



## 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

**Electoral Wards Affected:**

**Adel and Wharfedale**

Yes Ward Members consulted (referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**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 it is not considered suitable for release for housing during the plan period as it fails to meet accessibility standards in respect of access to employment, secondary education and town and city centres and 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 as is currently 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 the reasons below, 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 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 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 in two 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." 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 withdrawn 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.

- 2.15 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.

#### Planning Practice Guidance

- 2.16 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
- 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 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 Collingham 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 were 3 reasons for refusal in relation to highways and these relate 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 safely and satisfactorily on the local highway network. Policy T2 of the Core Strategy states 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 been demonstrated to be achievable 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 mitigation to offset 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 accommodated 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, local character and ecology; 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. There are also concerns over the layout, design and density of development and its impact on local character, protected species, landscape and ecology. 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

# Appendix – Previous Plans Panel Report



Originator: Carol  
Cunningham  
Tel: 0113 24 77998

Report of the Chief Planning Officer

## **CITY PLANS PANEL**

Date: 28<sup>th</sup> August 2014

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

### **APPLICANT**

Miller Homes

### **DATE VALID**

4 November 2013

### **TARGET DATE**

29<sup>th</sup> August 2014

#### **Electoral Wards Affected:**

Adel and Wharfedale

Yes

Ward Members consulted  
(referred to in report)

#### **Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: Refusal of Planning permission for the following reasons;**

1. The Local Planning Authority considers that the release of this site for housing development would be premature being contrary to Policy N34 of the adopted Leeds Unitary Development Plan Review (2006) and contrary to Paragraph 85 bullet point 4 of the National Planning Policy Framework. The suitability of the site for housing purposes needs to be comprehensively reviewed as part of the preparation of the ongoing Site Allocations Plan. The location and size of the site 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 13<sup>th</sup> 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 Bramhope in a plan-led way.

2. 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 Policies GP5 and T2 of the adopted UDP Review and Policy T2 of the emerging Core Strategy 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.

3. 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 policies GP5, T2, T2B and T5 of the adopted Leeds Unitary Development Plan (Review ) 2006, policies T2 of the emerging core strategy and guidance contained within the adopted Street Design Guide SPD,

4. 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 emerging Core Strategy 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.

5. 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, greenspace, public transport, travel planning and off site highway works contrary to the requirements of Policies H11, H12, H13, N2, N4, T2, GP5 and GP7 of the adopted UDP Review (2006) and related Supplementary Planning Documents and contrary to Policies H5, H8, T2, G4 and ID2 of the Draft 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.

6. 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.

7. It has so far not been demonstrated that part of the site is not required for the provision of a school, contrary to Policy SG3 of the adopted UDP Review (2006) and Policy P9 of the Draft Leeds Core Strategy.

## 1.0 INTRODUCTION

- 1.1 An outline planning application for residential development was submitted to the council on 4 November 2013. The 13 week expiry date was 25<sup>th</sup> February 2014. The 26 week expiry date was 2<sup>nd</sup> May 2014 when the fee would have to be paid back to the applicant if no extension of time was agreed. The agent has agreed an extension of time so the application now needs to be determined before 29<sup>th</sup> August 2014.
- 1.2 Members are asked to note the content of this report and accept the officer's recommendation of refusal with the proposed reasons for refusal listed above.
- 1.3 The application relates to two parcels of land. The first is designated as a Protected Area of Search in the adopted UDP and forms SHLAA site 1080. Such sites are designated under policy N34 of the adopted UDP and are intended to ensure the long term endurance of the Green Belt and to provide for long term development needs if required. The second is designated as green belt in the adopted UDP and forms SHLAA site 3367a. The application proposes residential development on the PAS (SHLAA 1080) and Greenspace or a new school on the green belt site (SHLAA 3367a). The application adjoins a further SHLAA site (3367b) which is outside of the red-line boundary and is categorised as "red" in the Issues and Options Site Allocations Plan. The application is recommended for refusal and key considerations in reaching this recommendation are matters of housing land supply, sustainability and prematurity vis-à-vis preparation of the Site Allocations Plan.
- 1.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the need to determine applications in accordance with the development plan unless material considerations indicate otherwise.
- 1.5 The proposal does not accord with the current development plan which comprises the UDP Review (2006) in that the proposal is designated as a Protected Area of Search. The development is also considered unacceptable in terms of the impact on the existing highway network, the proposed access is also unacceptable in terms of its design and impact on the safe and free flow of traffic and the site does not presently meet the Council's sustainability criteria. In addition, the scheme as shown fails to provide adequate on site Greenspace and from the information provided it has not been demonstrated that a satisfactory design and layout can be achieved for the scale of development proposed. If a school is required on this site it would need to be on the PAS site and not on land in the Green Belt where it would be inappropriate development requiring very special circumstances to be justified.
- 1.6 The National Planning Policy Framework is a material consideration and Annex 1 sets out that whilst relevant policies adopted since 2004 may be given full weight depending on their degree of consistency with the NPPF, decision takers may also give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the NPPF.

## **2.0 PROPOSAL:**

- 2.1 The application is made in outline to consider the principle of the development. All matters are reserved except for access to the site. An indicative masterplan showing details of the layout, scale, appearance and landscaping have been provided and refer to a development of up to 380 dwellings (ranging from 2 bedroom houses through to 5 bedroom detached houses) with associated road infrastructure, parking provision, amenity space and landscaping. These details would be considered under future applications for approval of Reserved Matters were permission to be granted.
- 2.2 The submitted plans indicate that the main access will be off the main A660 taking the form of a roundabout. The initial 130 metres of the access road would be designed to accommodate a bus service and then there would be a second roundabout. There will then be a loop through the site with residential streets off this loop. There will be a pedestrian/cycle access onto Breary Lane East and pedestrian/cycle/emergency vehicle access off High Ridge Way. To the north of the site onto Breary Lane East will be a community orchard, village green and community park. To the south of the site (SHLAA site 3367a) there will be a new park, play area and woodland with paths allowing access into this area and this is referred to on the plan as 'Bramhope Park'. To the east of the site is 'Spring Wood' (SHLAA site 3367b) which is ancient woodland with very little public access at the moment. There will be an access path from 'Bramhope Park' through Spring Wood to the proposed allotments to the north of the site. A small retail unit will be located to the south of the access road with its own car park. The floor space for this retail unit has been reduced to 372 square metres.
- 2.3 Children's Services have indicated that because of the size of the site in relation to the settlement there would be an expectation that on-site school provision would be assessed. There is generally no capacity in local schools and a lack of land available around existing schools for extensions. In seeking to address this issue the applicant has offered a piece of land adjacent to the PAS site, but within the red line boundary of the application, to be made available for a school. This land was originally proposed by the applicants as potential Greenspace over and above the Greenspace standards of the Core Strategy and in addition to the Greenspace provided within the PAS site. The applicants have stated that this land could instead be used for a school and have offered it for 5 years and if not taken up for a school to revert back to a proposed park / Greenspace as detailed in relation to this application. This land is currently designated as greenbelt.
- 2.4 Within a wider local context infrastructure needs and future provision, such as schools and Greenspace, are being considered as part of the preparation of the Site Allocations Plan. This work is ongoing and at this stage no conclusions have yet been reached on the level of need for schools in the area and the potential for new schools to be delivered at the right time and on the most appropriate and sustainable sites in relation to local needs and future pupil places. To that end, the offer of part of the site for a new school is premature to the plan-making considerations of the Site Allocations process. Moreover, should the Site Allocations process conclude that a school is needed and that the application site is a suitable location, decisions on releasing land from the green belt for the purposes of a new school would need to be taken through the plan-making process of the Site Allocations Plan. This is in line with the NPPF. For both these reasons the proposal is premature in advance of the Site Allocations Plan and by seeking to limit the offer of land for a school for 5 years, affects and constrains the school place and investment planning of the Council.

