

**CITY PLANS PANEL – 5<sup>TH</sup> NOVEMBER 2015**

**SUPPLEMENTARY DOCUMENT RELATING TO AGENDA ITEM  
8 – APPLICATION 13/05134/OT – OUTLINE APPLICATION FOR  
RESIDENTIAL DEVELOPMENT ( UP TO 380 DWELLINGS ), A  
CONVENIENCE STORE AND PUBLIC OPEN SPACE – LAND AT  
BREARY LANE EAST, BRAMHOPE**

(Report attached)

This page is intentionally left blank



## Report of the Chief Planning Officer

### CITY PLANS PANEL

Date: 5<sup>TH</sup> November 2015

**Subject: Application number 13/05134/OT – Outline application for residential development (upto 380 dwellings) a convenience store and public open space at Breary Lane East, Bramhope.**

APPLICANT	DATE VALID	TARGET DATE
Miller Homes	N/A	N/A

<p><b>Electoral Wards Affected:</b></p> <p>Adel and Wharfedale</p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
---	--

**RECOMMENDATION: Members are asked to note the content of the report and endorse the updated reasons for refusal below.**

- The Local Planning Authority considers that that the release of this site in combination with other sites designated as Protected Areas of Search (PAS) in the statutory plan, for housing would be contrary to saved Policy N34 of the Unitary Development Plan (Review) 2006. Policy N34 seeks to safeguard land for future development pending a review through the local plan process and the release of this site in advance of that would be premature and contrary to the approach set out at paragraph 85 bullet point 4 of the National Planning Policy Framework. **The release of this site has been considered as part of the Site Allocation Process and although considered suitable for allocation is in phase 3 and therefore should be released sequentially and should be regarded unsuitable at this stage during the plan period as it fails to meet accessibility standards in respect of access to employment, secondary education and town and city centres as there are sequentially preferable housing sites within the Housing Market Characteristic Area.** The release of this PAS site outside of the proper plan period would be premature to the development plan process secured through N34 and being progressed through the SAP, and would by itself and by its implications for the consideration of other PAS sites, undermine the plan led system and predetermine

decisions as to the scale, location and phasing of new development central to the emerging SAP, which will consider the relative sustainability of housing sites. At this stage, and as a departure from the development plan and the emerging SAP, as well as for the reasons identified in reasons 2 to 7, the Council does not consider the proposed development to be sustainable development within the meaning of the NPPF.

2. The Local Planning Authority considers that the proposal is contrary to the Adopted Core Strategy which seeks to concentrate the majority of new development within and adjacent to the main urban area and major settlements. Smaller settlements will contribute to some development needs, with the scale of growth having regard to the distribution of housing land and a settlement's size, function and sustainability. The Core Strategy sets the strategic context for the preparation of the Site Allocations Plan (spatial preferences for development, priorities for regeneration and infrastructure and the overall scale and distribution of housing growth), which is well progressed. Consequently, within this context, the Site Allocations Plan is the appropriate basis to consider issues relating to site allocation choices and any supporting infrastructure which should take place individually or cumulatively. As such the proposal is contrary to Policy SP1 of the Adopted Core Strategy. In advance of the Site Allocations Plan the proposal represents such a substantial expansion of the existing smaller settlement that it is likely to adversely impact on the sustainability and on character and identity of Bramhope contrary to Spatial Policies 1 of the Core Strategy and guidance on the core planning principles underpinning the planning system as set out in the National Planning Policy Framework.
3. The Local Planning Authority considers that, were the site to be released for housing following consideration through the Site Allocations Plan the proposal is contrary to the strategy for the phased release for sites for housing within that Plan. With regard to this site within the context of the Site Allocations Plan the site is in Phase 3. The phasing of the site alongside other choices within the Outer North West HMCA has not yet been established through the Site Allocations Plan. The Core Strategy also recognises the key role of new and existing infrastructure in delivering future development which has not yet been established through the Site Allocations Plan. In this case it is considered that a site of this scale can only come forward after delivery of a mitigating transport scheme for the A660 corridor, such as NGT. The proposed development is located adjacent to a smaller settlement and its development at this time would be contrary to, and serve to undermine, the managed release of sites as this site as this site constitutes a less sequentially preferable site for the HMCA as a whole. To undermine this strategy would lead to an unplanned and unsustainable pattern of development. As such the proposal is contrary to Policy SP1 and Policy H1 of the Adopted Core Strategy. In advance of the Site Allocations Plan the proposal represents such a substantial expansion of the existing smaller settlement that it is likely to adversely impact on the sustainability and on character and identity of Bramhope contrary to Spatial Policies 1 and 6 of the Core Strategy, Policy H1 of the Core Strategy, Policy HG2 of the Site Allocations Plan (Section 3: Area Proposals: 7. Outer North West. Publication Draft) and guidance on the core planning principles underpinning the planning system as set out in the National Planning Policy Framework.
4. The Local Planning Authority considers that the applicant has so far failed to demonstrate that the proposals can be accommodated safely and satisfactorily on the local highway network. The proposal is therefore considered to be contrary to saved policy GP5 of the adopted UDP Review (2006) and Policy T2 of the adopted Core Strategy (2014) and the sustainable transport guidance contained in the NPPF which

