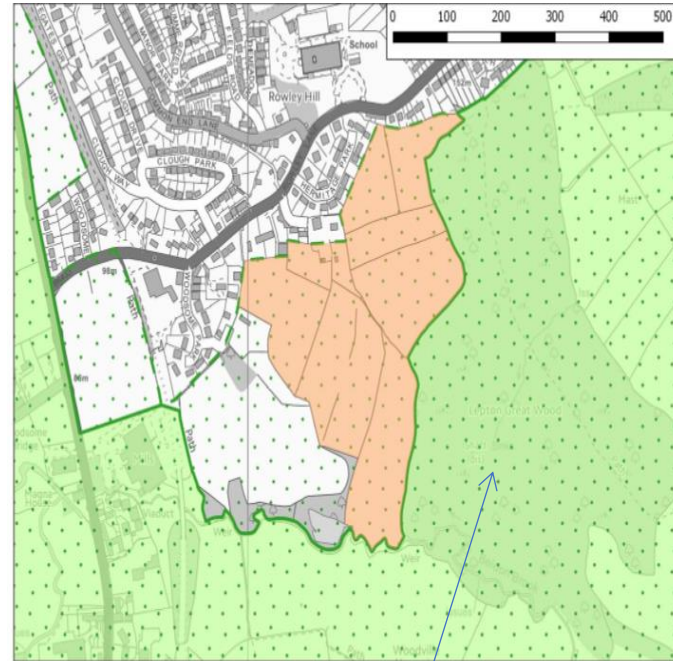
Rejected Housing Sites: H581



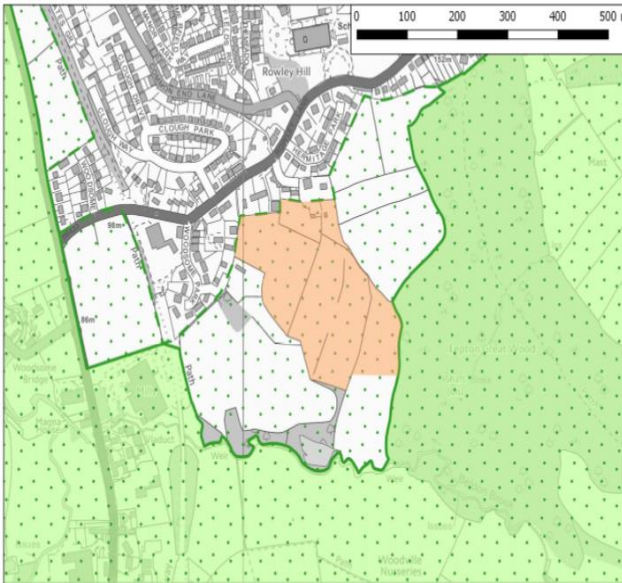
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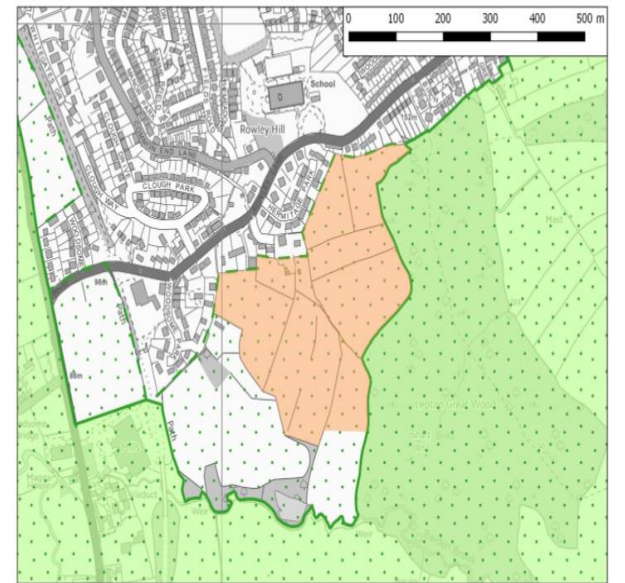
Accepted Housing Sites: H2730a