- 2.5 In addition, the Site Allocations Plan process assesses the surpluses and deficiencies of Greenspace against Core Strategy standards. Adel and Wharfedale ward is surplus in most Greenspace and only deficient in amenity space and allotments. Decisions around new areas of Greenspace, and the future use of the adjacent site, are best considered through the Site Allocations plan-making process.
- 2.6 The application is accompanied by a draft S106 agreement (Heads of terms) which will make provision for Greenspace on site and a contribution towards off site Greenspace, 15% affordable housing, contribution to education provision, land available for a new school, highway works detailed above (and any additional works required yet to be agreed) and a contribution towards the Public Transport Infrastructure SPD, landscaping maintenance, metrocards, funding to bus stops in the area, Travel Plan measures and contributions and any other matters that arise through the course of the application.

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site is an area of open fields located to the south of Breary Lane East and east of the A660. The site is used for agriculture at the current time. The land slopes upwards from the southern part of the site (A660) to the north of the site (Breary Lane East). To the east of the site is existing ancient woodland and beyond this open countryside. There is a line of residential properties which front part of the northern boundary and the western boundary. Beyond these rows of houses are the main areas of housing in Bramhope.
- 3.2 Part of the site is allocated as PAS land within the Unitary Development Plan. It is categorised as “amber” within the Issues and Options Site Allocations Plan. The area of land adjacent to the site proposed by the applicant for a ‘Bramhope Park’ or potential new school is within the green belt. This piece of land has been submitted through the Council’s Strategic Housing Land Availability Assessment process as having potential for further residential development in the site allocations plan. This parcel of land is also categorised as “amber” in the Site Allocations Plan.
- 3.3 In relation to the PAS site the site allocation document states that the site is a  
  
‘Protected area of search (PAS) site in the UDP. Potential for development on part of the site for 200 dwellings with single access from A660 or all site (434 dwellings) if combined with adjacent site 3367A due to access issues’.
- 3.4 The site for the park or proposed school (4.17HA) is within green belt and has been put forward as a potential housing site through the Site Allocations process. Development of this site could provide an extension to the adjoining PAS site and assist access into that site.
- 3.5 The Site Allocations Plan document states:  
  
‘By itself, the site is an isolated site, but with the adjacent PAS site it could effectively ‘round off’ the settlement. If furthered the site should be viewed as a single allocation with 1080 for the purposes of access requirements – one access to the A660, shared with site 1080, would restrict the combined capacity of the sites to 200 units. Two access points would allow a total capacity of 434. ‘

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

4.1 There are no previous planning applications of relevance

4.2 The site was originally designated as Green Belt in the Bramhope Local Plan. Then in the 2001 adopted UDP the originally UDP Inspector removed the site from the Green Belt after he concluded that the land was needed to help long term planning for growth and development and he considered that the site did not fulfill the function of Green Belt. In 2006 the site was reviewed again by the Planning Inspector who retained the PAS land designation but differed in his view from the 2001 Inspector in that he felt the site did have the potential to fulfill some of the Green Belt objectives.

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

5.1 Council Officers have met with the applicant a number of times to discuss the application both at pre application stage and during the processing of this planning application. The discussions revolved around the principle of development, highways, education, ecology and design.

5.2 The developer arranged a public consultation event and wrote to local residents to advise of the intention to submit an application for the proposed development. Letters were sent to local residents at the adjoining properties and the surrounding area.

5.3 The letters invited local residents to attend a public consultation event. The event took place on Tuesday 1st October from 4pm until 7pm and was held at the West Park Leeds RUFC. The event gave local residents an opportunity to look at the proposals for the site and discuss them with the development team. A comments sheet was provided for residents to formally provide feedback. In total there were over 80 attendees at the exhibition with 29 responses either received at the exhibition or sent following the event. The developer has summarised the responses received as:

- The impact on Bramhope due to the increase in the number of houses;
- The impact on wildlife and the loss of greenspace;
- The impact on the local highway network;
- The lack of community facilities for local residents;
- The application was premature in terms of the plan making process; and
- The impact on existing shops in Bramhope.

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

6.1 The application was advertised by site notice posted on site on the 22 November 2013 and an advert was placed in the Wharfe Valley Times on the 14 November 2013.

6.2 Publicity expiry date was the 16 December 2013.

Councillor, Anderson and the late Councillor Fox objected to the application on the following points:

- Release of the PAS site is premature and contrary to policy N34 and para 85 bullet point 4 of NPPF
- Detrimental to highway safety
- Should be refused as key considerations in reaching this recommendation are matters of housing land supply, sustainability and prematurity vis a vis preparation of the Site Allocations Plan
- Proposal does not accord with current development plan and is designated as a Protected Area of Search
- Site allocation DPD is the vehicle being pursued by Leeds City Council for taking decisions on the suitability of such sites for development
- After consultation with local residents and my own concerns a number of issues have been raised
- Site is PAS land and shouldn't be developed
- The site should be returned to green belt
- There are too many houses already for the area in terms of available infrastructure and its ability to cope with additional pressures
- The highway infrastructure is inadequate and will not cope with further development
- The extra houses will change the character of the area
- There are already a number of new housing developments in the area and also a supply of brownfield sites that could be developed
- The schools cannot cope with extra houses in the area, in particular the local primary schools have no space available and in the short to medium term secondary school provision will be at dangerously low levels
- There are highway safety issues
- The surrounding roads are already congested and the capacity on the Harrogate railway line into Leeds is already well over what that line can cope with
- There is a need for appropriate infrastructure developments by Leeds City Council and its partners
- With the introduction of NGT the local bus services will be greatly affected and probably reduced in frequency
- The development is contrary to the NPPF
- This local site is neither environmentally nor socially sustainable and as such should be returned to the green belt

