



## Report of the Chief Planning Officer

### CITY PLANS PANEL

Date: 22<sup>nd</sup> January 2015

Subject: 14/04340/OT – Outline application for residential development including means of access at, Field at Ridge Meadows, Northgate Lane, Tibgarth, Linton, Wetherby, LS22 4HS

APPLICANT	DATE VALID	TARGET DATE
Kebbell Developments Ltd	22 <sup>nd</sup> July 2014	12 <sup>th</sup> December 2014

#### Electoral Wards Affected:

Harewood

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

### RECOMMENDATION: Refuse for the following reasons:

- 1) The LPA considers that the release of the site for housing development would be premature, being contrary to saved policy N34 of the UDP and contrary to Paragraph 85, bullet point 4 of the NPPF. The suitability of the site for housing purposes as part of the future expansion of Linton needs to be comprehensively reviewed as part of the preparation of the ongoing Site Allocations Plan and Neighbourhood Plan. The location and scale of the site in relation to the village of Linton means that the proposal does not fulfil the criteria set out in the interim housing delivery policy approved by Leeds City Council's Executive Board on 13th March 2013 to justify early release ahead of the comprehensive assessment of safeguarded land being undertaken in the Site Allocations Plan. It is anticipated that the Site Allocations Plan work will identify which sites will be brought forward for development in the life of the Plan together with the infrastructure which will be needed to support sustainable growth, including additional schools provision and where that would best be located. It is considered that releasing this site in advance of that work would not be justified and would prejudice the comprehensive planning of future growth and infrastructure of the village in a plan-led way.

- 2) The proposal is contrary to the Core Strategy which seeks to concentrate the majority of new development within and adjacent to the main urban area and major settlements. The Site Allocations Plan is the right vehicle to consider the scale and location of new development and supporting infrastructure which should take place in Linton which is consistent with the size, function and sustainability credentials of a village. Furthermore, the Core Strategy states that the “priority for identifying land for development will be previously developed land, other infill and key locations identified as sustainable extensions” which have not yet been established through the Site Allocations Plan, and the Core Strategy recognises the key role of new and existing infrastructure in delivering future development which has not yet been established through the Site Allocations Plan e.g. educational and health infrastructure, roads and public transport improvements. As such the proposal is contrary to Policy SP1 of the Core Strategy. In advance of the Site Allocations Plan the proposal represents such a expansion of the village that it is likely to adversely impact on the sustainability of Linton, contrary to Policy SP1 of the Core Strategy and guidance on the core planning principles underpinning the planning system as set out in the NPPF
- 3) The development of this site for residential purposes has poor sustainability credentials, represents an inefficient use of land and does not meet the minimum accessibility standards set out in the Core Strategy in terms of the frequency of bus services to give access to employment, secondary education and town / city centres. As such it is contrary to policy H3 of the Core Strategy. Also, in the absence of any planned or proposed improvements it is considered that the proposal is contrary to Policy T2 of the Core Strategy, and to the sustainable transport guidance contained in the NPPF and the 12 core planning principles which require that growth be actively managed to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 4) The Local Planning Authority considers that the development of this site for up to 10 dwellings in the manner proposed as set out within the indicative site layout, would be harmful to and out of character with the adjacent spatial pattern of existing residential development within this part of Linton, that would result in an overly dispersed form of development that fails to take the opportunity to improve the character and quality of the area and the way it functions. The application also fails to provide an appropriate Design Code which would ensure that the development had a coherent character which responded well to its immediate context and the wider character of Linton Village and the adjacent conservation area. The Local Planning Authority also considers that, in the absence of an agreed design for the access road, the development would be contrary to the landscape character of the wider area. As such, the proposal would be contrary to Policies P10, P11 and P12 of the Core Strategy, the guidance contained within the SPG ‘Neighbourhoods for Living’ and the guidance within the National Planning Policy Framework.
- 5) In the absence of a detailed topographical survey, levels information, arboricultural impact assessment, and further habitat and ecology surveys, it has not been possible for the Local Planning Authority to properly to consider and assess the effect of the proposed development on existing trees within and adjacent to the site and the potential ecological implications. In the absence of this information it is considered that the proposed development would cause harm to protected species and the arboricultural and ecological

amenities of the site, as well as the wider landscape character, contrary to Policy G8 and P12 of the Core Strategy and the guidance within the National Planning Policy Framework.

- 6) In the absence of a signed Section 106 agreement the proposed development so far fails to provide necessary on site affordable housing, Greenspace and the offered public transport (Metro Cards), contrary to the requirements of Policies H5, T2, G4 and ID2 of the Leeds Core Strategy 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.

## **1.0 INTRODUCTION**

- 1.1 The application relates to a piece of land to the outer edge of Linton Village which is within a Protected Area of Search. Such sites are designated under saved UDP Policy N34 and their release will be considered against policies SP6 and SP9 of the adopted Core Strategy and the Interim PAS policy. They are intended to ensure the long term endurance of the Green Belt and to provide for long term development needs if required. The NPPF requires that the suitability of protected sites for development be comprehensively reviewed as part of the preparation of the Local Plan. The application is recommended for refusal and key considerations in reaching this recommendation are matters of housing land supply, sustainability and prematurity in respect of the Site Allocations Plan. Design and the provision of affordable housing remain outstanding issues.