requires development not to create or materially add to problems of safety on the highway network.

5. The local planning authority considers that the proposed development does not provide a suitable means of access into the site and that as such the proposals would be detrimental to the safe and free flow of traffic and pedestrian and cycle user convenience and safety. For these reasons the application does not comply with saved policy GP5 of the adopted Leeds Unitary Development Plan (Review) 2006, policy T2 of the adopted Core Strategy and guidance contained within the adopted Street Design Guide SPD.
6. The site does not meet the minimum accessibility standards for residential development as set out in the Council's **emerging** Core Strategy. The applicant has so far failed to offer suitable mitigation and as such it is considered that the proposal is contrary to policy T2 of the adopted Core Strategy (2014) and to the sustainable transport guidance contained in the NPPF and the 12 core planning principles which requires that growth be actively managed to make the fullest possible use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable.
7. In the absence of a signed Section 106 agreement the proposed development so far fails to provide necessary contributions for the provision of affordable housing, education, green space, public transport, travel planning and off site highway works contrary to the requirements of saved Policy GP5 of the adopted UDP Review (2006) and related Supplementary Planning Documents and contrary to Policies H5, H8, T2, G3, G4 and ID2 of the adopted Core Strategy (2014) and guidance in the NPPF. The Council anticipates that a Section 106 agreement covering these matters could be provided in the event of an appeal but at present reserves the right to contest these matters should the Section 106 agreement not be completed or cover all the requirements satisfactorily.
8. It has so far not been demonstrated that part of the site is not required for the provision of a school, contrary to Policy P9 of the adopted Core Strategy (2014).

## **1.0 INTRODUCTION**

- 1.1 An outline application for up to 380 dwellings at Breary Lane East Bramhope was refused permission at City Plans Panel on 28<sup>th</sup> August 2014 (report appended). The site was one of several applications on PAS land which were received by the Council in 2013-2014 including Bagley Lane and Grove Road, both of which have been the subject of Public Inquiries. The Council is awaiting the outcome of the High Court challenge to Bagley Lane and the report of the SOS at Grove Road. The Council currently has five PAS appeals which will be decided by Public Inquiry. Four of these appeals, are the subject of two co-joined Inquires which will be heard concurrently in the early months of 2016. This report seeks to provide updated reasons for refusal which take account of the adoption of the Core Strategy and the cancellation of the interim PAS policy. These reasons for refusal will form the basis of the Council's case at appeal.
- 1.2 As the previous report is appended and this report seeks to simply consider the planning application against current planning policy context it is not proposed to set out a full report addressing all matters here. This report will set out the relevant

planning policies as they exist today and consider this proposal against those policies.

