



## Report of the Chief Planning Officer

### PLANS PANEL (EAST)

Date: 3rd November 2011

Subject: APPLICATION 10/04762/OT- Outline application for residential development, land adjoining 7 Waterwood Close, West Ardsley

#### APPLICANT

R M J and G Guymor

#### DATE VALID

1 November 2010

#### TARGET DATE

31 January 2011

#### Electoral Wards Affected:

Ardsley & Robin Hood

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: Members note the report and resolve to not contest the planning appeal against the non-determination of planning application 10/04762/OT.**

### 1.0 INTRODUCTION

- 1.1 This application was deferred at the Plans Panel meeting on 6<sup>th</sup> October 2011 to seek guidance on the Executive Board decision in respect of housing on unallocated greenfield sites. The Chairman of Executive Board has been consulted on this point and has confirmed that it is his understanding of the 22<sup>nd</sup> June 2011 report that the Council may need to consider some residential proposals on unallocated greenfield sites favourably and that further clarification from Executive Board is not required.
- 1.2 In the meantime, the applicant has appealed against the Council's failure to determine the application. This appeal will be dealt with by an Informal Hearing. The purpose of this report is to seek Panel's views on whether they wish to contest the appeal and if so on what grounds. This report also gives advice in respect of the likely success of defending any such appeal and the implications that arise from that.
- 1.3 At the October meeting some Panel members raised the concern of the impact on regeneration of inner urban areas within Leeds. However, throughout the previous appeals concerning the residential development on allocated greenfield sites (which have been found in the appellants' favour), the Council has been concerned about

the impact of greenfield release on regeneration areas. It was felt by the Council that with limited market interest, such development as does take place would locate on the greenfield sites. The more greenfield sites that get permission the more this situation will become entrenched and regeneration areas will be by-passed. While the Council may still have reservations on this issue, it was not an argument that has that carried much weight with Planning Inspectors in the appeal process.

1.4 Given the scale, duration and timing of Aire Valley and EASEL regeneration programmes, successive appeal Inspectors have stated that they had not heard convincing evidence that the number of units in the appeal schemes, and the likely timescale for their delivery, would significantly undermine nearby regeneration activity. In this instance we would have to be able demonstrate that this application for up of 14 dwellings, and this is a significantly smaller form of development than those allowed on appeal, would have a harmful effect on regeneration. We have consulted with colleagues in regeneration who have confirmed that, in light of the previous Inspector decisions, they consider that they would not be able to substantiate a case at appeal.

1.5 Circular 03/2009, "Costs Awards in Appeals and other Planning Proceedings", sets out the circumstances in which an award of costs may be made against a local planning authority at appeal. The circular states that costs will be awarded where it can be shown that a party has acted unreasonably and this has caused a party to incur unnecessary and wasted expense. The following advice is set out:

"B15. Planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations. General guidance to authorities on propriety and the handling of planning applications is at paragraphs 27 and 28 of *The Planning System: General Principles* (ODPM, 2005).

B16. Authorities will be expected to produce evidence to show clearly why the development cannot be permitted. The planning authority's decision notice should be carefully framed and should set out in full the reasons for refusal... Planning authorities will be expected to produce evidence at appeal stage to substantiate each reason for refusal with reference to the development plan and all other material considerations including any relevant judicial authority. If they cannot do so, they risk a costs award against them for any unsubstantiated reason for refusal...The key test will be whether evidence is produced on appeal which provides a respectable basis for the authority's stance, in the light of *R v SSE ex parte North Norfolk DC 1994 [2 PLR78]*."

1.5 In various Inspectors opinions, the Council has failed to substantiate a reason for refusal based on harm to regeneration issues, amounting to unreasonable behaviour, and costs have been awarded against the Council on this basis.

