

MATTER 38 – BATLEY AND SPEN EMPLOYMENT, HOUSING AND MIXED USE
ALLOCATIONS: URBAN (NON-GREEN BELT) SITES

Site H761 – land adjacent to Raikes Lane, Birstall

Issue - Are the proposed employment, housing and mixed-use allocations in the urban areas of Batley and Spen justified, effective, developable/deliverable and in line with national policy?

1.1 Introduction

1.1 The allocation of Site H761 for residential development as currently proposed is not sound as it is neither justified nor is it consistent with either the emerging Policies in the Local Plan or with national policy guidance.

1.2 Paragraph 126 of the NPPF sets out a requirement for Local Plans to conserve heritage assets in a manner appropriate to their significance. When considering the impact of a proposed development upon the significance of a designated heritage asset, Paragraph 132 of the NPPF makes it clear that great weight should be given to the asset's conservation and explains that significance can be harmed by development within its setting. This site lies adjacent to Birstall Old Hall which is a Grade II* Listed Building. Part of the site also lies within the Birstall Conservation Area. The loss of this site and its subsequent development could harm elements which contribute to the significance of these assets.

1.3 A Heritage Impact Assessment has been produced to ascertain whether or not this site could be developed in a manner consistent with the conservation of this Listed Building and the Conservation Area. This has identified that parts of Site H761 contribute to the setting of these assets and concludes that their loss and subsequent development would be likely to cause harm to elements which contribute to their significance. However, the Heritage Impact Assessment has not set out clearly or explicitly what measures would be necessary to reduce the potential harm which the development of this site might cause to these

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Historic England
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designated heritage assets. Indeed, the measures it suggests to reduce the potential harm to the grade II* Listed Building do not seem likely to be effective.

1.4 As a result, the extent of the area that is proposed for developed coupled with the lack of any specific measures within the Plan to ensure that any development will take place in a manner consistent with the conservation of this Listed Building and this part of the Conservation Area could result in a form development which would harm elements which contribute to their significance.

1.5 Consequently, the allocation of Site H761 for residential development as proposed in the Submission Local Plan would be in conflict with the following aspects of the emerging Local Plan:-

- The Spatial Vision – in that it conflicts with the intention that development will take place in a sustainable way (balancing economic, social and environmental priorities), that the local character and distinctiveness of Kirklees and its places will be retained, or that the natural, built and historic environment will be maintained and enhanced through high quality, inclusive design
- Spatial Objective 8 - in that it will not protect or enhance the characteristics of the historic environment
- Policy PLP35 – in that it will not conserve elements which contribute to the significance of a designated heritage asset.

1.6 It would also be contrary to national policy guidance as set out in the NPPF insofar as it would not:-

- Help to deliver a “*positive strategy for the conservation and enjoyment of the historic environment*” as is required by NPPF Paragraph 126.
- Contribute to protecting or enhancing the historic environment. Therefore, it will not deliver sustainable development in terms of the conservation of the historic environment [NPPF Paragraph 7].
- Conserve heritage assets in a manner appropriate to their significance. Therefore it will runs contrary to one of the Government’s Core Planning Principles [NPPF Paragraph 17].
- Give great weight to the conservation of the area’s designated heritage assets [NPPF, Paragraph 132]

2 Response to the Inspector's questions

Question i) Has the impact of the proposal on heritage assets been adequately assessed and addressed? Should protection and mitigation measures linked to the Heritage Impact Assessment (LE85) be specified in the Plan?

- 2.1 The Heritage Impact Assessment has provided an excellent summary of the historic development of this area, it has identified the elements which contribute to the significance of Birstall Old Hall and the Conservation Area and has set out a good evaluation of the contribution which this site makes to their setting. The Heritage Impact Assessment considers that that Site H761 contributes to the agricultural history and setting of the Grade II* building and to views into and from the Conservation Area. It identifies the areas immediately to the east of the Grade II* Listed Building and at the north-western corner of Site H761 as being of moderate significance to these assets and concludes that their loss and subsequent development would be likely to harm elements which contribute to their significance. We would concur with that evaluation.
- 2.2 There is a Public Footpath which runs right behind Old Hall. The southernmost area identified in blue on Figure 9 of the Heritage Impact Assessment is important to the setting of this building and, as Paragraph 4.25 of that document points out, this part of the site could have had a functional relationship with this important building. Given the topography of this area, residential development on the land adjacent to Old Hall would also be particularly dominant and would be likely to harm its rural setting.
- 2.3 Given this assessment, it is unclear how the Heritage Impact Assessment envisages that this harm might be effectively removed or reduced or which areas might need to remain undeveloped in order to lessen the adverse effects which residential development might cause to the significance of the Listed Building or Conservation Area. The Heritage Impact Assessment recommends that it would be necessary to "*retain the open agricultural setting of these assets*". However, the proposal to do this through low density courtyards seems unlikely to retain the agricultural character of these parts of the site. Indeed, any development on the area of 'medium sensitivity' immediately to the east of Birstall Old Hall would fundamentally change the relationship of this part of the site with the Listed farm buildings and, therefore, harm its rural setting.

- 2.4 On the basis that the Heritage Impact Assessment has not set out clearly or explicitly what measures would be necessary to reduce the potential harm which the development of this site might cause to these designated heritage assets coupled with the lack of any specific measures within the Plan to ensure that any development will take place in a manner consistent with their conservation this allocation is, at present, Unsound.

3 Conclusions

- 3.1 The Heritage Impact Assessment has identified that parts of Site H761 contributes to the significance of Birstall Old Hall - a Grade II* Listed Building and to the Birstall Conservation Area. The loss of these areas, therefore, would be likely to result in harm to the significance of these assets. However, it is not clear from the Heritage Impact Assessment how that harm might be effectively mitigated and the form of development being proposed seems unlikely to be effective in lessening the adverse effects that this development might have. In terms of NPPF Paragraph 134, this is likely to constitute less than substantial harm to the significance of this designated heritage asset. Whilst the degree of harm may be less than substantial, nevertheless, it would still be causing harm to a designated heritage asset. As such, therefore, it would not be delivering sustainable development in terms of protecting and enhancing the historic environment, it would conflict with one of the Government's Core Planning Principles (that heritage assets should be conserved in a manner appropriate to their significance), nor would it be likely to provide the positive strategy for the conservation of the historic environment that is required for Local Plans.

4 Suggested Change

- 4.1 It is recommended that:-
- (a) Site H761 is reduced in size to exclude the area identified on Figure 9 of the Heritage Impact Assessment as being of 'moderate significance' to the east of Birstall Old Hall.
 - (b) The Heritage Impact Assessment is amended to set out, explicitly, what measures would be necessary to ensure that the development of the site occurs in a manner consistent with the

conservation of those elements which contribute to the significance of the Listed Building and Conservation Area .

- (c) The recommendations of the Heritage Impact Assessment are securely tied into the Local Plan
- (d) The amount of housing likely to come forward from Site H2730a as detailed in part 2 of the Plan is amended accordingly