## **2.0 PLANNING POLICIES:**

### The Development Plan

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

### Local Planning Policy

- 2.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are relevant:

Spatial policy 1	Location of development
Spatial policy 6	Housing requirement and allocation of housing land
Spatial policy 7	Distribution of housing land and allocations
Spatial policy 10	Green Belt
Spatial policy 11	Transport Infrastructure
Policy H1	Managed release of sites
Policy H2	Housing on non-allocated sites
Policy H3	Density of residential development
Policy H4	Housing mix
Policy H5	Affordable housing
Policy H8	Independent living contribution
Policy P9	Community facilities
Policy P10	Design
Policy P11	Conservation
Policy P12	Landscape
Policy T1	Transport Management
Policy T2	Accessibility requirements and new development
Policy G3	Standards for open space
Policy G4	New Greenspace provision
Policy G8	Protection of species and habitats
Policy EN2	Sustainable design and construction
Policy EN5	Managing flood risk
Policy ID2	Planning obligations and developer contributions

The following saved UDP policies are also relevant:

- GP5: All relevant planning considerations.  
N23/N25: Landscape design and boundary treatment  
N24: Seeks the provision of landscape schemes where proposed development abuts the Green Belt or other open land.  
N25: Seeks to ensure boundary treatment around sites is designed in a positive manner.  
N29: Archaeology  
N33: Seeks to protect the Green Belt.  
N34: Sites for long term development (Protected Areas of Search).

- N35: Development will not be permitted if it conflicts with the interests of protecting the best and most versatile agricultural land.
- N37A: Development within the countryside should have regard to the existing landscape character.
- BD2: The design of new buildings should enhance views, vistas and skylines.
- BD5: The design of new buildings should give regard to both their own amenity and that of their surroundings.
- LD1: Relates to detailed guidance on landscape schemes.
- LD2: New and altered roads

### Local Development Framework - Site Allocations Plan

2.3

The Council is also currently progressing a Site Allocations Plan (SAP) and is currently out to consultation on the Publication document which proposes the allocation of sites for housing to meet targets set out in the Core Strategy and identifies Protected Area of Search land for development beyond the plan period up to 2028. The Site Allocations Plan is the means by which the Council will review and propose for allocation sites which are consistent with the wider spatial approach of the Core Strategy and are supported by a comparative sustainability appraisal. It will also phase their release with a focus on: sites in regeneration areas, with best public transport accessibility, the best accessibility to local services and with least negative impact on green infrastructure. This site is proposed as a phase 3 site so policy HG2 of the SAP is applicable and this states that the plan allocates sites for housing which are phased for release in accordance with core strategy policy H1. This application is contrary to this approach in three important respects. First, it is stepping outside the local plan process which prevents the PAS sites being reviewed in a comprehensive way allowing for the consideration of the relative merits of the candidate sites to be considered alongside the questions of delivering sufficient housing in the most sustainable way also having regard to the delivery of key infrastructure. Secondly, it is promoting a site which the Council, on the basis of the work done to date through that Local Plan review process, does not consider to be a suitable site for allocation, and that other sites are preferable in sustainability terms. Accordingly, it is for the Site Allocations Plan process to determine the suitability of this site, and others, for housing development. This approach is in line with para 85 of the NPPF which states that “Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development.” It is also in line with the NPPF core planning principle 1, which states that planning should “be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.” Thirdly, even though the site is allocated as phase 3, the site is considered unsuitable at this stage as it fails to meet accessibility standards in respect of access to employment, secondary education and town and city centres as there are sequentially preferable housing sites within the Housing Market Characteristic Area. The appeal proposal is therefore contrary to the most recent expression of the council’s plan for sustainable development of its area.

2.4

The NPPF states in paragraph 47 that local authorities should boost significantly the supply of housing. It sets out mechanisms for achieving this, including:

- use an evidence base to ensure that the Local Plan meets the full objectively assessed needs for market and affordable housing;
- identify and update annually a supply of specific deliverable sites sufficient to provide for five years’ worth of supply;
- identify a supply of specific deliverable sites or broad locations for

growth for years 6 to 10 and years 11 to 15.

- 2.5 The Core Strategy housing requirement has been devised on the basis of meeting its full objectively assessed housing needs. These are set out in the Strategic Housing Market Assessment (SHMA), supplemented by further evidence presented to the Core Strategy Examination in October 2013. The SHMA is an independent and up to date evidence base, as required by paragraph 159 of the NPPF and reflects the latest household and population projections, levels of economic growth as well as levels of future and unmet need for affordable housing. Accordingly, the Site Allocations Plan is the appropriate vehicle to deliver the Core Strategy requirement and will ensure that the significant boost to housing supply sought by the NPPF.
- 2.6 Relevant Supplementary Planning Guidance includes:
- SPD: Street Design Guide.
  - SPD: Public Transport Improvements and Developer Contributions
  - SPD Travel Plans
  - SPD: Designing for Community Safety: A Residential Guide
  - SPD: Sustainable Design and Construction “Building for Tomorrow, Today.”
  - SPG: Neighbourhoods for Living
  - SPG 4: Greenspace Relating to New Housing Development
  - SPG 25: Greening the Built Edge.