1.6 Against this background, the Council risks an award of costs, by contesting the planning appeal on grounds which cannot be substantiated. Members are strongly recommended to indicate that they would have approved the application had they been in a position to do so. It is considered that this will serve to help the Council in defending against any claim that the Council has acted unreasonably. A Council can also reduce the risk of costs against them at appeal, or the extent of any award of costs, by notifying the Planning Inspectorate and appellant immediately that they will not be contesting the appeal. In light of this it is recommended that Panel resolves

not to contest the appeal and that no evidence against the proposal be offered at the appeal, and furthermore that officers approach the applicant with a view to negotiating the submission of a further planning application to be determined under delegated powers.

# APPENDIX 1



Originator: David Jones

Tel: 247 8000

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## Report of the Chief Planning Officer

### PLANS PANEL (EAST)

Date: 6<sup>th</sup> October 2011

Subject: APPLICATION 10/04762/OT- Outline application for residential development, land adjoining 7 Waterwood Close, West Ardsley

#### APPLICANT

R M J and G Guymor

#### DATE VALID

1 November 2010

#### TARGET DATE

31 January 2011

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#### Electoral Wards Affected:

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Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**RECOMMENDATION: GRANT PERMISSION subject to the conditions set out in Appendix 1:**

## 1.0 Introduction

1.1 This application was deferred at the Plans Panel meeting on 11<sup>th</sup> August 2011 and officers were asked to submit a further report setting out the Council's approach to proposals for residential development on Greenfield sites not allocated for such use; whether this site provides a sustainable location for residential development, and what are the implications that follow from this approach.

## 2.0 Proposals for residential development on Greenfield sites not allocated for such use.

### Land supply

2.1 National guidance is clear that in determining planning applications, local planning authorities should consider whether a 5 year supply of housing land is available. It is clear from the appeal decisions on the allocated phase 2 and 3 housing sites, that little or no weight can be attached to the Council's interim target. In the circumstances, and given that RSS remains part of the development plan, the

Council's Executive Board has agreed that the RSS provides the basis for assessing the five year land supply pending the Core Strategy. The RSS figure is 4,300 dwellings per annum.

2.2 Even with all the Phase 2 and Phase 3 sites available, the Council would not have a five year land supply. As a consequence, other greenfield (non-allocated) sites may need to be considered favourably, and this was acknowledged by Executive Board (June 2011) when the implications of the Secretary of State's decision on the Grimes Dyke appeal was considered.

2.3 To ensure general conformity with development policies and concerns at sustainability, character of areas, impact on green belt, and other key considerations. The Executive Board report advised that proposals need to be assessed against such criteria, given the very clear UDP policy on the Protected Areas of Search (PAS land), it is considered that the release of any of these sites should only arise through the LDP process. Notwithstanding this position, it is likely that proposals on PAS sites will come forward (reflecting the current housing land supply position). In this eventuality, the Council will need to further consider its stance in relation to such proposals. This is consistent with the advice in PPG2, more recently reaffirmed in the Draft National Planning Policy Framework. It would not follow that despite the lack of a 5 year land supply, there would be an uncontrolled release of greenfield sites, as the following sections demonstrate.

#### PPS3 considerations

2.4 PPS3 states that proposed development should, subject to conditions and detailed design, meet the criteria set out in PPS3 paragraph 69: *high quality; good mix; site suitability; environmental sustainability; effective and efficient land use; and addressing the need and demand for housing in the area.*

#### UDP considerations - Policy H4

2.5 Proposals for housing on land not specifically identified for that purpose in the UDP are considered against Policy H4. This policy states that on sites not identified for that purpose in the UDP but which lie within the Main and Smaller Urban Areas as defined on the proposals map, or are otherwise in a demonstrably sustainable location, development will be permitted provided it is acceptable in sequential terms, is clearly within the capacity of existing and proposed infrastructure, and complies with all other relevant policies of the UDP. Paragraph 7.2.15 of the UDP states that although most H4 sites will be in the Main and Smaller Urban areas, proposals are also likely to be acceptable in other locations which are demonstrably sustainable. "Judgments will be made on the basis of consideration of the availability and frequency of bus and train services to service centres, and on the range of services available locally, including shops, health facilities and schools".

