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August 2017



## **Kirklees Local Plan**

### **Response to the Inspector's Matters, Issues and Questions (MIQs)**

#### **Matter 8 – Approach to Site Allocations and Green Belt Release with specific reference to Land at Fieldhead Farm, Batley, Sites H676/H524/H525 & UGS973**

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On behalf of

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## 1.0 Response to Matter 8 – Approach to Site Allocations and Green Belt Releases

**Issue – Is the plan’s approach to identifying Site Allocation (Housing, Employment and Mixed Use), Safeguarded Land and Green Belt Release soundly based and in line with National Policy?**

### **Policy PLP6**

#### **Questions**

**A. Has the Council undertaken a robust and comprehensive assessment of development capacity within existing urban areas and other areas outside of the current Green Belt.**

1.1 The strategy and policies document sets out the Council’s spatial development strategy. This proposes focusing housing development in the urban areas of Huddersfield and Dewsbury through a combination of realising development opportunities within the urban areas of the settlement and allocating strategic Green Belt releases in North Huddersfield at Bradley Golf Course, South Dewsbury and Chidswell. The quantum of development and Green Belt release are as follows:-

Bradley Golf Course – 56.37 hectares and 1,577 dwellings.

South Dewsbury (Land to the south of Raventhorpe Road/Lees Hall Road, Dewsbury) – 142.9 hectares and 2,310 dwellings during the Local Plan period with a further 1,690 beyond the plan period.

Chidswell – 114.59 hectares and 1,535 dwellings.

1.2 The NPPF is clear that Green Belt boundaries should only be altered in exceptional circumstances and that when reviewing Green Belt boundaries Local Planning Authorities should take account of the need to promote sustainable patterns of development, including channelling development towards urban areas inside the Green Belt boundary.

1.3 The government’s White Paper, Fixing our Broken Housing Market identifies at paragraph 1.39 that Local Planning Authorities “should amend Green Belt boundaries only when they can demonstrate they have fully examined all other options for meeting their identified development requirements.”

1.4 Within the urban area there are significant sources of non Green Belt land in the form of Urban Green Space. The Council’s approach in terms of site allocations is to step over Urban Green Space to release Green Belt in the form of strategic allocations and other sites as identified above.

1.5 The Council’s approach to stepping over Urban Green Space and going into the Green Belt to meet the housing requirement has not been justified and there appears to be no exceptional circumstances to support the approach.

- 1.6 The Council's evidence base in terms of assessing existing Urban Green Space for development potential can be found in the Open Space Assessment Report of November 2006 and the Kirklees Technical Paper Urban Green Space and Local Green Space April 2017.
- 1.7 The Urban Green Space and Local Green Space Technical Paper set out the type of open space contained within each Urban Green Space allocation which is used to test whether the site should be allocated as Urban Green Space. In essence, land is allocated as Urban Green Space if it falls within the definition of one or more of the following typologies:-
- Parks and Receptions Grounds
  - Natural and semi-natural green space.
  - Amenity green space.
  - Allotments
  - Green corridor
  - Outdoor Sports
  - Play
  - Education
  - Churchyards/Cemeteries
  - Woodland
- 1.8 Not all identified Urban Green Space in the emerging plan meets all of the categories and there are large tracts of Urban Green Space which are identified and retained as such in the emerging plan solely because the Council consider they meet natural and semi-natural green space definitions and where the sites are in private ownership with no public access and no recreation or sports facilities for usage. In essence this is remnant agricultural land with no public access or recreation use within the urban area.
- 1.9 This remnant agricultural land with no public access is similar to large areas of designated Green Belt which are also remnant countryside or areas of unimproved farmland or grassland, and offer accessible, natural and semi-natural green space via field footpaths but do not appear in the Council's open space study.
- 1.10 There appears to have been no comparative assessment of the privately owned and inaccessible Open Green Space land that solely meets natural and semi-natural green space criteria against the Green Belt releases.
- 1.11 Clearly the Urban Green Space which the Council has identified as being solely natural and semi-natural green space is not constrained by Green Belt designation. Given this land serves the same function it is considered that the approach of stepping over Urban Green Space and going into the Green Belt has not been justified and there appears to be no exceptional circumstances to support this approach. On this basis, it is considered that the Council have not undertaken a robust and comprehensive assessment of development capacity within the existing urban areas and other areas outside of the current Green Belt and on that basis the plan is unsound.
- 1.12 The December 2016 representations to the Publication Draft Local Plan for the land at Fieldhead Farm carried out a detailed review of the Council's Site Assessment in paragraphs 6.1 through to 6.44.

- 1.13 This analysis concluded that the Council's Site Assessment had not paid due regard to the detailed submissions and site specifics made with the representations to the site through the local plan process. In terms of the sustainability appraisal, the conclusions identified that the site can only reasonably warrant one major negative against SA11 efficient use of land which is equally applicable to all green field sites.
- 1.14 In addition, the representations identified that the site had been incorrectly assessed as natural and semi-natural green space, did not meet any open space criteria and should not have been allocated Urban Green Space.
- 1.15 In addition, at paragraph 6.45 to 6.93 of the 2016 representations, comparison of the Fieldhead site was carried out against competing allocations including:-
- Bradley Golf Course – H1747 and H351
  - East of Chidswell – MX1905
  - South Dewsbury – H2089
  - Land south of Mill Street – H138
  - Brook House Mill – H509
  - Land off Soothill Lane – H758
  - Land at Primrose Lane – H2159
- 1.16 The comparative assessment of the Fieldhead Farm site against these competing sites (see Appendix 3 of the 2016 document) identifies that the Fieldhead Farm site performed better than those sites and was sequentially preferable for allocation to these sites the majority of which are Green Belt.
- 1.17 The promotion of unsustainable sites which continue to perform a Green Belt purpose and have significant adverse effects on the purpose of including land within the Green Belt or poor performance in relation to sustainability criteria is considered unsound and the Council have not justified the release of these sites in preference of the allocation of the Fieldhead Farm site.
- 1.18 In this context, the Council has not undertaken a robust and comprehensive assessment of development capacity within the existing urban areas and other areas outside of the current Green Belt and the plan is unsound.