#### National Planning Policy

- 2.7 The National Planning Policy Framework (2012) sets out the Government’s planning policies for England and how these are expected to be applied. It sets out the Government’s requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 2.8 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. At paragraph 17 the NPPF sets out that a core principle is that planning should “be genuinely plan-led”. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF. The Core Strategy was adopted subsequent to the publication of the NPPF and was found to be sound by reference to the tests set out at paragraph 182 including being “consistent with national policy”.
- 2.9 Paragraph 47 of the NPPF requires that local planning authorities should identify a supply of specific, deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5%. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20%.
- 2.10 Paragraph 49 requires that housing applications be considered in the context of the presumption in favour of sustainable development. Whether the development is sustainable needs to be considered against the core principles of the NPPF. Relevant policies for the supply of housing should not be considered up to date if



the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

2.11 Paragraph 85 sets out those local authorities defining green belt boundaries should:

- ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development;
- not include land which it is unnecessary to keep permanently open;
- where necessary, identify in their plans areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;
- make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development;
- satisfy themselves that Green Belt boundaries will not need to be altered at the end of the development plan period; and
- define boundaries clearly, using physical features that are readily Recognisable and likely to be permanent.

2.12 There has been a necessity for the well progressed Site Allocations Plan to identify land from a larger pool of sites including some PAS land and some Green Belt land in order to meet the challenging housing requirements set out in the Adopted Core Strategy. It has not been possible to meet these requirements on brownfield or non-allocated greenfield land alone. To bolster and diversify the supply of housing land pending the adoption of the SAP the council adopted an interim policy in March 2013. This policy facilitated the release of some PAS sites for housing where they, amongst other matters, were well related to the main urban area or major settlements, did not exceed 10Ha in size and were not need for other uses. The interim policy further set out that the release of larger sites may be supported where there are significant planning benefits including where housing land development opportunity is significantly lacking and there is a clear and binding link to significant brownfield development. The purpose of the policy was to provide a pragmatic means of managing the assessment of the sustainability of the candidate sites whilst preserving the integrity of the plan process. When this application was originally considered by Plans Panel the recommendation that was agreed was that the development proposal was contrary to the terms of this policy. Subsequently the council's Executive Board, on 11<sup>th</sup> February 2015, agreed to withdraw the policy with immediate effect in light of progress being made with the SAP and that the relative merits of development of potential sites could be assessed against the sustainability and spatial policies set out in the then emerging Core Strategy.

#### National Guidance - Five Year Supply

2.13 The NPPF provides that Local Planning Authorities should identify and update annually a supply of specific deliverable sites to provide five years' worth of housing supply against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Deliverable sites should be available now, be in a suitable location and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. Sites with planning permission should be considered deliverable until permission expires subject to confidence that it will be delivered. Housing applications should be considered in the context of the presumption in favour of sustainable development, articulated in the NPPF.

2.14 The Council is progressing its 5 year supply calculations for the period 2015 to 2020. Whilst this remains subject to the findings of the SHLAA 2015, which has yet to be consulted upon with housebuilders, there are positive signs in the Leeds housing market as follows: a) significant increases in renewed interest and activity in the City Centre e.g. the Dandarra Manor Road private rented sector scheme which starts on site next year, alongside two major private sector investments for Tower Works and Tetley Brewery in the South Bank area of the City Centre which are due to start construction in 2016. b) progressing activities (including by the Council) and delivery within the Inner area of Leeds, c) a surge in recent planning permissions for housing as the housing market recovers from recession e.g. between Jan to Mar 2015 34 new sites were granted permission for 2,000 homes in total and d) certainty on a range of sites without permission which are now proposed for housing in the Council's site allocations plan; many of which can come forward immediately. This context reflects an improved picture from that of the previous 5 year supply, which was upheld by the Secretary of State and subject to the views of housebuilders on the deliverability of specific sites, the Council is confident at this stage that it will maintain its 5 year supply for the period 2015 to 2020. It is also important to note that in terms of future land supply the progression of the Site Allocations Plan secures over 55,000 homes in Phase 1, with a large number of deliverable greenfield sites, where they are compliant with the overall strategy, proposed to form Phase 1 allocations. As the site allocations plan advances and is adopted these greenfield releases will become available and can be included within future 5 year supply pictures. This will provide a significant security to the 5 year supply position.