The current site falls outside the Main and Smaller Urban Areas as defined, therefore a judgment needs to be made as to whether the location is demonstrably sustainable.

### **3.0 Whether this site provides a demonstrably sustainable location for residential development under Policy H4.**

3.1 The applicant has submitted a Sustainability Statement. Highways have commented that the site is reasonably sustainable and meets the accessibility criteria in the Council's emerging Core Strategy and the RSS and is in a location which meets the aims of the Council's Policy on promoting sustainable travel.

- 3.2 Whilst the site is approximately 3km from the nearest designated town centre of Morley, it is located in West Ardsley which is classed as a smaller settlement within the Core Strategy (Preferred Approach October 2009).
- 3.3 The location meets the criteria for walking, cycling and public transport with local shops, health centre and primary schools all being within an acceptable walking distance of the site and Morley Town centre, local High Schools, Industrial estates/Business Parks and the Railway stations of Morley and Outwood being within an acceptable cycling distance of the site. There are a number of bus stops, again, well within acceptable walking distances, which provides a half hourly service to Morley, Wakefield, and Bradford and an hourly service to Leeds and Dewsbury.
- 3.4 The site meets the general sustainability criteria and is within an established urban area with existing footpaths and street lighting. These factors would make walking, cycling and Public Transport an attractive alternative mode of transport to the private car.

#### Local schools

- 3.5 In respect of local schools, Children's Services has estimated that 14 dwellings would generate an estimated three pupils across all school years. The potential impact would be on Westerton Primary and Blackgates Primary Schools. The Ardsley/Tingley Planning area will be over capacity by 2013/14. Blackgates Primary school has recently increased its admission number, and has a small amount of surplus capacity that could accommodate pupils from the development. Westerton Primary will be over capacity by 2013/14 and would be unable to accommodate pupils generated from this site.

#### Local character

- 3.6 Under Policy H4, the contribution to local character a site makes would be an important consideration in determining whether residential development was acceptable. The site has a very limited frontage onto a public highway – only in the location of the existing cul-de-sac head, therefore there is very limited contribution the site makes to the public street scene. From the reservoir to the south, any housing would intrude in the view but on this site it would be seen against existing housing and, bearing in mind that the site averages about 45m deep, any erosion of the attractiveness of the area would be limited. Conversely, existing residents have views over the site towards the reservoir, but there are no rights to views over third party land. In removing the site from the Green Belt in the UDP (2001), the UDP Inspector concluded that although the site does continue to contribute to GB purposes and objectives, that contribution is very modest. The southern boundary could be acceptably and defensibly strengthened by further planting if additional housing were to be provided there. Subject to the provision of suitable N24 planting to provide a strengthened boundary to the Green Belt, there would be no substantial harm to the character of the area.

#### **4.0 What are the implications that follow from this approach?**

- 4.1 Although it cannot accurately be predicted how many windfall sites might come forward and where, a useful starting point would be the Strategic Housing Land Availability Assessment (SHLAA), whereby sites (over 0.4ha) have been put forward for consideration for housing (including the application site). It shows there are 80 SHLAA sites that are either greenfield or mixed green/brownfield and which are not allocated sites, nor in the Green Belt nor PAS. Of these, many are protected greenspace designations which make them different to the Waterwood Close site, which has no greenspace designation. Taking these out reduces the number to 42. Further to this, there are also sites that are "Rural Land" rather than Green Belt and

others that have potential constraints such as flood risk, unsatisfactory access, and sites where applications have now been submitted for alternative uses. This reduces the number of sites to an estimated 15 sites, totalling 37 hectares, which would produce an estimated 836 dwellings. No sustainability or character assessment has taken place on these sites, and some sites may not be available within the five years supply period. To count as part of the supply, sites should have a realistic prospect that housing would be delivered within five years and can be viably developed.