Rejected Housing Sites: H659



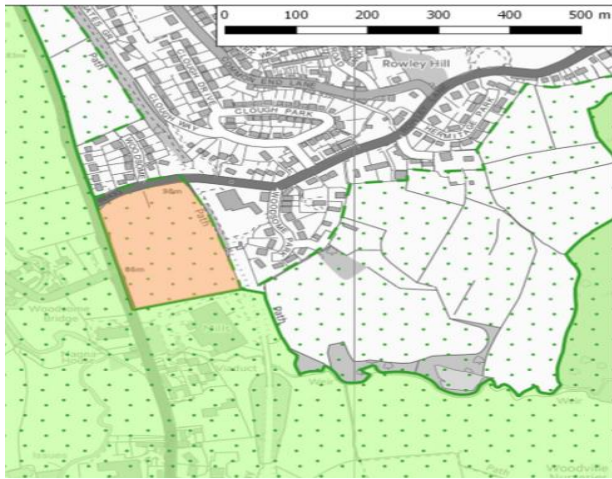
Rejected Housing Sites: H2730



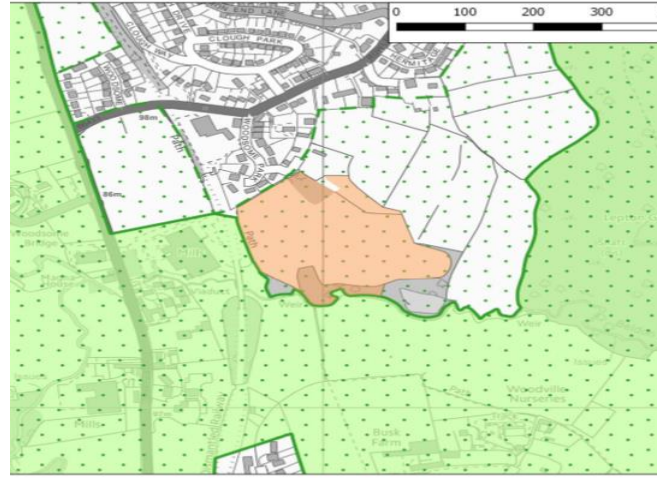
Lepton Great Wood
LWS24 + LGS3

APPENDIX TWO

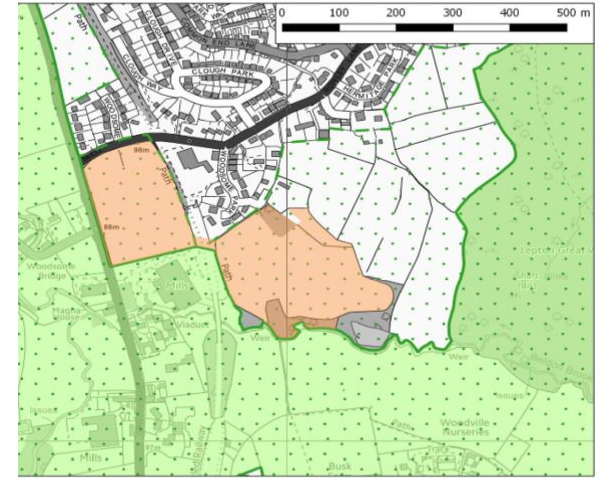
Rejected Housing Sites: H32



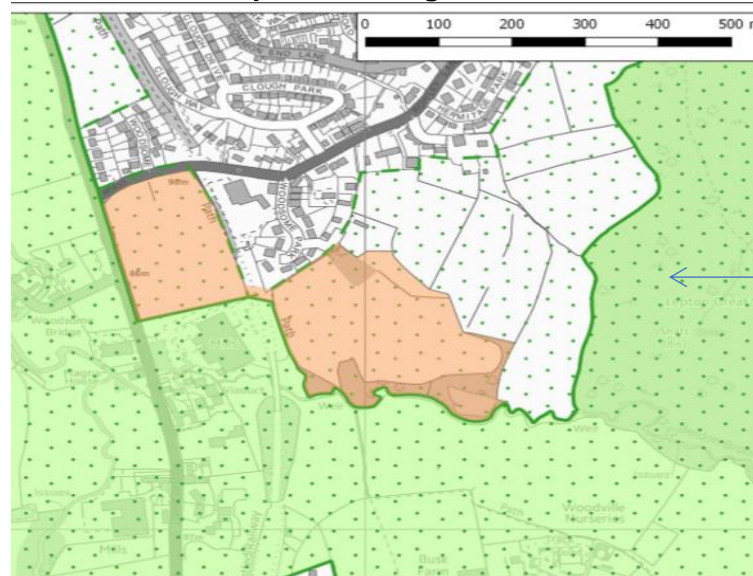
Rejected Housing Sites: H334



Rejected Housing Sites: H2684



Accepted Housing Sites: H2684a



Lepton Great Wood
LWS24 + LGS3