#### Planning Practice Guidance

2.15 Government guidance on the issue of prematurity is set out in this document and says:

"...arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and

b) The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process."

### **3.0 MAIN ISSUES**

1) Principle and Prematurity Page 8

- 2) Principle and Settlement Hierarchy
- 3) Layout & Design
- 4) Highway consideration
- 5) Section 106 issues
- 6) Need for a school

## 4.0 APPRAISAL

### Principle and Prematurity

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Other material considerations include the National Planning Policy Framework, the requirement for a five year supply of housing and matters relating to sustainability, highways, layout/design/landscaping, residential amenity, flood risk and Section 106 matters.
- 4.2 The application site is designated as a "Protected Area of Search "(PAS) in the adopted UDP. Such sites are designated under Policy N34 which specifies that PAS sites are to be retained for possible long term development and any intermediate development should be resisted that would prejudice the potential for long development in the longer term should the need arise.
- 4.3 The supporting text to Policy N34 states that, "The suitability of the protected sites for development will be comprehensively reviewed as part of the preparation of the Local Development Framework". The Adopted Core Strategy provides further detail on this and states in paragraph 4.8.6 "The Leeds Unitary Development Plan designated land outside of the Green Belt for unidentified needs in the future; this is known as Protected Areas of Search (PAS). This land will provide one of the prime sources for housing allocations in the LDF. Which land is identified by LDF Allocation Documents (and in particular the Site Allocations Plan) will depend on how well it meets the strategy for housing distribution, embodied by the criteria in Spatial Policy 6. Land not appropriate for housing might be needed for employment allocations or retained as future PAS in the LDF." Paragraph 4.8.7 confirms that "Through the LDF a sufficient and realistic supply of PAS land, will be identified to provide contingency for growth, if the supply of housing and employment allocations proves to be insufficient in the latter stages of the plan period."
- 4.4 There has been a necessity for the well progressed Site Allocations Plan to identify land from a larger pool of sites including some PAS land and some Green Belt land in order to meet the challenging housing requirements set out in the Adopted Core Strategy. It has not been possible to meet these requirements on brownfield or non-allocated greenfield land alone. To bolster and diversify the supply of housing land pending the adoption of the SAP the council adopted an interim policy in March 2013. This policy facilitated the release of some PAS sites for housing where they, amongst other matters, were well related to the main urban area or major settlements, did not exceed 10Ha in size and were not need for other uses. The interim policy further set out that the release of larger sites may be supported where there are significant planning benefits including where housing land development opportunity is significantly lacking and there is a clear and binding link to significant brownfield development. The purpose of the policy was to provide a pragmatic means of managing the assessment of the sustainability of the candidate sites whilst preserving the integrity of the plan process. When this application was originally considered by Plans Panel the recommendation that was agreed was that the development proposal was contrary to the terms of this policy. Subsequently

the council's Executive Board, on 11<sup>th</sup> February 2015, agreed to withdraw the policy with immediate effect in light of progress being made with the SAP, that a pool of sites had been identified, and that the relative merits of development of potential sites could be assessed against the sustainability and spatial policies set out in the then emerging Core Strategy.