- 4.2 As there is a significant gap between the 5 year requirement (21,500) and Leeds' identified supply (including the UDP Allocated housing sites), the potential delivery from the 15 non-allocated SHLAA sites in the same sort of category as Waterwood Close – i.e. 836 dwellings - would have limited impact on the overall position. This suggests that sites such as Waterwood Close should be released for development consistent with national guidance.

## **5.0 Other material considerations**

- 5.1 Since Plans Panel considered the application, the DCLG has published Draft National Planning Policy Framework. One of the main objectives is 'to significantly increase the supply of housing'. This reaffirms the requirement for Councils to identify five years supply of housing land, and proposes that targets of supply should be increased by at least 20% to allow for choice and competition for the market of land. Limited weight should be given to this document as it is at consultation stage, but it is a material consideration.

## **Appendix 1**

### **Conditions**

1. Submission of reserved matters (appearance, landscaping, layout and scale)
2. Time Limits
3. Approved plans
4. Maximum number of 14 dwellings and no dwelling be no more than 2 storey in height
5. Sample of wall and roofing materials
6. Sample panel of brickwork/stonework
7. Area to be used by vehicles to be laid out
8. Details of hard surfaces
9. Details of any boundary treatment to be submitted
10. Development in accordance with approved drainage scheme
11. Submit details landscape scheme
12. Implement landscape scheme
13. Implement Landscape Management Plan for planting
14. Replace any dead planting
15. Protection of hedge during construction
16. Site investigation report
17. Remediation statement
18. Unexpected remediation to be dealt with.
19. Means of preventing mud etc on highway

Details of greenspace to be dealt with by a Section 106 Agreement.

**Reasons for approval:** The application is considered to comply with policies in respect of housing policy, amenity, and highway safety contained in the UDP Review, as well as guidance contained within SPG13 and SPG4 in respect of greenspace. In light of these factors and that it is a sustainable location no objections are raised to the principle of

residential development at this site and having regard to all other material considerations, the application is acceptable.

## **1.0 INTRODUCTION:**

1.1 Outline permission is sought for residential development on a Greenfield site in West Ardsley. The site is not subject to any policy designation and is not allocated for any particular use in the UDPR.

## **2.0 PROPOSAL:**

2.1 Outline permission is sought for residential development on a site at the rear of Waterwood Close in West Ardsley. Permission is sought for the principle of residential development and means of access only. All other matters are reserved (layout scale, appearance and landscaping).

2.2 An indicative plan submitted with the application shows a scheme for 14 detached dwellings with vehicular access from Waterwood Close. The applicant has not been explicit about the height of the dwellings and therefore it is suggested that a condition be imposed on any grant of planning permission that no dwelling be more than 2 stories in height.

1.3 A completed Section 106 Agreement (unilateral undertaking) in respect of a contribution towards off-site greenspace enhancements has been submitted. This requires the developer to make a greenspace contribution of £39,304.05p.

## **2.0 SITE AND SURROUNDINGS:**

2.1 The application site is within the village of West Ardsley, some 5 miles south of Leeds City Centre. The site comprises an approximately oblong area of grass land of approximately 0.7ha. The applicant describes the last use of the land as "part unused, part agricultural, part builder's yard". At the time of the officer's site visit some agricultural machinery and other structures were being stored on the eastern part of the site.

2.2 The site is bounded to the north by the rear gardens of residential properties fronting Westerton Road and Waterwood Close. To the west, the site is bounded by houses fronting Haigh Moor Road. The southern and eastern boundaries are defined by a hedge line, and beyond this the land is in agricultural use, with the reservoir beyond.