Councillor Les Carter has objected on the following points:

- It would mean that the size of Bramhope expanding by around a quarter. Two thirds of the existing village is a conservation area, and creating what is essentially an urban housing estate will completely change the character of the village
- The inappropriate proposed roundabout faces onto the A660, which will exacerbate
- existing traffic problems in terms of peak hour vehicular flow plus the impact of further traffic on the A660 through to the centre of Leeds.
- This is PAS land, not allocated for development, which leaves the application premature ahead of the final housing site allocations.
- The lack of an appropriate second access for an estate of this size. Breary Lane East, which is in the conservation area, is not an appropriate access even for emergency vehicles.
- The site is not well related to the urban area, is poorly served by public transport, has few local facilities with no education provision beyond the

primary school, which is full. That means people living there will have to rely on the car for every day transport.

Councillor Campbell has objected on the following grounds:

- A660 already congested so additional traffic will cause more delays and congestion.
- Addition of a retail unit will add to traffic numbers and it's an out of centre shop
- Need more information to assess the scheme fully
- Needs affordable housing

Bramhope and Carlton Parish Council have submitted a detailed objection regarding the following:

- Application states the development will be 32 Dwellings Per Hectare which increases the development numbers to 398 dwellings
- New SUD ponds proposed to the south of the site are substantial engineering operations within an area designated as Green belt.
- Wood is not within the application site but new footpaths are proposed through it which have not been evaluated
- Site is not sustainable
- Greenspace proposed is in land designated as green belt
- Proposed car park for retail and new park is within green belt so inappropriate
- Doesn't comply with the following policies within the UDP N34, N29, T2, T5, T7a, T7b, T24
- Retail development is out of centre
- Detrimental impact on adjoining conservation area and listed building High Ridge House to the north of the site
- Detrimental impact on the community infrastructure such as schools, shops
- Impact on drainage and potential for flooding

The Bramhope and Carlton Parish Council have also submitted a detailed highway objection done by Pell Frischmann raising concerns regarding the transport assessment that has been submitted. This issues raised are the following:

- It would appear that the scope of the TA has not been agreed with the Local Highway Authority.
- The scope of the TA is not suitably robust to correctly assess a development of this nature.
- The method of traffic generation in the TA significantly underestimates the developments peak hour trip generation particularly in the AM peak period.
- TA acknowledges there is an existing accident problem at the Dyneley Arms junction and increasing in traffic requires improvements to this junction which are not contained in the TA.
- The site is not within a 400m walking distance to a bus stop ... whilst the proposal involves the bus routes being diverted into the site this will have a negative impact on existing residents in the area who will have to walk further and some being outside of the required 400m.
- No evidence of agreements with Metro to divert the buses into the site

- Bus X84 is a 20minute frequency when core strategy policy requires a 15 minute frequency.
- Nearest train service is 6.5km away at Horsforth so outside the feasible walking distance and recommended 5km cycle distance
- In terms of walking to local facilities most are outside the recommended 800m. The primary school is outside of this and involves children to cross the busy A660.
- .. the secondary school s 4.5km away outside the upper 2km walking distance
- In terms of pedestrian access there is a pedestrian link onto Breary Lane east but this has no footways or street lighting to connect to the rest of the area.
- The TA provides details of destinations that are accessible by cycle but these are all small settlements with limited level of services and facilities.
- There is over 5km cycle ride to access park and ride facilities.
- Cycle access to schools also involves the busy A660.
- The TA doesn't include the traffic generation from a number of committed developments in the vicinity.
- The existing congestion on the A660 corridor is not reflected in the analysis.
- No junction assessments have been undertaken to assess the impact of the development on the A6120 Outer ring road with the A660.
- Layout of the roundabout intrudes onto land classified as green belt.

Arthington Parish Council have objected concerned with the following matters

- Impact on character of their parish as southern boundary would radically change from open fields to large urban housing estate
- Application premature and should wait for site allocation process
- Use of Breary Lane East as second (emergency ) access is inappropriate
- Impact of extra traffic volumes on the A660 will be severely affected
- Roundabout will create more congestion and slower moving traffic

To date 866 objections have been received to the publicity of this application. The following issues have been raised:-

- Development is premature as site allocations document is not approved and this site should not be used till 2016.
- Site is green belt
- Site is greenfield and other brownfield sites should be used first
- Significant residential development already approved in this area
- Bypassing site allocations process
- Out of scale with current village of Bramhope with the proposal increasing the size of the village by 25%
- A660 can't take any more traffic
- Further impact on the places along the A660
- No local jobs so will increase commuting, additional traffic on the A660
- No school places
- Pressures on doctors, dentists and other local amenities
- Providing expensive houses and not affordable housing for new entrants to the housing market.
- Loss of ecosystem



- Detrimental impact on rural characteristics of Bramhope
- Detrimental impact on adjacent conservation area
- Cramped and crowded layout will have major social and environmental impact
- Car park for retail element too small
- Detrimental impact on wild deer and red kites.
- Drainage problems and increases the risk of flooding
- A660 popular cycle route so increase in traffic effects safety of cyclists
- Buses already full in Bramhope make situation worse
- Creating additional noise and disturbance
- Shop will impact on the other retail units within the area
- Extension of urban sprawl
- Water to existing streams will be diverted with the streams drying up and ecology lost
- Loss of privacy and views
- No details on the houses in terms of eco homes
- No school near so can't walk to school and impact on environment
- Should contribute to electrifying train line between Harrogate and Leeds
- Should contribute to the opening of Arthington Railway station which is 2k walking distance from the site
- TPO of trees needed
- No consideration of the comments from public consultation

## 7.0 CONSULTATION RESPONSES:

### Highways

The proposals cannot be supported as submitted for the following reasons:

The site does not meet the minimum accessibility standards for residential development in the emerging Core Strategy. Only part of the site is within an acceptable distance of access to the existing bus services. The services themselves do not offer sufficient service frequency during the daytime and the evening and weekend services are considerably worse. Distances to city centre, education and employment is substandard.

Concerns are also raised regarding traffic impact and the proposed vehicular access to the site. The TA traffic generations figures are low and do not reflect the numbers on the highway network at busy times.