## **2.0 PROPOSAL**

- 2.1 Outline permission is sought for a residential development of up to 10 dwellings, including means of access with all other matters reserved. An indicative layout and design strategy have been submitted with the application.
- 2.2 Access will be taken from Tibgarth, a small housing development just off Northgate Lane which was constructed by the same developers approximately 15 years ago. The land banks steeply upward into the application site and the access road will need to be heavily engineered in order to address this level change.
- 2.3 The houses will then be set along the flatter, linear plateau to the top of the site; four plots will be set to its northern section and be single storey, and six to the southern side which will be two storey. These are large, 'executive' style houses. The key principles of the development are set out in parts three and four of the submitted Design and Access Statement and it is clear from the illustrative Masterplan Layout (part 6) that they will be individually designed, with a variety of shapes, forms, architectural styles and design approaches.

## **3.0 SITE AND SURROUNDINGS**

- 3.1 The application relates to a linear plot of land which is located outside the existing village. The site is a broadly flat plateau with the land falling steeply away to the west, south and east. Long range views across the open land to the north are possible from Sicklinghall Road and views are also possible from the A58 to the east. The site is bounded by vegetation and is rough grassland within. The vegetation to the site boundaries is mixture of hedgerows, self-seeded vegetation and more established individual trees. The land is site 2136 within the Site

Allocations Plan and has been 'sieved out' as it does not fall within the settlement hierarchy of the Core Strategy.

- 3.2 Linton itself was originally a nuclear settlement with a core of historic development close to its centre, however later development has produced a more radial village, with housing dispersing outward along the roads which enter the village. Its historic core is characterised by a simple agrarian style and houses are largely built from magnesian limestone. There is then a collection of houses from the early to mid-twenty century which reflect an Arts and Crafts pastiche style, and these are usually detached dwellings, with a palate of stone and render. More modern dwellings lie to the outer edges of the village and these are also detached houses, usually within spacious plots and again with a mixed palate of stone and render.
- 3.3 The site lies between the houses which are set north of Northgate Lane and those on 'The Ridge'. Both of these areas are relatively modern (mid-late twentieth century) and are characterised by large individual dwellings set within verdant plots.
- 3.4 Tibgarth is one of the more recent housing developments within the village (see Relevant Planning History) and lacks the verdure of earlier development. The existing access road would be utilised, with the new access point crossing the front of 7 Tibgarth and the road then snaking to the east in order to navigate the gradient change.

#### **4.0 RELEVANT PLANNING HISTORY:**

##### 4.1 Tibgarth Development

31/331/96/FU      10 dwelling houses      **Approved and built**

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 Officers have raised concerns regarding prematurity, sustainability, design (including the access road), ecology and affordable housing.
- 5.2 No agreement has yet been reached on prematurity, sustainability, design, ecology and affordable housing.

#### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application has been advertised by site notice, in the Boston Spa and Wetherby news and the plans have been deposited at Wetherby Library for viewing.
- 6.2 Linton Parish Council and Linton Village society object to the scheme. They raise concerns regarding prematurity, character, intrusion into the countryside, impact on the footpath network and lack of detailed information.
- 6.3 Thirty nine letters of representation have been received. These are largely from houses which adjoin the site and along Tibgarth, although there are a scattering of letters from the wider village.
- 6.3 The concerns of objectors centre around the principle of development and prematurity, access, overdevelopment, traffic, impact on protected species and vegetation, drainage, loss of view, overdominance and overlooking.

## 7.0 CONSULTATIONS RESPONSES:

- 7.1 Environment Agency Raise no objection to the scheme as submitted but note to the need to ensure capacity within system.
- Highways Note that whilst the development can achieve a safe access, this would require a cutting extending back 23m, with a level difference of 10m. Also note that the gradient of the footway would cause problems for those with mobility impairment, fails to meet accessibility standards and is unsustainable.
- Metro Note that good pedestrian access is required to and from bus stops and request a contribution toward residential MetroCards.
- Mains Drainage Raise no significant objection and request the imposition of conditions.
- Contaminated Land Note that an intrusive investigation is required but can be secured by condition.
- Yorkshire Water Initially raised objection to the proposed public sewer connection and request that other options are explored first. Following the submission of further information, no objections are raised subject to the imposition of conditions.
- Landscape Note that detailed information will be required at reserved matters stage but that there appear to be conflicts with existing trees.
- PROW Welcome the provision of a footpath through the site.
- Nature Conservation Raise concerns regarding the level of information submitted and the presence of protected species on the site.

## 8.0 PLANNING POLICIES:

- 8.1 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

- 8.2 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
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 P10	Design
Policy P11	Conservation
Policy P12	Landscape
Policy T1	Transport Management
Policy T2	Accessibility requirements and new development
Policy G4	New Greenspace provision
Policy G8	Protection of species and habitats
Policy EN2	Sustainable design and construction
Policy ID2	Planning obligations and developer contributions

The following saved UDP policies are also relevant:

GP5:	All relevant planning considerations.
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.
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.
T24:	Parking guidelines.
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

The interim PAS policy is also relevant.