2.3 The surrounding residential area is typified by 2 storey detached and semi-detached houses. There is also one terrace of houses close to the site. The houses are of a traditional design but their architectural treatment is quite varied. There is a mix of materials in the locality with houses finished in brick, stone and render. Garden sizes are also varied, but most houses have the appearance of being set comfortably within mature gardens. Where gardens share a boundary with the agricultural fields this is generally planting with a mature hedge although other boundaries treatments exist with walls and fences.

## **3.0 RELEVANT PLANNING HISTORY:**

- 3.1 An outline planning application to erect residential development on the site was refused in October 1999 on Green Belt grounds, as the site was designated as Green Belt in the revised draft Unitary Development Plan. The subsequent appeal was dismissed. (Leeds City Council ref no. 23/153/99/OT (Planning Inspectorate ref. no. T/APP/N4720/A/99/1028896/P2)).
- 3.2 In August 2001, the Unitary Development Plan (UDP) was adopted, and the site was excluded from the Green Belt, as the UDP Inspector considered that the land makes only a modest contribution to the purposes and objectives of the Green Belt. The site was below the threshold to allocate the site for housing.
- 3.3 23/439/02/OT - In October 2002, an outline application was submitted for residential development on this site. In December 2002, the application was refused for the following reasons:
1. "The Local Planning Authority considers that the proposal to develop this greenfield site for residential purposes is unacceptable in that it would prejudice the need to achieve sustainable housing development and maximize the reuse of previously developed land in order to promote regeneration and minimize the amount of greenfield land taken for development and would be contrary to Policy H1A of Leeds Unitary Development Plan and the advice given in PPG3 'Housing'."
- 3.4 The subsequent appeal was dismissed. The Inspector stated that the development would potentially compromise the local housing strategy and undermine national objectives for promoting sustainable development and urban regeneration. Planning Inspectorate ref. no. T/APP/N4720/A/03/1118910).
- 3.5 23/127/05/OT - In March 2005, a further outline application was submitted for residential development on this site. In April 2005, the application was refused for the following reasons:
1. "The Local Planning Authority considers that the proposal to develop this greenfield site for residential purposes is unacceptable in that it would prejudice the need to achieve sustainable housing development and maximize the reuse of previously developed land in order to promote regeneration and minimize the amount of greenfield land taken for development and would be contrary to Policy H1A of Leeds Unitary Development Plan and the advice given in PPG3 'Housing'."
- 3.6 The subsequent appeal was dismissed. The Inspector stated that the development would be contrary to national and local objectives in relation to the release of housing sites, with its emphasis on sustainable development and the reuse of previously developed land. Planning Inspectorate ref. no: T/APP/N4720/A/05/11184055).
- 3.7 An application for a Certificate of Lawful Use (10/00730/CLE) for the use of part of the site as a builder's yard was refused in April 2010. It was refused because the applicant had failed the statutory test for such applications in that they had not produced evidence to demonstrate that, on the balance of probabilities, the use had been ongoing for 10 years or more.

#### **4.0 STATUTORY CONSULTATIONS:**

##### **4.1 Highways**

No objection in principle. The indicative layout submitted is acceptable, except for the position of the ramp and the width of the footways, which should be 2m whilst the carriageway can narrow to a minimum 4.8m on the way in. The ramp should be moved to stand 2.1m before the footway splays. As these revisions can be picked up at reserved matters stage no objections are raised subject to conditions.

## **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 The layout of the scheme has been revised to improve the relationship of the housing to the Green Belt and the form of the estate road.

## **6.0 CONSULTATION RESPONSES:**

### **6.1 Yorkshire Water**

No objections subject to conditions.

### **6.2 Flood Risk Management**

No objections, subject to conditions.

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was advertised as proposed major Development by site notice on 12<sup>th</sup> November and 26<sup>th</sup> November 2010. The application was also advertised in the Morley Advertiser on 17<sup>th</sup> November 2010.