Access arrangements would be subject to detailed design however there are initial concerns about the design/location of the proposed roundabout. The deflection looks to be too severe and a better location would be at the point where The Poplars meets the A660. This would allow for a better approach and alignment.

A plan is required to demonstrate that the roundabout meets all of the geometrical Requirements of the Design Manual for Roads and Bridges and that it can safely Accommodate the swept paths of HGV's and abnormal loads.

The submitted plan appears to show a connection to the existing cul-de-sac known As High Ridge Way – other than as an emergency access incorporating pedestrians And cycles, a vehicular link to the development site would not be acceptable at this Location.

A link is also shown to Breary Lane East. This would not be suitable for use by

vehicles and would have to be for pedestrian and cycle use only.

#### Flood Risk Management

Support the conditions indicated by the EA but need to provide further information to ensure that the proposed development can go ahead without posing an unacceptable flood risk to on and off site.

#### Travelwise

Travel plan should be included in a section 106 agreement along with monitoring fee, provision of residential metrocard scheme (bus only) and £10,000 for cycle storage for pupils at Bramhope Primary School.

Public transport improvements and developer contributions require a contribution of £465,961

#### Metro

The site does not meet guidelines in terms of distances to bus stops and frequency of the bus services. Application proposes a diversion into the site for buses which has not been discussed with metro and there have been no discussions regarding increasing the frequency of the bus services. Metrocards should be available for the whole of the site.

#### Public Rights of Way

No objections and welcomes access into the site.

#### Yorkshire Water

Conditions required in relation to foul and surface water drainage, no buildings or trees within a buffer around existing sewers, no surface water discharge to public sewers with SUDs drainage required.

#### Environment Agency

No objections providing conditions attached in relation to surface and foul water drainage.

#### Children's Services LCC

We would be interested in securing land for a 1FE primary school, as this size of development would generate 95 primary aged children that could not be accommodated in the local primary schools.

#### Policy

Greenspace – adequate provision on site for N2.1 and N2.2 with financial contribution required for N2.3

Affordable housing – 15% required with 50% social rented and 50% submarket/intermediate housing.

Retail – the shop floor area has been reduced to 372 square metres (gross) which complies with policies in the UDP and Core Strategy.

#### WYAS

The site is within an area of archaeological significance. Condition required for archaeological investigation of the site to be undertaken before the application is determined.

### Ecology officer

Spring wood on eastern boundary is ancient woodland with no access. Major residential development will put additional pressure on this woodland. Allotments to north of wood will put pressure on trees to be removed to prevent shading.

Therefore need woodland area management plan, woodland edge planting and fence on western boundary and allotments moved further away from woodland.

New park allows for compensation planting and meadow creation/enhancement

Crossing over wet ditches need to be appropriate design.

If park area is used for a school then there will be loss of grassland and meadow which need to be planting elsewhere on the site. Need to have a buffer between the new school and ancient woodland plus new hedgerows down to Otley Road to allow for ecological linkages.

### Landscape officer

Design refinements are required but have the following concerns:

Impact of the proposed roundabout on this stretch of road has a soft stretch of road with domestic feel ... roundabout gives impressions of an industrial development not residential. Roundabouts kill local identity and should be last resort.

Due to levels some of retained hedgerows might be lost and needs some additional buffers especially adjacent to hedgerow areas and around some of the specimen tree features.

Need to restrict access to ancient woodland with no formal paths and 3 access points.

Need topographical survey and follow up tree survey of all the outer edge trees that interface with development as the current edge is too vague and potential impacts are unknown

Tree verges are characteristic of the locality and need to be incorporated into any development.

New park has lack of supervision in the current location. The area is unlikely to have natural surveillance as a result of busy usage like a public park.

There is a holly hedge that needs to be retained.

Parts of the hedges retained are sparse so reinforcement planting of the hedges is a requirement

A bridge solution would be required where the Highway crosses this feature as this would ensure ecological connectivity. Culverting would not be an acceptable solution

SUDS AREA: at least some of this needs to be engineered to retain water throughout the year for ecological purposes.

Ecological management required and a management plan must be for 20 years as this will take in the need for periodic thinning of the new woodland planting

School will need buffer to the adjoining Green belt and Ancient woodland policy N12

School will require a substantial frontage open space to keep the character of openness rather than have a building close to the road. Soft areas could be a the front and perhaps car parking if well screened

Rather avoid impact of a second roundabout in quick succession if possible

## **8.0 PLANNING POLICIES:**

### **Development Plan**

- 8.1 The development plan consists of the adopted Leeds Unitary Development Plan (Review 2006) (UDP). The Local Development Framework will eventually replace the UDP and this draft Core Strategy has had some weight in decision taking since it

was published in 2012 but it is now considered to have significant weight for the following reasons

. The NPPF states that decision-takers may give weight to policies in emerging plans according to:

i) The stage of preparation

- On 12<sup>th</sup> June 2014 the Council received the last set of Main Modifications from the Core Strategy Inspector, which he considers are necessary to make the Core Strategy sound. These have been published for a six week consultation between the 16<sup>th</sup> June and 25<sup>th</sup> July 2014. The Inspector has indicated that following this he will publish his Report in August. The Plan is therefore at the most advanced stage it can be prior to the receipt of the Inspectors Report and subsequent adoption by the Council.

-There is a distinction in the weight to be given to those policies that are still subject to consultation and those that are not –i.e. those policies that are unmodified should be given even greater weight.

ii) The extent to which there are unresolved objections

- No further modifications are proposed and the Plan can only be changed now exceptionally because it is sound as modified and there is no requirement for the plan to be made 'sounder'

iii) The degree of consistency with the NPPF

- In preparing his main modifications the Inspector has brought the Plan in line with the NPPF where he considers that this is necessary. The Plan as modified is therefore fully consistent with the NPPF.

## 8.2 Leeds Unitary Development Plan (UDP) Review:

The site is allocated as a 'Protected Area of Search' and as Green Belt. Other relevant policies are:

SA1: Secure the highest possible quality of environment

SG3: Community land needs

GP5: General planning considerations.

GP7: Use of planning obligations.

GP11: Sustainable development.

N2/N4: Greenspace provision/contributions.

N10: Protection of existing public rights of way.

N12/N13: Urban design principles.

N23/N25: Landscape design and boundary treatment.

N24: Development proposals abutting the Green Belt.

N29: Archaeology.

N34: Protected Areas of Search

N38 (a and b): Prevention of flooding and Flood Risk Assessments.

N39a: Sustainable drainage.

BD5: Design considerations for new build.

T2 (b, c, d): Access and accessibility issues.