- 4.5 This is a contentious process and one which the Council is progressing in consultation with elected members and local people and neighbourhood groups. Therefore, two sections of the NPPF are also highly material and should be read alongside the Adopted Core Strategy.
- 4.6 At paragraph 17 the Core Planning Principles state that planning should “be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.” This follows on from a statement in the Ministerial foreword to the guidance which states: “This [planning] should be a collective enterprise. Yet, in recent years, planning has tended to exclude, rather than to include, people and communities. In part, this has been a result of targets being imposed, and decisions taken, by bodies remote from them. Dismantling the unaccountable regional apparatus and introducing neighbourhood planning addresses this. In part, people have been put off from getting involved because planning policy itself has become so elaborate and forbidding – the preserve of specialists, rather than people in communities.”
- 4.7 At paragraph 85 of the NPPF the guidance states: “When defining [green belt] boundaries, local planning authorities should ... where necessary, identify in their plans areas of ‘safeguarded land’ between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period; and make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development.”
- 4.8 To release the application site for development at this time would be contrary to paragraph 17 and 85 of the NPPF.
- 4.9 The Planning Practice Guidance sets out guidance on the issue of prematurity and the most relevant text to these appeals states:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
  - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 4.10 The draft Site Allocations Plan is well progressed and has been published for consultation with period closing on 16<sup>th</sup> November 2015. To get to this stage has involved significant work addressing the needs of a large and complex city with the considerable consultation and engagement with many stakeholders. The level of consultation which the Council has engaged in, in order to produce a well thought out plan in association with the key stakeholders means that some considerable weight can be given to the consultation draft. At the time of the consideration of the

appeals it will be at a more advanced stage. Nevertheless the principles of achieving sustainable development that has regard to settlement hierarchy, the development of previously developed land and the delivery of key infrastructure will continue to underpin the site allocation process.

- 4.11 By not waiting for the comprehensive review, via the Site Allocations Plan, a decision to approve this application now would be a departure from the Development Plan. The proposal to develop the Bramhope application site would be premature in advance of the conclusions of the comprehensive assessment of all PAS sites and alternative land supply opportunities that is being undertaken now through the Site Allocations Plan. It is acknowledged that the SAP has not yet been submitted for examination and the release of this site by itself would not be contrary to the tests of prematurity set out in the PPG. However, it remains a concern that the cumulative effect of releasing the PAS sites could be so significant that it would serve to undermine the plan making process by predetermining decisions about the scale, location and phasing of new development all of which run contrary to the principles of sustainability and settlement hierarchy set out in the Core Strategy Saved policy N34 and its supporting text should be given considerable weight because it remains part of the statutory development plan for Leeds and is consistent with bullet 4 of paragraph 85 of the NPPF which expects local authorities to make clear that “planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review”. To depart from this approach would serve to undermine a comprehensive and considered process which will ultimately target and assess the most sustainable sites. This site is not one as currently assessed. The site is protected by the development plan specifically for the purpose of allowing such a review. Considerable harm will be caused by the circumvention of this process through the release of this site for development outside of that process. It also undermines the plan led system not in relation to this site, but cumulatively through eroding the protection to PAS sites generally pending the conclusion of the SAP review. The SAP is at a stage where material weight can be given to it and this weighs further against the principle of development at this time.
- 4.12 The application site forms one of a number of choices for smaller settlements in Leeds, where a small proportion of housing is anticipated. Releasing this site now would predetermine options for this settlement for plan-period so that no other housing land would need to be considered.

#### Principle and Settlement Hierarchy

- 4.13 The Core Strategy has a clear spatial development goal, as outlined within its introductory text and within Spatial Policy 1 and 6. This aims to respect the historic development pattern of Leeds and to ensure sustainable development, by concentrating the majority of new development within and adjacent to the main urban areas, taking advantage of existing services and high levels of accessibility. This will also allow the council to fulfil priorities for urban regeneration and to ensure an appropriate balance of brownfield and greenfield land. These principles are reiterated within policy H1 which seeks to manage the release of sites for housing.
- 4.14 Bramhope is identified as a smaller settlement within the Core Strategy settlement hierarchy. Policy SP1 states that ‘Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlements size, function and sustainability’ Work is ongoing in the Site Allocations Plan to consider where within the Outer North West Area new development should be located. To

allow development on this site in advance of the SAP being adopted would undermine the plan-led approach, looking at what sites should come forward, what infrastructure is needed to support them, what their comparative sustainability credentials are and where new housing development would best be located.