- 7.2 11 letters of objection have been received from 10 local households in response to the proposals, raising the following concerns:

- The site is greenfield
- Two previous applications for housing on the site have been dismissed.
- The site cannot come forward as a 'windfall' site as is 'greenfield' and nor 'brownfield'.
- The site is not allocated for development.
- The RSS is to be revoked and therefore it is up to the Council to set its own housing requirements.
- Council figures show that there is a five year supply of housing
- Additional traffic will exacerbate existing traffic and congestion difficulties.
- Likely to be more movements than that stated in the T.A.
- The bus services stated in the T.A. are incorrect and services are not as frequent as those stated.
- The nearby residential streets are unsuitable for large construction vehicles.
- Mud, dirt and disturbance from construction traffic.
- Construction will impact on interests of hedgerows and nature conservation habitats.
- The initial layout does not comply with the Council's Street Design Guide.
- The applicant has recently degraded a significant part of the site, but it should be classified as greenfield, as there is no permission for this.
- There is no evidence that there is demand for new housing in the area.
- There are numerous building sites within 3 miles of the application site which did not entail the loss of a greenfield site.
- The nearby closed Catholic Church is likely to be developed for housing, and could probably provide 10 – 12 dwellings.
- Further land in the applicant's ownership could be developed in the longer term if this is allowed.

- Existing views over the green belt and reservoir would be lost. Resultant loss of privacy and security.
- Loss of value of property.

## **8.0 PLANNING POLICIES:**

8.1 The development plan includes the Regional Spatial Strategy to 2026 (RSS) and the adopted Leeds Unitary Development Plan (Review 2006) (UDP) along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage. The RSS was issued in May 2008 and includes a broad development strategy for the region, setting out regional priorities in terms of location and scale of development including housing. The site is not designated for any particular purpose in the UDPR. Land abutting to the south and east is designated Green Belt.

### 8.2 Regional Spatial Strategy (RSS) (adopted May 2008)

S1: achievement of sustainable development

P1: development to be located in urban areas and adoption of a sequential approach to meeting development needs, starting with the reuse of suitable previously developed land and buildings within urban areas.

H1: annual average additions to housing stock and previously developed target.

H2: Sequential approach to allocation of land.

H3: managed release of housing land.

H4: affordable housing.

H5: making the best use of existing stock.

ENV5: 10% renewable energy requirement.

YH1: Spatial pattern of development and core approach.

YH2: Sustainable development.

YH4: focus development on regional cities.

YH5: Focus development on principal towns.

YH7: location of development.

LCR1: Leeds city region sub area policy.

LCR2: regionally significant investment priorities, Leeds city region.

### 8.3 Unitary Development Plan Review (adopted July 2006)

SA1: secure the highest possible quality of environment.

SA3: adequate provision for housing needs.

SP3: new development concentrated largely within or adjoining the main urban areas.

GP5: General planning considerations.

GP7: use of planning obligations.

GP11: sustainable development.

N2: Greenspace hierarchy.

N4: provision of green space.

N12: Urban design.

N13: building design.

N24: Assimilation of developments into the wider area, where they abut open spaces.

N51: The design of new development should wherever possible enhance existing wildlife habitats and provide new areas for wildlife as opportunities arise.

H1: provision for completion of the annual average housing requirement identified in the RSS.

H2: Monitoring of annual completions of dwellings.

H3: delivery of housing allocated sites.

H4: unallocated sites for housing

H11/H12/H13: affordable housing.

T2: transport infrastructure.

T24: parking provision.

BD2: Design and siting of new buildings should complement and enhance existing vistas, skylines and landmarks.

BD5: General amenity issues.

LD1: landscape schemes.