T5: Consideration of pedestrian and cyclists needs.

T7/T7A: Cycle routes and parking.

T24: Parking guidelines.

H1: Provision for completion of the annual average housing requirement.

H2: Monitoring of annual completions for dwellings.

H3: Delivery of housing on allocated sites.

H11/H12/H13: Affordable housing.

LD1: Landscape schemes.

### Policy N34 Protected Areas of Search for Long Term Development

The Unitary Development Plan (UDP) was originally adopted in 2001 and its Review was adopted in 2006. The original UDP allocated sites for housing and designated land as PAS. The UDP Review added a phasing to the housing sites which was needed to make the plan compliant with the national planning policy of the time, Planning Policy Guidance 3. The UDP Review did not revise Policy N34 apart from deleting 6 of the 40 sites and updating the supporting text. The deleted sites became the East Leeds Extension housing allocation.

Policy N34 and supporting paragraphs is set out below:

The Regional Spatial Strategy does not envisage any change to the general extent of Green Belt for the foreseeable future and stresses that any proposals to replace existing boundaries should be related to a longer term time-scale than other aspects of the Development Plan. The boundaries of the Green Belt around Leeds were defined with the adoption of the UDP in 2001, and have not been changed in the UDP Review.

To ensure the necessary long-term endurance of the Green Belt, definition of its boundaries was accompanied by designation of Protected Areas of Search to provide land for longer-term development needs. Given the emphasis in the UDP on providing for new development within urban areas it is not currently envisaged that there will be a need to use any such safeguarded land during the Review period. However, it is retained both to maintain the permanence of Green Belt boundaries and to provide some flexibility for the City's long-term development. The suitability of the protected sites for development will be comprehensively reviewed as part of the preparation of the Local Development Framework, and in the light of the next Regional Spatial Strategy. Meanwhile, it is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as departures from the Plan.

**N34: WITHIN THOSE AREAS SHOWN ON THE PROPOSALS MAP UNDER THIS POLICY, DEVELOPMENT WILL BE RESTRICTED TO THAT WHICH IS NECESSARY FOR THE OPERATION OF EXISTING USES TOGETHER WITH SUCH TEMPORARY USES AS WOULD NOT PREJUDICE THE POSSIBILITY OF LONG TERM DEVELOPMENT.**

### 8.3 Supplementary Planning Guidance / Documents:

Neighbourhoods for Living – A Guide for Residential Design in Leeds  
Street Design Guide  
Greenspace and Residential Developments

## **Interim PAS Policy**

- 8.4 A report on Housing Delivery was presented to Executive Board on the 13<sup>th</sup> 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.

- 8.5 Leeds City Council Executive Board resolved (Paragraph 201 of the Minutes 13<sup>th</sup> 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.
- 8.6 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.
- 8.7 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. The policy has also been used to resist permission for PAS sites at Kirkless Knoll and Boston Spa which were subject of a public inquiry late last year and early this

year respectively with the Kirklees Knowl inquiry due to re-open in the Autumn. The decision on Boston Spa is expected in late October with the Kirklees Knowl decision not due until the end of the year. PAS sites at Bradford Road, East Ardsley and West of Scholes have also recently been refused.

- 8.8 The Council's interim PAS policy does not supersede the Development Plan but is a relevant material consideration that the Panel should have regard to. The starting point remains the Development plan and in particular policy N34.

### **Local Development Framework**

- 8.9 The Council submitted its Core Strategy to the Secretary of State in April 2013 and an examination in public was held in October 13 and May 14. The Council has consulted on a further set of Main Modifications to the Core Strategy. Following consultation and no arising outstanding matters, it is anticipated that the Core Strategy will be adopted in autumn 2014 following receipt of the Inspectors final report. The Core Strategy is considered by the Council to be sound and in line with the policies of the NPPF and the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011. The Core Strategy Inspector has proposed two sets of Main Modifications, which he considers are necessary to make the Plan sound, including in line with the NPPF. The Council is currently progressing a Site Allocations Plan. Following extensive consultation, including 8 weeks of formal public consultation from 3/6/13 to 29/7/13 the Council is currently preparing material for Publication of a draft plan

- 8.10 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."

- 8.11 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,

- 8.12 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.

- 8.13 Relevant policies within the Core Strategy include:
- 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 H3 – Density of residential development
  - Policy H4 – Housing mix
  - Policy H5 – Affordable housing
  - Policy P9 – Community facilities and other services ( inc schools)
  - 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 EN2 – Sustainable design and construction
  - Policy ID2 – Planning obligations and developer contributions

The Examination into the Draft Core Strategy has now taken place and the Inspectors report is expected imminently. Of particular relevance is the issue of affordable housing. This was examined in May 14 and the Council is seeking to include the levels of affordable housing within the Core Strategy as required by the Inspector. The 35% outer north level is proposed to extend to Bramhope and this is a change from the current level of 15%.

### **Five Year Land Supply**

- 8.14 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.
- 8.15 In the past, the Council has been unable to identify a 5 year supply of housing land when assessed against post-2008 top down targets in the Yorkshire and Humber Plan (RSS to 2026) which stepped up requirements significantly at a time of severe recession. During this time (2009-2012) the Council lost ten appeals on Greenfield allocated housing sites largely because of an inability to provide a sufficient 5 year supply and demonstrate a sufficiently broad portfolio of land. This was against the context of emerging new national planning policy which required a significant boosting of housing supply.
- 8.16 Nationally the 5 year supply remains a key element of housing appeals and where authorities are unable to demonstrate a 5 year supply of deliverable sites, policies in the NPPF are considered to be key material considerations and the weight to be given to Councils' development plan policies should be substantially reduced.



- 8.17 The context has now changed. The RSS was revoked on 22nd February 2013 and when assessed against the Council's Unitary Development Plan (2006) there has been no under delivery of housing up to 2012. Furthermore for the majority of the RSS period the Council met or exceeded its target until the onset of the recession. The Council has submitted its Core Strategy to the Secretary of State with a base date of 2012 and a housing requirement that is in line with the NPPF and meets the full needs for objectively assessed housing up to 2028.
- 8.18 In terms of identifying a five year supply of deliverable land the Council identified that as of 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2019 there is a current supply of land equivalent to 5.8 years' worth of housing requirements.
- 8.19 The current five year housing requirement is 24,151 homes between 2014 and 2019, which amounts to 21,875 (basic requirement) plus 1,094 (5% buffer) and 1,182 (under delivery).
- 8.20 In total the Council has land sufficient to deliver 28,131 within the next five years. The five year supply (as at April 2014) is made up of the following types of supply:
- allocated sites
  - sites with planning permission
  - SHLAA sites without planning permission
  - an estimate of anticipated windfall sites – including sites below the SHLAA threshold, long term empty homes being brought back into use, prior approvals of office to housing and unidentified sites anticipated to come through future SHLAAs
  - an element of Protected Area of Search sites which satisfy the interim PAS policy
- 8.21 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 recent 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."
- 8.22 In addition to the land supply position, the Site Allocations Document is in the process of identifying specific deliverable sites for years 6 to 10 of the Core Strategy plan period and specific sites for years 11 to 15.