#### Interim PAS Policy

8.3 A report on Housing Delivery was presented to Executive Board on the 13th March 2013. The report outlines an interim policy which will bolster and diversify the supply of housing land pending the adoption of Leeds Site Allocations Development Plan Document which will identify a comprehensive range of new housing sites and establish the green belt boundary. The Interim Policy is as follows:-

In advance of the Site Allocations DPD , development for housing on Protected Area of Search (PAS) land will only be supported if the following criteria are met:-

- (i) Locations must be well related to the Main Urban Area or Major Settlements in the Settlement Hierarchy as defined in the Core Strategy Publication Draft;

- (ii) Sites must not exceed 10ha in size (“sites” in this context meaning the areas of land identified in the Unitary Development Plan ) and there should be no sub- division of larger sites to bring them below the 10ha threshold; and
- (iii) The land is not needed , or potentially needed for alternative uses

In cases that meet criteria (i) and (iii) above, development for housing on further PAS land may be supported if:

- (iv) It is an area where housing land development opportunity is demonstrably lacking; and
- (v) The development proposed includes or facilitates significant planning benefits such as but not limited to:
  - a) A clear and binding linkage to the redevelopment of a significant brownfield site in a regeneration area;
  - b) Proposals to address a significant infrastructure deficit in the locality of the site.

In all cases development proposals should satisfactorily address all other planning policies, including those in the Core Strategy.

8.4 Leeds City Council Executive Board resolved (Paragraph 201 of the Minutes 13th March 2013) that the policy criteria for the potential release of PAS sites, as detailed within paragraph 3.3 of the submitted report be approved subject to the inclusion of criteria which:

- (i) reduces from 5 years to 2 years the period by which any permission granted to develop PAS sites remains valid: and
- (ii) enables the Council to refuse permission to develop PAS sites for any other material planning reasons.

8.5 It has been confirmed following a High Court challenge from Miller Homes that the Council’s interim PAS policy is legal. However, the case is due to be heard in the Court of Appeal in March 2015.

8.6 The policy has been used to support the release of land at four sites at Fleet Lane, Oulton, Royds Lane, Rothwell, Owlars Farm, Morley and Calverley Lane, Farsley. Members have also agreed in principle, the release of a site in Wetherby, and this is currently the subject of s106 discussions. The policy has also been used to resist permission for PAS sites at Kirkless Knoll and Boston Spa which were subject of public inquiries in 2013 and 2014 respectively . Both appeals have been the subject of call in from the Secretary of State with no indications given over the timescales for the release of decisions. PAS sites at Bradford Road, East Ardsley, West of Scholes, East of Scholes, Adel, Breary Lane East in Bramhope and Leeds Road at Collingham, have also been recently refused. The applicants for the Collingham PAS site have recently lodged an appeal and this will be the subject of a Public Inquiry in due course.

8.7 The Council’s interim PAS policy does not supersede the Development Plan but is a relevant material consideration. The starting point remains the Development Plan

and in particular Core Strategy strategic policies 6 and 7 and saved UDP policy N34.

#### Local Development Framework - Site Allocations Plan

- 8.8 The Council is also currently progressing a Site Allocations Plan (SAP) and has previously carried out extensive consultation, including 8 weeks of formal public consultation from 3/6/13 to 29/7/13 (Issues and Options for the Plan). Within this document the site is colour coded purple which equates to it being sieved out (removed from further consideration), primarily as it is not within the settlement hierarchy. The Council is currently advancing the SAP and subject to consideration by the Development Plan Panel and Executive Board, a Publication document will be 'placed on deposit' later in 2015 (summer/autumn).
- 8.9 The supporting text to Policy N34 of the Unitary Development Plan expects the suitability of the protected sites for development to be comprehensively reviewed through the Local Development Framework (para 5.4.9). 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 application is contrary to this approach. The Site Allocations Plan process will determine the suitability of this site 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."
- 8.10 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.
- 8.11 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), which 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 as well as levels of future and unmet need for affordable housing.

#### Neighbourhood Plan

- 8.12 Linton has been designated a neighbourhood area and has developed a draft Neighbourhood Plan. This notes that housing developments will be supported where they are small scale and do not extend the village into the countryside (policy B1). The plan identifies the application site at policy B2 and notes that it



should not be developed ahead of the Site Allocations DPD, a comprehensive Green Belt review, housing needs and site assessments. The Neighbourhood Plan also notes that development should be within 5 minutes walk of a bus stop and should not exacerbate highway problems.

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.

#### Linton Village Design Statement

- 8.13 Outlines the character of the existing village and draws attention to the key architectural and landscape features of the area. The document notes that local distinctiveness should be recognised and enhanced.

#### Linton Conservation Area Appraisal and Management Plan

- 8.14 Outlines the architectural character of the conservation area and draws attention to the wider setting of the village and need to effectively manage the surrounding landscape.

#### National Planning Policy

- 8.15 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.
- 8.16 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. 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.
- 8.17 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%.
- 8.18 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.

- 8.19 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.

### National Guidance - Five Year Supply

- 8.20 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.
- 8.21 The Council's Five Year Supply requirement between 1st April 2014 and 31st March 2019 is set out below and rests at **22,570 homes** (at 30<sup>th</sup> March 2014). The Council are advocating that a local approach to calculating the housing requirement is used whereby any backlog against Core Strategy targets since 2012 (the base date of the plan) is caught up by spreading under delivery over a ten year period rather than the five years stated as the aim in the National Planning Practice Guidance (NPPG). The Council does not consider that the authority is one where a 20% buffer is required, which the NPPF advises should only apply where persistent under delivery has occurred but does not define what this means. It should be noted that appellants at the Bagley Lane Inquiry consider that the Leeds requirement should be **30,685 homes** which includes spreading backlog over 5 years and a 20% buffer.