- 4.15 This site is allocated as a phase 3 within the Site Allocations Document and the reasoning for this site requires new and existing infrastructure in delivering future development and this infrastructure is also being established through the site allocations plan. This site should only come forward after delivery of a mitigating transport scheme for the A660 corridor such as NGT which has not yet been come forward never mind implemented. The site is linked to a smaller settlement and its development at this time would be contrary to, and undermine, the managed release of sites as a whole as this site constitutes a less sequentially preferable site for the HMCA as a whole. To undermine this way forward would lead to an unplanned and unsustainable pattern of development.
- 4.16 In advance of the Site Allocations Plan being adopted the proposal represents a substantial expansion of the existing smaller settlement of Bramhope that is likely to adversely impact on the sustainability and on character and identity of Bramhope contrary to Spatial Policies 1 and 6 of the Core Strategy, policy H1 of the Core Strategy, Policy HG2 of the Site Allocations Plan and advice within the NPPF.
- 4.17 The Authority considers that the Site Allocations Process is the right vehicle to ensure that the necessary infrastructure is in place to allow sustainable housing growth across the city as a whole.

#### Design and layout

- 4.18 The application when it was refused by Panel on 28<sup>th</sup> August 2014 had a sixth reason for refusal which related to design and layout and stated the following:
- ‘From the information submitted, The Local Planning Authority is not satisfied that the development of the scale indicated can achieve satisfactory standards of design, landscaping and residential amenity and provision of on site Greenspace, contrary to Policies GP5, N2, N4 and N12 of the adopted UDP Review (2006) and related Supplementary Planning Documents and contrary to Policies P10, P12 and G4 of the Draft Leeds Core Strategy and guidance in the NPPF. ‘
- 4.19 Since the consideration of the original report the Consultation Draft of the SAP has been published. This sets out that the site has a capacity for 376 dwellings. The proposed layout shows approximately 250 dwellings which is well below the SAP number. The scheme is in outline and has been submitted with an indicative layout only. Accordingly there is scope to resolve any layout issues through submission of a reserved matters application. The site does have allotments and greenspace allocated on the in line with the standards required in the Core Strategy and there is a deficiency of allotments in the area. Whilst some of the properties are close to others on the indicative plan again this is a matter that could be resolved at reserve matter stage. For these reasons it is suggested that this reason for refusal is removed.

#### Highway Considerations

- 4.20 At the time of the decision in 2014 the highway works were assessed in relation to the relevant policies within the UDP and the draft core strategies. Since that time

some of the UDP policies have not been saved and the Core Strategy has been adopted.

- 4.21 There where 3 reasons for refusal in relation to highways and these relates to the impact on the highway network, the proposed access itself and sustainability. The reasoning behind these 3 reasons for refusal are included in the report from August 2014 and appended to this report. However, these now need to be assessed in relation to Core Strategy policies rather than the Unitary Development Plan policies.
- 4.22 Reason for refusal 4 relates to the impact of the development on the existing highway network. It is considered that in the information submitted by the applicant that they have failed to demonstrate how the proposal can be accommodated safety and satisfactory on the local highway network. Policy T2 of the Core Strategy that new development should not create or materially add to problems of safety or efficiency on the highway network. The applicant has failed to demonstrate this so it is considered that the scheme does not comply with policy T2.
- 4.23 Reason for refusal 5 relates to the proposed access into the site which is considered cannot be accommodated without being detrimental to the safe and free flow of traffic, pedestrians and cyclists. Policy T2 of the Core Strategy states that new development should have a safe and secure access which has not be demonstrated to be above to be achieved so does not comply with policy T2 of the Core Strategy.
- 4.24 Reason for refusal 6 relates to the site not meeting minimum accessibility standards for residential development. Policy T2 of the Core Strategy states that new development should be located in accessible locations that are adequately served by existing or programmed highways and public transport. It is considered that this is not the case and no scheme has been submitted showing suitable migration to off set this issue. For these reasons the scheme does not comply with policy T2 of the Core Strategy.

#### Need for a school

- 4.25 The site will generate the requirement for school places which cannot be accommodation in the existing primary and secondary school. There is no capacity for the local primary school to expand due to its location so there is a requirement for a new school on the site. As part of the Site Allocations Plan the area shown as 'Bramhope Park' is included with the site and the allocation states that a school is required as part of any future residential scheme.

At the moment this issue of the school has not been resolved and does not comply with policy P9 of the Core Strategy.