### **National Guidance - National Planning Policy Framework**

- 8.23 The National Planning Policy Framework (NPPF) came into force on 27th March 2012. 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.
- 8.24 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%.

- 8.25 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.
- 8.26 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

## **9.0 MAIN ISSUES**

- Compliance with the Development Plan
- Development Timing in advance of the Site Allocations Plan
- 5 year land supply
- Highway safety and sustainability criteria
- Education
- Design public open space and landscaping
- Retail proposal
- Section 106 Matters
- Representations

## **10.0 APPRAISAL**

- 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 emerging Core Strategy, the requirement for a five year supply of housing and matters relating to sustainability, highways, layout/design/landscaping, residential amenity, retail, education and Section 106 matters

### **Compliance with the Development Plan**

- 10.2 The larger part of 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 Breary Lane East 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. Policy N34 and its supporting text should be given considerable weight because it is 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 These should be clear factors in assessing the suitability of the site and this should take place through the Site Allocations process.
- 10.4 As set out above the Council has put in place an Interim Policy pending the further progress of the Site Allocations Plan. Breary Lane East needs to be assessed against the interim policy to see if it meets the criteria for possible early release.

### **Development Timing in advance of the Site Allocations Plan**

- 10.5 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. The performance of Breary Lane East against the interim policy criteria is considered below:
- 10.6 Criterion (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.* The site is not within the main urban area of Leeds or related to a major settlement. As such the development of the site would not form an extension to the main urban area or major settlement. It is considered that the site does not satisfy criteria (i). This is important because sites adjacent to the main urban area or major settlements have greater potential local impacts on accessibility, infrastructure and scale of development having regard to the settlements size, function and sustainability. They are therefore contrary to Policy SP1 and SP6 until such a time as they are assessed through the Development Plan process.
- 10.7 Criterion (ii) *Sites must not exceed 10ha in size and there should be no sub division of larger sites to bring them below the 10ha threshold.* The application site is above this threshold (the PAS land part of the application site is 15.44 HA) and fails the Interim Policy on this basis. This is important because the larger sites necessarily have a greater overall impact on the Council’s locational strategy for housing, other

choices within the local housing market area and give rise to more sustainability issues which need to be addressed through the site allocations process such as access, infrastructure and distribution across the Council's settlement hierarchy. They are therefore contrary to Policy SP1 and SP6 until such a time as they are assessed through the Development Plan process in the round.

- 10.8 Criterion (iii) *Land is not needed, or potentially needed for alternative uses.* This application raises issues around the provision of a new school which may be required in the area due to the growing school age population and the volume of housing in the area. Until the Site Allocations process is more advanced the need, size, type and potential deliverability of a school cannot be fully determined. The applicant's current offer of land for a new school is on greenbelt land adjacent to the PAS site, which has also been put forward for potential Greenspace. Clearly, there are strategic choices around housing, schools and Greenspace provision to be made between the PAS site, the adjacent green belt site and other sites in Bramhope. These decisions cannot be made through the planning application process and reinforce the need for consideration through the site allocations process.
- 10.9 The Interim policy provides that sites that meet criteria i) and iii) but exceed 10ha in size may also be accepted for early release if they meet further criteria iv) and v). Breary Lane East fails criterion i), ii) and iii), and therefore does not comply with the Interim Policy. Notwithstanding this, officers have considered the merits of the proposal at Breary Lane East against criteria iv) and v) too.
- 10.10 Criterion (iv) *It is an area where housing land development opportunity is demonstrably lacking.* There are a number of development sites in the locality and the Housing Market area. Some are currently under construction including a site within Adel for 40 dwellings. Others are being planned to commence soon including approximately 100 dwellings at the former government works and 130 at Boddington Hall site. These illustrate that housing land development opportunity is not demonstrably lacking in the area. In addition there is a Greenfield UDP allocation at East of Otley.
- 10.11 Criterion (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;* the applicant has not linked this application 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.* The applicant has stated that the bus services could be diverted into the site to overcome sustainability issues but the applicant is unwilling to fully fund the diversions and additional bus services required.
- 10.12 To summarise, the application does not meet the interim policy criteria to be released early. Part of the land is potentially needed for a school site. There are other housing development opportunities on-going and soon to start in the area. The allocation of this site should await comprehensive assessment through the Site Allocations Plan.
- 10.13 The application proposal does not satisfy the Interim Policy criteria for release at this time. As such the proposal is contrary to policy N34 of the adopted UDP.

## **Five Year Land Supply**

- 10.14 The Council has a supply of 28,131 net homes between 1st April 2014 and 31st March 2019, which when assessed against the requirement for 24,151 homes provides a 5.8 year housing land supply. This supply has been sourced from the Strategic Housing Land Availability Assessment Update 2014 and includes over 21,000 units, including sites for students and older persons housing. In addition identified supply consists of some safeguarded sites adjacent to the main urban area which meet the Council's interim policy on Protected Areas of Search (approved by Executive Board in March 2013). The supply also includes evidenced estimates of supply, based on past performance, from the following categories: windfall, long term empty homes returning into use and the conversion of offices to dwellings via prior approvals. The supply figure is net of demolitions.
- 10.15 The Core Strategy Inspector's latest set of Main Modifications (16th June 2014) which he considered were necessary to make the Core Strategy sound confirm that the Council should supply land at a rate of 4,375 homes per annum throughout the life of the plan. However given market conditions moving out of recession, the need to plan for infrastructure and demographic evidence his latest modifications have also included a lower target of at least 3,660 homes per annum between 2012 and 2016/17 against which delivery should be measured for performance purposes. This basic requirement is supplemented by a buffer of 5% in line with the NPPF. The requirement also seeks to make up for under-delivery against 3,660 homes per annum since 2012. It does this by spreading under-delivery, since the base date of the plan, over a period of 10 years to take account of the circumstances under which the under-delivery occurred i.e. the market signals and the need to provide infrastructure to support housing growth.