COMPONENT	HOMES
Base requirement	20,380
NPPF Buffer 5%	1,019
Under delivery	1,171
<b>Total</b>	<b>22,570</b>

- 8.22 The Leeds land supply position is summarised in the table below and indicates a supply of **29,504 homes** (at 30<sup>th</sup> March 2014). The majority of the supply is identified via the Strategic Housing Land Availability Assessment (SHLAA) process.

This was undertaken by a Partnership at the beginning of the year which comprised housebuilders and elected Members. House builders on the SHLAA contended that the deliverability of the Leeds land supply continues to be affected by the market and that a more realistic level of supply is much lower. The appellants at Bagley Lane state that Leeds has a supply of only **16,873 homes**.

CATEGORY OF SUPPLY		2014 to 2019
	Sites under construction	4,983
	Sites with planning permission	5,215
	Allocated sites without planning permission	1,731
	Sites with expired planning permission	2,781
	Sites with no planning permission	7,793
	PAS sites meeting the interim policy	1,238
<b>A</b>	<b>TOTAL SHLAA SUPPLY CAPACITY</b>	<b>23,741</b>
	Additional PAS sites granted permission	181
	Estimated Windfall Delivery (<5 units)	2,500
	Estimated Windfall Supply (>5 units)	600
	Estimated Long Term Empty Properties	2,000
	Identified Pre-Determinations	316
	Estimated Pre-Determinations	316
<b>B</b>	<b>TOTAL ADDITIONAL SUPPLY CAPACITY</b>	<b>5,913</b>
<b>A+B</b>	<b>TOTAL GROSS SUPPLY</b>	<b>29,654</b>
<b>C</b>	<b>MINUS DEMOLITIONS (30 per annum)</b>	<b>150</b>
<b>A+B-C</b>	<b>NET FIVE YEAR DELIVERABLE SUPPLY</b>	<b>29,504</b>

The Council considers that the five year supply rests at 6.5 years. However, Panel members should be aware that there are alternative approaches to calculating the supply as set out below.

	Leeds City Council	NPPG advice	Appellants at Bagley Lane
	<b>Under delivery spread over 10 yrs and 5 % buffer</b>	<b>Under delivery spread over 5 years and 5% buffer</b>	<b>Under delivery spread over 5 years and 20% buffer</b>
<b>Requirement</b>	22,570	23,741	30,685
<b>Supply</b>	29,504	29,504	16,873
<b>Five Year Supply</b>	6.5 yr	6.2 yr	2.7 yr

- 8.23 The current 5 year supply contains approximately 24% Greenfield and 76% previously developed land. This is based on the sites that have been considered through the SHLAA process and accords with the Core Strategy approach to previously developed land as set out in Policy H1. This also fits with the Core Planning principles of the NPPF and the Secretary of State's speech to the Royal Town Planning Convention (11 July 2013) where he states that not only should green belts be protected but that "we are also sending out a clear signal of our determination to harness the developed land we've got. To make sure we are using every square inch of underused brownfield land, every vacant home and every disused building, every stalled site."

8.24 In addition to the land supply position, the Site Allocations Document is in the process of identifying specific deliverable sites for the remainder of the plan period. It is this document which will create the pool of sites from which the 5 year supply can be based in future years.

## **9.0 MAIN ISSUES**

- 1) Principle/Prematurity
- 2) Five Year Supply
- 3) Sustainability Criteria
- 4) Accessibility
- 5) Highway Considerations
- 6) Loss of Agricultural Land
- 7) Layout & Design
- 8) Affordable Housing
- 9) Trees, Landscaping & Ecology
- 10) Residential Amenity
- 11) Section 106 issues
- 12) Other Matters
- 13) Letters of Representation

## **10.0 APPRAISAL**

### Principle/Prematurity

- 10.1 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.
- 10.2 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. 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”. By not waiting for the comprehensive review, a decision to approve this application now would be a departure from the Development Plan. The proposal to develop the Linton 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. 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”.
- 10.3 As set out above, the Council has put in place an Interim Policy pending the further progress of the Site Allocations Plan the application site needs to be assessed against the interim policy to see if it meets the criteria for possible early release. The criteria of the interim policy are intended to ensure that PAS sites are

considered against the spatial development strategy of the Core Strategy. Within that context some sites have been released by virtue of their scale and relationship to the settlement hierarchy in advance of the Site Allocations Plan, to help bolster the delivery of housing in Leeds by diversifying the land supply. PAS sites in excess of 10ha, those with alternative potential uses or those not adjacent to the main urban area or major settlements have been considered more likely to give rise to harm to the spatial development strategy and raise more sustainability issues. These sites will only be identified as housing sites through the Site Allocations Plan, where a full and comparative sustainability appraisal can be undertaken, which includes exploring cumulative and synergistic effects and the implications of the release of sites on infrastructure provision. This process will also consider whether PAS sites are needed in the context of specific housing requirements for individual housing market areas. This leaves the smaller PAS sites that comply with the interim policy criteria as capable of being released for development in advance of the Sites DPD process. The Interim Policy is a relevant material planning consideration that should be afforded weight in the determination of this application.