#### 8.4 Supplementary Planning Guidance

SPG13 – Neighbourhoods for Living: A Guide for Residential Design in Leeds

SPG4 - Greenspace Relating To New Housing Development

SPG 25 – Greening The Built Edge

#### 8.5 Supplementary Planning Document

Street Design Guide SPD

#### 8.6 National Policy and Guidance

PPS1: Delivering Sustainable Development

PPS3: Housing

### 9.0 **MAIN ISSUES**

1. Principle of Development on Greenfield sites.
2. Sustainability
3. Highways
4. Visual amenity
5. Residential amenity
6. Assimilation into wider open area
7. Greenspace
8. Affordable housing
9. Other issues

### 10.0 **APPRAISAL**

#### Principle of development

- 10.1 Section 38(6) of the Planning and Compensation Act 2004 requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The application is on an unallocated Greenfield site, within the settlement of West Ardsley. It is considered that the principal issue is whether it is appropriate for a Greenfield site to be released.
- 10.2 Planning policy does not carry a presumption against the development of such sites for residential use. Paragraph 71 of PPS3, 'Housing', sets out that where local planning authorities cannot demonstrate a 5 year supply of deliverable housing sites then they should consider planning applications for housing favourably (subject to other development considerations).
- 10.3 The first part of this report thus assesses the extent to which the proposals would be in accordance with the statutory development plan, i.e. whether the proposal conflicts with policies set out in Section 8.0 above, whether there is a five year land supply, and whether there would be harm to regeneration initiatives.

### Grimes Dyke appeal

- 10.4 These issues were key to the determination of an appeal for a large scale housing development at Grimes Dyke. The appeal was determined and allowed by the Secretary of State. At paragraph 11 of his decision the Secretary of State (SoS) stated:
- “The SoS has also made it clear that it is the Government’s intention to revoke Regional Strategies, and the provisions of the Localism Bill which is now before Parliament reflect this intention. While he has taken this matter into account in determining this case, the Secretary of State gives it limited weight at this stage of the parliamentary process. “
- 10.5 The (SoS) set out that the development plan comprises the RSS and the UDP and concluded that the proposed development would not conflict with any of the policies in the development plan which was cited in the reasons for refusal.
- 10.6 The SoS was also of the view that the proposed development would not undermine the achievement of the spatial objective of the development plan or regeneration initiatives. He did not consider that the release of this site would: set a precedent for the release of large quantities of greenfield land over Leeds; reduce the viability of residential schemes on brownfield sites and in regeneration areas, or the willingness of developers to bring them forward.
- 10.7 Turning to the issue of housing land supply the SoS considered that the identified supply fell well short of the development plan requirement as set by the RSS for the period of 2011 to 2016 and consequentially that national policy requires that favourable consideration should be given to the proposal.
- 10.8 Finally the SoS concluded that:
- “In short, the Secretary of State takes the view that at both the 2010 inquiry sessions and at the reopened inquiry in 2011, the Council failed to provide any substantial evidence to show that the appeal proposal would conflict with the spatial objectives of the development plan.”

### Executive Board

- 10.9 The implications that flow from the recent Grimes Dyke appeal decision (which was reported to Plans Panel on 14<sup>th</sup> July 2011 have been the subject of reports to Executive Board on 22<sup>nd</sup> June and the Joint Plans Panel of 30<sup>th</sup> June 2011. Accordingly, it is not proposed to set them out in detail here but to provide a summary of the main points:
- 10.10 This appeal decision, in combination with other similar appeals, effectively means that UDP allocated Phase 2 and 3 sites should now be regarded as being available for development. Of course any proposal would have to address detailed policy requirements as set out in the UDP.
- 10.11 In the absence of an identified 5 year supply of housing and, on the basis of the conclusions reached by the Inspectors and the SoS, even with the release of all Phase 2 and 3 sites it is arguable that the Council will not be able to demonstrate that it has a 5 year supply.
- 10.12 In the absence of a demonstrable 5 year supply other, unallocated, greenfield sites may come forward for development.
- 10.13 Given the very clear UDP policy on the Protected Areas of Search (PAS) it is considered that release of any of these sites should only arise through the LDF process.

- 10.14 In light of the Inspectors and SoS findings in respect of the impact of the release of Greenfield sites on regeneration areas the release of the Phase 2 and 3 sites cannot be made conditional on some form of support for regeneration.