## **Highway Safety and Sustainability Criteria**

- 10.16 There are a number of issues in relation to the proposed development and its highway implications which can be split into impact on the highway network, access arrangements and sustainability.
- Impact on existing highway network*
- 10.17 The applicants have submitted a Transport Assessment to demonstrate the impact of the proposals on the existing highway network. The trip generation rates and trip distribution used within the TA have not been agreed by officers and officers consider that the information that has been submitted is not accurate and that the trip generation rates and trip distribution shown on the existing highway network should be revised.
- 10.18 In terms of the residential part of the scheme the applicants have used average trip rates to predict the traffic associated with the residential element of the proposals. However, due to poor accessibility credentials of the site it is considered that 85<sup>th</sup>ile trip rates are more appropriate and robust. The development access and the impact of the proposals on the highway network needs to be re-assessed based on the 85<sup>th</sup>ile trip rates.
- 10.19 In terms of the retail element the applicants have stated that they anticipate that 50% of all trips to the convenience store would be on foot. In reality it is expected that this figure would be much less and that the majority of trips would be by car, both from within the proposed development site from the surrounding area and by passing trade. Again it is considered that an 85<sup>th</sup>ile trip rates should be used and that a more realistic approach is taken. The A660 is a real barrier to those travelling

from the opposite side of the A660 even with the prospect of a controlled crossing it would still anticipate that the majority of residents would drive to the site.

- 10.20 The traffic impact assessment also does not cover other junctions further away from the site which will also be affected by the development. Plus the traffic generation to Otley also needs to be taken on board and not just Leeds as there will be shopping and employment trips to there.
- 10.21 The TA also needs to look at the impact of traffic further south along the A660 including the cumulative impact of this and other committed developments on Lawnswood Roundabout and the A660/Farrar Lane/Church Lane junctions. This needs to be done both with and without the NGT proposals.
- 10.22 As the TA underestimates the amount of traffic on the existing network it does not give a full picture of the impact of this level of development on the existing highway network. It is considered that it has not been satisfactorily demonstrated that the impact of the proposals can be safely accommodated on the highway network. This will have a detrimental impact on the safe and free flow of traffic within the area and cannot be supported.

#### *Proposed access*

- 10.23 The access to the site takes the form of a roundabout on the A660 with pedestrian and emergency access onto High Ridge Way and pedestrian/cycle access on to Breary Lane east. This first roundabout is linked to a second roundabout 130m into the site by a wider than normal road, and from the second roundabout the site would be served by a loop road. This is an attempt to overcome the fact that a development of this scale would normally require two points of access but at this juncture it is not considered established that this arrangement would provide a safe and suitable access. It is in addition a heavily-engineered design solution which is likely to have an unsatisfactory design and appearance in this context adjoining a rural area.
- 10.24 There are initial concerns about the design/location of the proposed roundabout. The deflection looks to be too severe and a better location would be at the point where The Poplars meets the A660. This would allow for a better approach and alignment. A plan is required to demonstrate that the roundabout meets all of the geometrical requirements of the Design Manual for Roads and Bridges and that it can safely accommodate the swept paths of HGV's and abnormal loads.
- 10.25 The submitted plan appears to show a connection to the existing cul-de-sac known as High Ridge Way – other than as an emergency access incorporating pedestrians and cycles, a vehicular link to the development site would not be acceptable at this location. A link is also shown to Breary Lane East. This would not be suitable for use by vehicles and would have to be for pedestrian and cycle use only.
- 10.26 Until the information above has been submitted it is difficult to establish if a safe access can be provided into the site. At the moment it is considered that a safe access cannot be achieved for this level of development without a detrimental impact on the safe and free flow of traffic along the A660.

#### *Sustainability*

- 10.27 The site is not located within the 400m walking distance to bus stops which is outside of the relevant guidance within the core strategy. To overcome this the applicants have suggested that the bus services can be diverted into the site with bus stops being provided within the site itself. At the moment this is only a suggestion and concerns have been raised from Metro that this proposal has not been discussed with them or any of the bus operators. Metro have also raised concerns regarding this proposal as it will increase the bus journey times for other

passengers and it will also increase the number of passengers to the detriment of other passengers further along the existing bus route. Metro have also stated that for this to work the number of buses services on this route would also need to increase to prevent detriment to the existing bus service. Any costs in terms of providing additional buses on this route and the diversion would have to be paid by the developer which could amount to £300,000 a year. The applicant is not prepared to fully fund these requirements and will only fund the contribution required by the Public Transport improvements and developer contributions which is a one of payment of £466,000. Without the additional funding the bus route will not get diverted or the frequency increased which leaves the site not complying with the sustainability walking distance of 400m to a bus stop. It could also be stated that if the bus stops were moved it will mean that existing residents will have to walk further to bus stops and they would be outside the 400m distance which they are not at the moment.

- 10.28 The distances to other services are also not in compliance with the core strategy sustainability criteria. The local services with Bramhope are not within the required 10 minute walk, the primary school is not within a 20 minute walk and the nearest secondary school is not either within a 30 minute walk or 5 minute walk to a bus stop offering a 15 minute service (check). For all these reasons the site is not considered sustainable.
- 10.29 To conclude on highway matters the development is not acceptable in terms of its impact on the existing highway network, an unsafe access and the site is not sustainable. The three reasons for refusal in relation to these matters are detailed at the start of this report.

### **Education**

- 10.30 The site will generate the requirement for school places that cannot be accommodated with the existing primary and secondary schools and education have requested a level of financial contributions to take this matter on board. However, Bramhope Primary School is located in an area surrounded by houses and there is no opportunity for this school to be expanded. There is therefore a requirement for a new school in the area caused by this level of development and the applicant has offered the piece of land that is shown be to 'Bramhope Park' on the submitted masterplan for a new primary school. If the land is not used for a school within five years the land can be used for 'Bramhope Park' as shown on the submitted plans.
- 10.31 The location of this school on this piece of land does create a number of issues which so far have not been addressed. These include the fact that this site is within green belt, the loss of the area for the park in terms of impact on the landscape, ecology and views of the development from the A660. The site is also amber in the site allocations document so should be provided for housing if approved, however, the land which currently houses the primary school could be redeveloped for housing if the new school was built on this site and the site was accepted through the site allocation process. At present to build a school on land in the green belt would be inappropriate development for which very special circumstances would need to be demonstrated. This has not been demonstrated in this case – if a school is required and in advance of the Site Allocations Plan then land would have to be reserved for this purpose on the PAS site.

## **Design, public open space and landscaping**

- 10.32 An indicative layout has been submitted and although all matters in the application other than means of access are 'Reserved Matters' the applicant has specifically applied for 'up to 380 dwellings'. The submitted drawing does not show public open space within the site sufficient to satisfy Council policy on such provision and does not demonstrate that a satisfactory design and layout could be achieved.