- 10.4 It is therefore necessary to assess the Linton PAS site against the interim policy to see if the proposal meets the criteria to be released early. To be released early development sites must be well related to the Main Urban Area or Major Settlements, must not exceed 10ha in size and the land should not be needed for alternative uses. Whilst the site does sit beneath the threshold of 10ha and there is no indication that the land is needed for alternative uses, the site is not well related to the Main Urban Area or a Major Settlement as defined in the Settlement Hierarchy of the Core Strategy. Linton is not individually listed within this Settlement Hierarchy and thus is a 'village'. As the site fails the first test of the Interim PAS policy it is not appropriate to be released, and thus criteria iv and v do not need to be considered.
- 10.5 The Core Strategy has a clear spatial development goal, as outlined within its introductory text and within Spatial Policy 1. 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.
- 10.6 Linton is identified as a village within the Core Strategy settlement hierarchy and thus falls outside the list of areas whereby new development should be located under policy SP1. This is reflected within the Site Allocations Plan Issues and Options Document where the identified sites around Linton are 'sieved-out' as the village lacks basic services, is not well served by public transport and is broadly considered to be unsustainable.
- 10.7 To summarise, the application does not meet the interim policy criteria to be released early. Work is ongoing through the Site Allocations Plan to consider where within the Outer North East Area new development should be located. To allow development on this site in advance of this document would undermine the plan-led approach, looking at what sites should come forward, what infrastructure is needed to support them and where that would best be located. In addition work is progressing on a neighbourhood plan and it is considered that the release of this site early would also not sit well with that process which is being co-ordinated with the Site Allocations Plan.

- 10.8 It is noted that local concern has been raised regarding the development of a currently open area and encroachment into the countryside. This matter was carefully considered by the UDP Review Inspector in 2006 who noted that the site was a slim tongue of undeveloped land between existing housing developments which did not materially assist in safeguarding the countryside from encroachment, nor play a positive role in fulfilling Green Belt objectives. He concluded that the site had no great Green Belt merit, but also noted that it would be necessary for the council to consider the release of all PAS sites for housing in a comprehensive manner before a housing designation could be attached to the land. The concerns of local residents in this regard are noted, however through its PAS designation the land has been identified for development. It is not, at present, a question of should the land be developed, but when and in what manner should development occur.

#### Housing Need/Five Year Supply

- 10.9 It should also be noted that the Council has a supply of 29,504 net homes between 1st April 2014 and 31st March 2019, which when assessed against the requirement for 22,570 homes provides a 6.5 year housing land supply (figures at 31<sup>st</sup> March 2014). Because the Council can demonstrate a 5 year supply it is not considered that the provisions of paragraph 49 of the NPPF are triggered. In cases where a 5 year supply cannot be demonstrated the NPPF's presumption in favour of sustainable development has greater weight than the local policies of the Core Strategy and those saved UDP policies. This is not the case in Leeds, and as such there is no justification for the release of the site in order to meet housing need.

#### Sustainability Criteria

- 10.10 Sustainability is a key planning principle and is a core theme which runs through both local and national planning policy. Sustainability is a complex and multi-faceted concept, however in relation to housing development the policies of the NPPF and Core Strategy seek to ensure that land is used effectively and efficiently (H1 Release of Sites, H2 Housing on non-allocated sites and H3 Housing Density), and that the right development (policy H4 Housing Mix) is located within the right areas (SP1 and Accessibility Standards). Linton PAS site lies within a village where policy H3 suggests that a density of no less than 30 dwellings per hectare should be considered. This would suggest that approximately 135 dwellings should be situated on the land. Development of this scale is clearly contrary to the spatial character of the village and beyond the capacity of the local highway network. As noted by the UDP Review Inspector in 2006, it would be difficult to secure a development that was both acceptable in the locality and made efficient use of the land.
- 10.11 It is therefore considered appropriate to set aside the perspective densities of policy H3 and looking instead look to the spatial character of surrounding development to guide what would be appropriate on the site. The developer highlights a number of planning approvals in recent years which have allowed the demolition and rebuild of individual dwellings. These have allowed floor spaces of between 4000-6000 square feet, and as such these should be taken as the baseline for the size and scale of new development. Working on these baselines a development of ten dwellings is then arrived at. The authority take a different view and consider that rather than isolating a number individual applications for new dwellings and using these as a starting point, the spatial character of the settlement as a whole should be assessed. Looking to the wider village it is clear that siting only ten dwellings on the site is contrary to the spatial character of the area, the houses sit in a dispersed

arrangement which is not typical of the village and which represents an inefficient use of land.

- 10.12 The inefficient use of land aside, it is also necessary to assess whether Linton itself is a suitable location for additional development. When considering this PAS site the UDP Review Inspector offered definitive commentary on this matter noting that in his view “Linton is not...a sustainable location for development on any scale”. The Inspector further commented that Linton had only one bus service to Leeds and Wetherby, a public house and a village hall. Its lack of access to jobs, shops and services means that the majority of journeys would be by private car. It is accepted that there are jobs, shops and services within both Collingham and Wetherby, however these do not lie within easy walking distance or are locations well served by public transport. In concluding whether or not the application site should be given over to housing the Inspector noted that the principal objection to the use of the site for housing was that it is not in an intrinsically sustainable location.
- 10.13 This remains the case now. It is accepted that increasing the number of dwellings in order to create a more efficient use of the land would marginally worsen the sustainability of the site in more general terms, as a greater number of dwellings clearly results in a greater number of car movements etc. However the authority consider that the site is in a fundamentally unsustainable location, and there have been no change in circumstances which suggest that the conclusion of the UDP review Inspector should be revisited. The inefficient use of land is a matter which weighs into the balance, but which is not considered to be strongly determinative in this matter.