#### Section 106 Package/CIL

- 4.26 The Community Infrastructure Levy Regulations 2010 set out legal tests for the imposition of planning obligations. These provide that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

- 4.27 The authority's CIL charging schedule is in place and requires a payment of £90 per square metre of residential floor space. The adoption of CIL means that S106 payments previously identified relating to greenspace and education are no longer applicable. It will still be necessary for the appellants to enter into an S106 agreement relating to affordable housing, public transport, proposed off-site highway works and drainage/flood alleviation works. These have been considered against the legal tests and are considered necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
- 4.28 The appellant will be required to submit a signed Section 106 Agreement to address the policy requirements for this application should permission be granted. It is understood that the appellant is not objecting to these requirements in principle but in the absence of any signed agreement the Council should protect its position.

The reason for refusal has been altered to remove the unsaved policies from the UDP and detail the adopted Core Strategy policies.

## **5.0 CONCLUSION**

- 5.1 Central to the context of this appeal is the matter of the delivery of housing in a sustainable and planned way. Housing delivery is a key element of current planning policy at both national and local level. The NPPF places a priority, amongst other matters, on the delivery of sustainable development and housing growth. Leeds has a target of 70 000 homes across the plan period and is committed to delivering this target. A significant amount of work has been undertaken and is still ongoing to ensure that this target is met, including work with house builders, landowners and local communities. The interim PAS policy was one arm of the Council's strategy and this sought to allow the release of sustainable sites ahead of the publication of the Site Allocations Process to ensure the ongoing availability of housing land. The policy achieved this aim, and was withdrawn once SAP had reached a sufficient stage to identify the sites that the Council thought were suitable for development. As outlined above the Bramhope PAS site has been assessed for release but this was not considered to be acceptable as it failed to meet accessibility standards in respect of access to employment, secondary education, town and city centres and there are sequentially preferable housing sites within the Housing Market Characteristic Area.
- 5.2 It must however be acknowledged that granting permission would boost the supply of housing land within the Outer North West Housing Market Characteristic Area and this is a benefit of the scheme to which weight must be given, albeit this weight is reduced by the fact that the land is not needed within the current five year housing land supply and other sites are considered to be sequentially preferable. Furthermore the release of the site would cause substantial harm to the plan making process and the Council's sustainable development strategy as set out in the Core Strategy. The outline scheme proposed by the appellants would also cause harm to highway safety and this harm is significant and weighs against the scheme. To date there is no agreed S106 which would ensure flood mitigation measures, other infrastructure works, affordable housing and other contributions necessary to make the scheme acceptable would be delivered. This harm is significant and weighs against the proposal. The benefit of delivering housing land does not outweigh the cumulative harm which the proposal would cause to the Council's spatially focussed sustainable development strategy and the specific



harm identified to Bramhope Village and the locality. As such the harm significantly outweighs the benefits and permission should be withheld.

- 5.3 The release of the Bramhope PAS site for housing development at this time being contrary to saved policy N34 of the UDP and the NPPF. To grant permission would be premature as it would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development, supporting infrastructure and sustainability that are central to the emerging Site Allocations DPD and the neighbourhood planning process. The Council is confident that it will maintain its 5 year housing land supply and so there is no need to release this site of this scale in this location in advance of the Site Allocations process. There are concerns regarding the sustainability of the site given limited services within the village and the infrequency of the local bus service. Whilst it is a phase 3 site it is considered that sequentially the site should be brought forward later as there are necessary infrastructures that have to be brought forward in advance of its release. The applicants have also failed to enter into an S106 agreement to secure the necessary payments to make the development acceptable. Accordingly, in light of the pre-eminence that the NPPF places on a plan led system, that policies of the recently adopted Core Strategy sets out a clear approach to a sustainable pattern for housing delivery based on settlement hierarchy and sustainability, that the council has considers that it will maintain its 5 year housing supply and is advancing a SAP it is therefore recommended that the council contests this appeal for the reasons set out at the start of this report.
- 5.4 Members should also have regard to the content of the covering report and that it is likely in preparing for the appeal that the appellant will seek to submit further information in an attempt to address some of the matters that are of a concern to the council. For example it is common practice for an appellant to submit a draft Section 106 Agreement for consideration. A failure of a local planning authority to engage in such discussions that seek to narrow the differences between the parties may be viewed as constituting unreasonable behaviour.

**Background Papers:**

Certificate of ownership: signed by applicant.

Planning application file

This page is intentionally left blank