## **Retail Proposal**

- 10.33 The initial plans showed the proposed shop to be 418 square metres. This is an out of town location so a retail development off this size in this location would have been unacceptable without a sequential test to show that the development would not impact on the viability and vitality of other town centres close by.
- 10.34 The retail element has now been reduced to 372 square metres which now complies with UDP and core strategy policies as the shop is small scale and due to this would not have a detrimental impact on the viability and vitality of other town centres.

## **Section 106 Package**

- 10.35 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. .

- 10.36 The proposed obligations referred to in this report 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 would be required to submit a Section 106 Agreement to address the policy requirements for this application. In the absence of such an agreement a reason specific to this matter is recommended but this matter would not be contested at any appeal if an agreement was completed beforehand. The position in relation to affordable housing is subject to likely change. At present 15% is required but this could increase substantially in the coming months to 35% dependent on the report of the Core Strategy Inspector expected shortly. Whilst the higher rate cannot be given substantial weight at present if this is supported by the Inspector and then adopted by the Council then the higher rate would need to be given substantial weight at that stage.

## **11.0 CONCLUSION**

- 11.1 The key conclusion is that the proposal to develop Breary Lane East now runs contrary to UDP Policy N34 which expects the PAS sites only to be released following comprehensive assessment of development plan preparation. The interim policy is designed only to release those PAS sites early which are of a scale, location and nature that would not generate planning major planning implications that ought to be considered in a comprehensive plan making exercise. This site



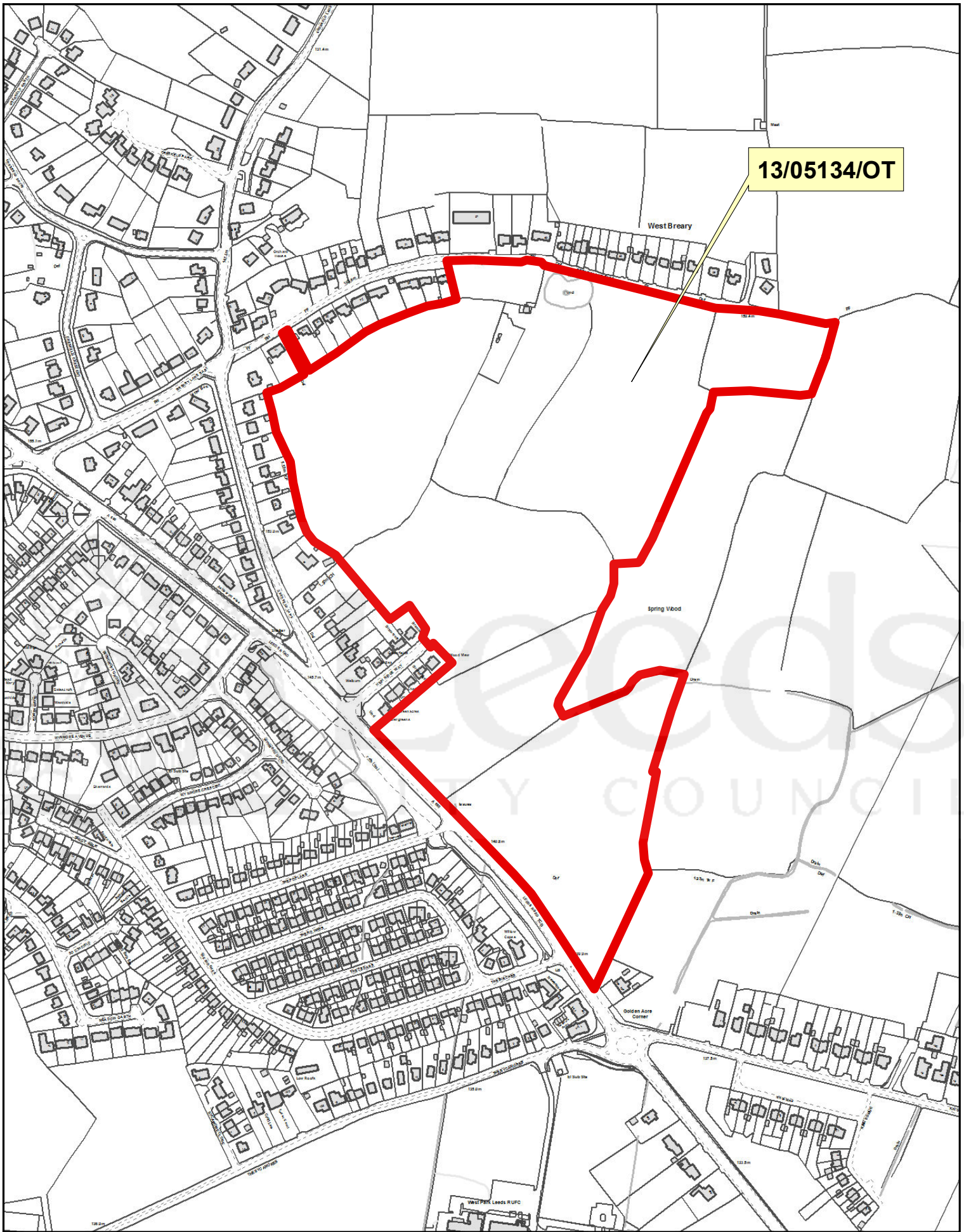
does have an issue that it may be required for a school. It also is in a locality that contains other development opportunities both now and in the immediate future, that mean that release now for local housing availability purposes is not of such urgency that a decision cannot wait for the conclusions of the Site Allocations Plan.

- 11.2 A Five Year Supply can be demonstrated.
- 11.3 The proposal gives rise to local sustainability concerns including:
- Consideration of the need and delivery of a school in the most appropriate location
  - A scale of growth which has not yet been determined through the Site Allocations Plan in the context of choices for meeting needs within the housing market area
- 11.4 At this stage it is considered that the applicants have proposed insufficient mitigation to accommodate the impact of the development on the highway network. . There are outstanding concerns that need to be resolved in relation to pedestrian/cycle access along the A660.
- 11.5 As discussed above the indicative masterplan raises concerns in relation to how the numbers of dwellings proposed could be satisfactorily accommodated on the site and the provision of Greenspace within the site does not meet with Council policy.
- 11.6 Refusal is recommended for the reasons set out at the beginning of this report.

**Background Papers:**

Certificate of ownership: signed by applicant.

Planning application file.



13/05134/OT

# CITY PLANS PANEL