#### Accessibility – Walking, Cycling & Public Transport

- 10.14 The site does not fully meet the Core Strategy Accessibility Standards. Linton has no shops, schools or services other than a Public House and the village hall. The nearest shops are located within the centre of Collingham and these are approximately a 1.2 miles away, with an estimated walk time of approximately 30 mins. The nearest primary school (Collingham Lady Hastings C of E primary school) and doctor’s surgery (Church View Surgery) are also located in Collingham at a similar distance and similar walk time. The nearest secondary schools (Wetherby High School/Boston Spa High School) are also located well outside the recommended walking distance of 2400m (30 min walk) and the service frequency for bus services does not meet the requirement.
- 10.15 The centre of the site is approximately half a mile (15 mins walk) from the nearest bus stop (Windmill Inn) and Linton is served by only one bus service, the X99 and the frequency of this service to a major public transport interchange (defined as Leeds, Bradford or Wakefield) does not meet the draft Core Strategy Accessibility Standard of 4 buses per hour. In summary, the site falls well short of the accessibility standard for access to employment, secondary education and town/city centres. It should also be noted that some of the footways toward Collingham and also north toward Wetherby are narrow and unlit. It is therefore not regarded as a suitable route to facilitate or encourage regular walking trips.
- 10.16 It is noted that the applicants have voluntarily agreed to enter into a residential Metro Card scheme in order to encourage residents to use public transport. Whilst this is noted, it is considered very unlikely that residents of the proposed executive houses will undertake the fifteen minute walk to the nearest bus stop, particularly given the infrequent nature of the bus service and the limited destinations.

Ultimately the authority do not consider that a residential development in this location which does not meet the Core Strategy Accessibility Standards is, at present acceptable. The principle of additional residential development in Linton requires further consideration in the light of the site allocations process, housing need in this part of the city and other planning merits, and is premature at this point in time.

### Highway Considerations

- 10.17 The development proposes to take access from Tibgarth and create a cutting which traverses the gradient of the hillside. Highways officers consider that as the proposed gradient of the new road is no greater than that of Tibgarth itself, an objection on highway safety grounds would be difficult to substantiate. As such safe access can be achieved and the proposed ten dwellings would not overburden the local highway network. Concern is raised regarding the unsustainable location of the site (as assessed against the Core Strategy Accessibility Standards) and the proposed gradient of the access road for some pedestrians. Essentially access into the site is steep, and this would be difficult for those with mobility issues.
- 10.18 It should be noted that any subsequent internal road layout will need to be built to adoptable standards, in accordance with the Street Design Guide, and offered for adoption under Section 38 of the Highways Act. The speed limit for any future internal layout should be 20mph in accordance with the Street Design Guide. For the avoidance of doubt the cost of road markings, signage and appropriate speed limit Orders will be fully funded by the developer (inclusive of staff fees and legal costs). The requirement for a 20mph speed limit should be indicated on a revised plan before the application is approved.
- 10.19 In conclusion, whilst safe access can be technically achieved, the site remains undesirable due to its unsustainable location.

### Loss of Agricultural Land

- 10.20 The Agricultural Land Classification (ALC) provides a method for assessing the quality of farmland to enable informed choices to be made about its future use within the planning system. It helps underpin the principles of sustainable development. The ALC system classifies land into five grades, with Grade 3 subdivided into Subgrades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a. This is the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non-food uses such as biomass, fibres and pharmaceuticals. Current estimates are that Grades 1 and 2 together form about 21 per cent of all farmland in England - Subgrade 3a contains a similar amount.
- 10.21 Saved policy N35 states 'Development will not be permitted if it seriously conflicts with the interests of protecting areas of the best and most versatile agricultural land'. Paragraph 112 of the NPPF states 'Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development on agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'
- 10.22 It is not clear at the present time exactly what grade the land is, however the application site is approximately 4ha and its loss, even if it were to be of a high grade is not considered to 'seriously conflict' with UDPR policy N35 and the NPPF



when considered against the substantial areas of agricultural land within close proximity of the site and throughout the rest of North and East Leeds, much of which is Grade 2.

- 10.23 The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) requires Natural England to be consulted on applications relating to agricultural land greater than 20ha. It is considered this 20ha threshold is a good guide for what could be considered as a significant area of agricultural land and the application site being approximately 4ha is considered to further diminish any requirement to maintain this piece of land for agriculture.
- 10.24 The conclusion is that the site is not considered to “seriously conflict” with UDPR Policy N35 and the NPPF when considered against the substantial areas of agricultural land within close proximity and through the rest of the North and East of Leeds. It is also considered that the application site on balance has the least impact locally upon best and most versatile land when assessed against other potential urban extensions. This is in line with paragraph 112 of the NPPF.

#### Layout and Design/Conservation Area

- 10.25 There remain significant concerns regarding the proposed indicative layout, as well as the size, scale, mass and design of the proposed dwellings. The applicant is essentially seeking to create a development of bespoke ‘executive’ dwellings. As is clear from the proposed layout this creates a very dispersed layout which does not respect the spatial character of the wider village. The siting of the dwellings does not seek to respect the character of the wider village nor seek to create a coherent character within the development. For instance, the western most dwelling within the ‘village core’ presents its side and rear elevation to the access roads and does not take the opportunity to create a sense of place.
- 10.26 The ‘additive’ approach to design also raises concerns. Whilst it is accepted that Linton has a mixed character it is not at all clear that the development will have a cohesive and coherent style. The application notes that a mix of architectural styles are present in the village and can be used within the development. Whilst the authority is not seeking to impose particular architectural styles or tastes, it is concerned that the use of a number of different architectural styles coupled with a mixed palate of materials and the desire to create bespoke houses, will result in a harmful mix of eclectic shapes, styles, forms and materials. As such the application is not acceptable in this regard.
- 10.27 It should also be noted that whilst the development is not located within Linton’s conservation area it does lie adjacent to its northern most boundary. The authority has a special duty to consider the impact of the development upon this designated heritage asset. As the site is located above the bulk of the village on its northern slope it is largely obscured by the existing housing. As such there will be limited views of the proposed development from within the conservation area, and the CAAMP does not identify any key views across or toward the development site. A key view is identified (Key View 1 page 9) from Muddy Lane toward the historic core of the village, however the presence of housing beyond this vantage point will not obscure the important view of the roofscape of the village.
- 10.28 However, as part of the proposal a footpath through the development is proposed, allowing pedestrian penetration from Muddy Lane, through the site and also out to the north. As such people would move from the conservation area through the development, and also from the development into the conservation area. Thus any