**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 to the Green Belt Review, based on the assessment of Green Belt edged sites, robust and justified?**

- 1.19 The Kirklees Green Belt Review seeks to assess sites from the Green Belt for release on the basis of several tests. Test 1 is in 3 parts with the test looking at topographical constraints, physical constraints and environmental constraints. There is little clarity in the evidence base used to underpin the application of the test for example, there is no clarity as to how a slope would make the site in question undevelopable, whether there are any solutions or engineering mitigation measures and whether it applies to the whole site. Similarly in relation to physical constraints, there is no clear evidence or analysis to underpin the categorisation of sites to conclude for example that the presence of a listed building would preclude development of the entire site.

Similar points can be made in relation to the lack of evidence base to support the environmental constraints under the final aspect of Test 1.

- 1.20 In essence, Tests 1a-1c of the Green Belt Edge Review look at the degree of constraint along the edge, to determine whether it was either possible or desirable to break through the edge at that point. Where it is deemed that it would not be possible or desirable to access the Green Belt through any particular length of Green Belt edge, no further assessment of the Green Belt land immediately beyond the edge was considered necessary. This suggests that the question of whether individual sites serve Green Belt purposes together with the ability to provide sustainable development in line with the plans broader strategies has not been the key driver in the decision making. Whether it is possible or desirable to break through the edge is not a test found within national policy or endorsed by the courts. On this basis, it is considered that the Council's approach to Green Belt Review based on the assessment of Green Belt edge sites is not robust or justified.
- 1.21 Test 2 broadly considers the Green Belt purpose defined in paragraph 80 of the NPPF. It takes Test 2a, the second Green Belt purpose of merger and then runs through Test 2b to 2d, dealing with sprawl, countryside encroachment and preserving the setting of historic towns.
- 1.22 Test 2a deals with merger and it would appear from the review document that only if this test is passed in addition to Test 1 are the other NPPF paragraph purposes considered i.e. this is a gateway test. However, merger is only the second in a list of 5 purposes set out in paragraph 80 of the NPPF and it is not the fundamental aim of Green Belt which paragraph 79 explains is to prevent urban sprawl. Indeed urban sprawl is given greater weight by the Council in recognition of this. The approach with the gateway test in the form of 2a regarding merger is confused and difficult to see as consistent with the NPPF.
- 1.23 It is also important to note that Test 2d, which purports to reflect the purpose of preserving the setting and special character of historic towns, is applied to sites that contain historic assets in order to determine whether there is a constraint to development. Whilst a potential matter relevant to Test 1 when determining if a site has development potential, it is a matter entirely inconsistent with the approach to this topic on other cases where the overall setting and character of a town or city is preserved by its Green Belt, such as the cases of York or Durham. The latter approach being the one consistent with the language of the NPPF, and the approach followed by other Local Planning Authorities.
- 1.24 Test 3 deals with assessing brownfield land against Green Belt purposes, ostensibly in connection with the final purpose of assisting urban regeneration by encouraging the recycling of derelict and other land.
- 1.25 Test 3 is also confused, its origins appear to be in fifth purpose of Green Belt defined in paragraph 80 of the NPPF: "to assist in urban regeneration, by encouraging the recycling of derelict land and other urban land". However, from the review document it appears to be applied to existing brownfield land in the Green Belt in order to form a judgement as to whether such sites could be developed and should be removed from the Green Belt. This is a very peculiar interpretation of the NPPF.
- 1.26 Appendix 3 of the Green Belt Review Document sets out a Green Belt assessment matrix. There is no apparent explanation of how, for example, 3

reds (where one of the reds relates to sprawl, produces the same score as 2 reds and a green). Other peculiarities from the weighting of the score arises on closer examination.

1.27 As indicated above the entire approach works on the basis of a single severe constraint under Test 1 or a severe constraint about merger under Test 2a preventing any further consideration of the ability of the site to meet development needs in a sustainable manner and an overall judgement against all purposes of Green Belt. For Test 1, this could only be appropriate if the evidence supported the inability to develop the site. For Test 2a, it is difficult to see why it should be a gateway point when all 5 purposes need to be considered together and the only one that was elevated (so given greater weight) was sprawl, because of the language of paragraph 79. On this basis, it is considered that the Council's approach in the Green Belt Review is fundamentally flawed and the plan is unsound, is not robust or justified.

**ii. As part of the overall site allocations methodology, is there clear evidence to show that site options not captured or fully appraised in the Green Belt Review have subsequently been fully assessed against the relevant Green Belt purposes?**

1.28 In addition to our response under point d(i) it is clear that the application of the gateway test prevents sites from being fully appraised against the purposes of Green Belt.

**iii. Is the "gateway" approach to the Green Belt Review justified? Whereby failure to meet Test 1 meant Test 2 on Green Belt part purposes was not engaged and failure to meet Test 2A meant no further assessment against other Green Belt purposes.**

1.29 No. The approach to the Green Belt Review is not justified, see our response to Question d(i) above.

**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.**

1.30 No. The assessment tests in the Green Belt Review are not justified and soundly based. Judgements in relation to topographical, physical and environmental constraints are arbitrary. Where there has been detailed justification and information put forward the evidence has either been ignored in the first instance or then addressed in a superficial manner post-rationalising the Council's decision thereafter.