housing development would have an impact upon the character of the conservation area. In principle the presence of housing need not cause harm to the character and appearance of the conservation area, however in the absence of a detailed design code and a more structured layout, the authority cannot be sure that the proposed development will not harm a designated heritage asset. As such the development is contrary to policies P10 and P11 of the Core Strategy as well as guidance on good design within the NPPF.

- 10.29 There are also some concerns regarding the impact of the proposed access road upon the character of the development and the wider landscape. The access road must traverse the relatively steep gradient at the head of Tibgarth and is part of the former quarry access. There are concerns that the level of engineering works required to create the access, including the possibility of retaining walls, a matter referenced within the Highway comments, could result in an area of hard landscaping which would be a stark intrusion into an otherwise rural landscape. It is understood from conversations with the agent that the intention is not to use vertical retaining walls, but to create a more gradual, sloped gradient which can then be planted up. This intention is noted within the submitted landscape appraisal at paragraphs 5.26 and 6.4. However, given the gradient which must be traversed, and in the absence of detailed design proposals, the authority cannot be sure that the proposed access road will not harm the character of the development and the wider landscape. As such the development is contrary to policies P10 and P12 of the Core Strategy as well as guidance on good design within the NPPF.

#### Affordable Housing

- 10.30 Core Strategy Policy H5 notes that within Zone 1 (in which the application site falls) for developments of over 10 dwellings an onsite provision of 35% affordable housing will be required. Although the developer has signalled a clear willingness to accept the policy requirement of 35% they are as yet unwilling to provide this onsite. The authority remain clear that unless there are exceptional circumstances which justify the acceptance of a commuted sum, onsite provision, particularly within an area such as Linton where there is a lack of affordable housing, is required by both local and national policy.
- 10.31 In the absence of an agreement to provide onsite affordable housing, and the lack of agreed Head of Terms for an S106, the application fails to comply with the adopted Core Strategy and is unacceptable in this regard.

#### Trees, Landscaping & Ecology

- 10.32 There remain outstanding concerns regarding trees, landscaping and ecology. As noted within the consultation response from the council's Nature Conservation Officer the site has a number of potentially significant ecological constraints, such as the presence of badgers, its grassland value as well as bat and bird activity. The surveys which have been submitted with the application have not been carried out during summer months and thus do not accurately reflect the nature and intensity of ecological activity on the site. This matter has been raised with the applicants who suggest that this could be covered by condition.
- 10.33 However, as is noted by the Nature Conservation Officer, it is not at all clear that the site is capable of accommodating the level and location of development proposed, and it is not appropriate to grant permission in the absence of evidence to demonstrate that harm would not be caused to the ecological assets of the site. As such this matter will form a reason for refusal.

### Residential Amenity

- 10.34 Core Strategy Policy P10 as well as saved policies GP5 and BD5 of the UDP combine to ensure that new development should ensure an appropriate level of amenity for both existing occupants around the site as well as future occupants of the development. The application is only in outline, however it is quite clear from the size and scale of both the houses and the plots that an adequate standard of amenity for future occupants can be achieved. The layout as proposed does not comply with policy G4 of the Core Strategy which requires on site Green Space provision of 80m<sup>2</sup> per residential unit for schemes of over 10 units or more. However, it is clear from the site that onsite provision is possible and as such this matter could be resolved during any subsequent reserved matters application.
- 10.35 The majority of the site is surrounded by residential development and the impact upon amenity through loss of outlook, increased noise and disturbance and overlooking are all raised as concerns from near neighbours. However, whilst it is not possible to accurately calculate distances from windows and garden areas and assess these against the requirements within Neighbourhoods for Living, it is clear that the development is capable of meeting the minimum requirements. Some of the application site is set above existing housing development, however this section of the site is limited to single storey dwellings, and thus harm through overdominance is not anticipated. The use of Tibgarth as an access road will increase the traffic along this stretch of highway, however the relatively small number of dwellings mean that the increased traffic movements, although perceptible, will not be unreasonable.

### Section 106 Package/CIL

- 10.36 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.
- 10.37 The applicants have offered proposed Heads of Terms relating to Affordable Housing and residential Metro Cards. 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. Accordingly they can be taken into account in any decision to grant planning permission for the proposals. The applicants 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 applicants are not objecting to these requirements in principle but in the absence of any signed agreement the Council should protect its position at present.

- 10.38 It should also be noted that CIL will apply to any development which is granted permission, either by the council or by the Inspectorate after 6<sup>th</sup> April 2015. The CIL charge per square metre of residential floor space within the residential North is £90.

#### Other Matters

- 10.39 Drainage remains an outstanding issue and the developer is in talks with Yorkshire Water to resolve this matter. This is not considered to be determinative in respect of this outline consent and the authority is confident that this technical issue can be solved.
- 10.40 Concern has been raised by local residents regarding rights of way along Muddy Lane. The applicant has provided evidence that the owners of the land have a right of access along Muddy Lane. It is proposed that vehicular rights be given up, and that a pedestrian link into the development is provided. However, ultimately this is a civil matter which must be resolved by the relevant parties outside the planning process should a dispute persist.

#### Letters of Representations

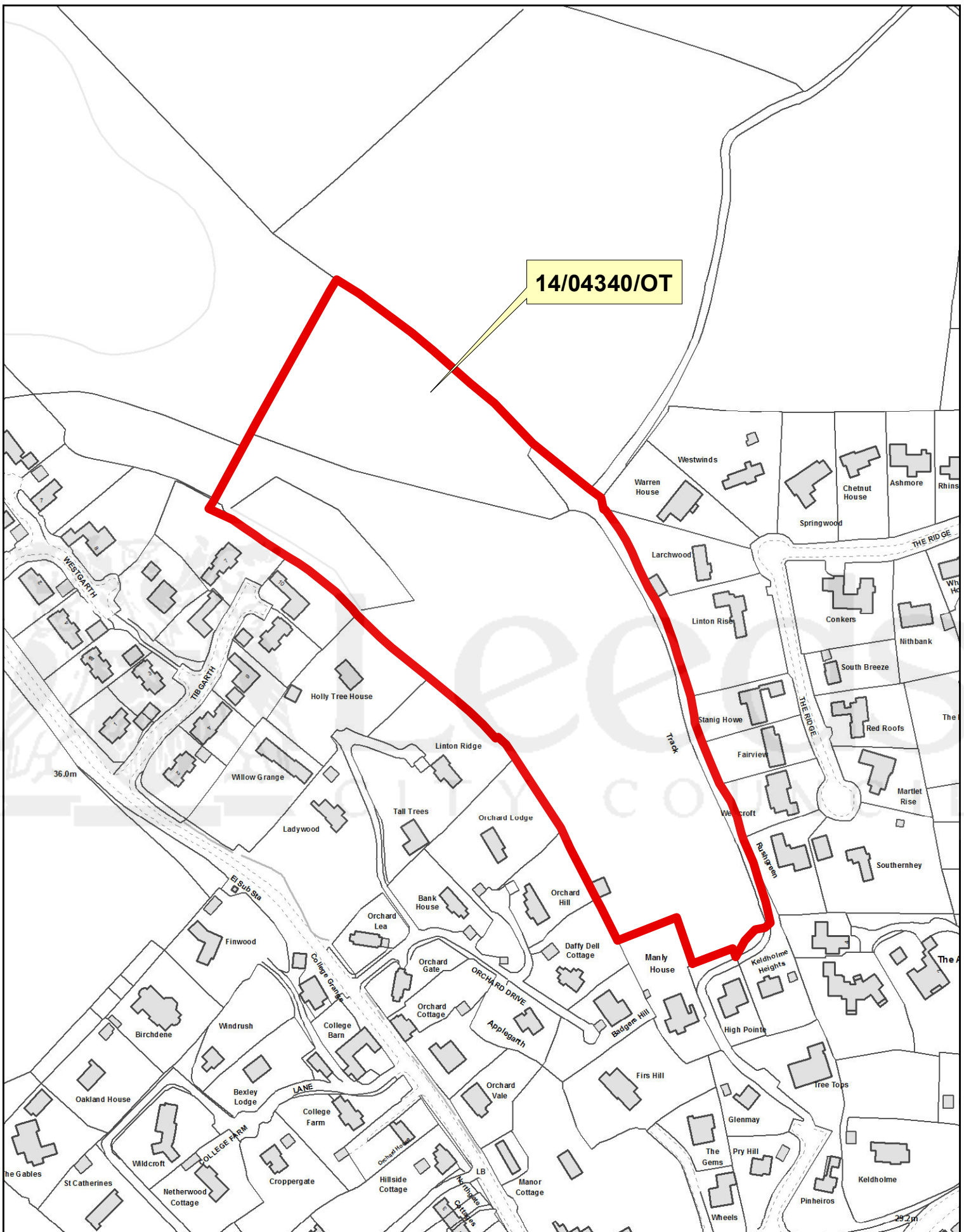
- 10.41 The issues raised in the letters of representation have been considered above.

### **11.0 CONCLUSION**

- 11.1 The release of the Linton PAS site for housing development at this time is premature, being contrary to saved policy N34 of the UDP and the NPPF. To grant permission 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 considers it has a 5 year housing land supply and so there is no need to release additional sites of this scale in advance of the Site Allocations process. There are also concerns regarding the sustainability of the site given limited services within the village and the infrequency of the local bus service. There are also concerns over the layout, design and density of development and its impact on local character and the character and appearance of Linton Conservation Area, protected species, landscape and ecology. The applicants have also failed to enter into an S106 agreement to secure onsite affordable housing provision, on site greenspace and a sum to secure residential metro cards. Refusal is therefore recommended for the reasons set out at the start of this report

#### **Background Papers:**

- Application files: 14/04340/FU  
Certificate of ownership: Certificate B signed by the agent  
Notice given to Mr M Murray and JDL Design Ltd



# CITY PLANS PANEL

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SCALE : 1/2500