Conclusion on Greenfield issues.

- 10.15 In the absence of a demonstrable 5 year supply other, unallocated, greenfield sites may come forward for development, as long as they are not in an unsustainable location and are otherwise acceptable.

Sustainability

- 10.16 It is considered that the application site is in a reasonably sustainable location. There are bus routes along Haigh Moor Road and Westerton Road, with bus stops within walking distance. There are shops, including a Post Office at the junction of Westerton Road and Haigh Moor Road, and a primary school on Westerton Road, also within walking distance. At the most recent appeal (T/APP/N4720/A/05/11184055), heard at a Hearing, the Inspector stated, "*Given the proximity and relative frequency of public transport to other centres and limited local facilities I consider that the site is in a sustainable location*".

Highway safety

- 10.17 No highway safety objections are raised. An adoptable highway can be accommodated, accessed from the existing Waterwood cul-de-sac. Details of parking can be addressed at reserved matters stage.

Visual amenity and character

- 10.18 Details will be covered at reserved matters stage. Although only indicative at this stage, the applicant has shown 14 detached dwellings that are regularly spaced and set within generous gardens. This would be in keeping with the immediate area which is characterised by such housing.
- 10.19 There are only limited public views of the application site. The site is not visually attractive and it makes a limited contribution to the open character of the area. The greater contribution to the openness is made by the adjacent land that falls within the Green Belt. As such there is no overriding reason to protect this land from development for its own sake.
- 10.20 A further point, however, to consider is that the structures on the site are currently subject to enforcement proceedings, and that the land owner is required to remove structures from the site. Very little weight, therefore, should be given to the consideration that the granting of planning permission would improve the appearance of the site, as this is being addressed through the enforcement process.

Residential amenity

- 10.21 Detailed matters of layout, scale and appearance are reserved for future consideration. It is considered, in view of the size of the site and the distance from neighbouring properties, that appropriate separation distances (in line with the guidance set out in Neighbourhoods for Living) from existing dwellings could be achieved.

Assimilation into wider open area

- 10.22 Policy N24 requires that where development proposals about the green belt, green corridors or other open land, their assimilation into the landscape must be achieved as part of the scheme. Other residential gardens share a boundary with the agricultural fields. In the immediate vicinity of the application site these boundaries

are planted with a mature hedge. However, other boundary treatments include fences and walls. In this case the proposal is the retention of the existing hedge and its augmentation by trees, the exact details of which would be subject to a detailed submission. A Landscape Management Scheme, to ensure the long term management and retention of the planting would be required. It is considered that this will produce a boundary treatment that is in keeping with, and improves upon, the established pattern of planting in the locality.

#### Greenspace

- 10.23 The indicative details provided with the application indicate that a development of 14 houses is proposed on the site. A development of this scale will therefore exceed the threshold for Greenspace provision. A completed Undertaking under Section 106 Agreement has been submitted which makes provision for a commuted sum (£39,304.05p) for greenspace to be provided off site.

#### Affordable housing

- 10.24 The indicative details provided with the application indicate that a development of 14 houses is proposed on the site. A development of this scale will therefore not exceed the threshold for affordable housing provision. It is considered that although only indicative, given the size and the shape of the site, and the immediate local character and housing pattern, 14 is the maximum number of dwellings which could be accommodated, and as such, it is unlikely that the threshold for affordable housing would be reached. However, a condition is recommended, and agreed with the applicant, restricting the maximum number of dwellings to 14.

#### Other issues

- 10.25 The issue has been raised concerning the loss of views over the site, especially as there are views over the reservoir. There is however no rights of views over third party land. There are also concerns that there would be a loss in the value of property, but again, these are not material planning considerations. Concerns over security would be a material consideration that could be dealt with at detailed planning stage (e.g. type of boundary treatment and orientation of dwellings).

### **11.0 CONCLUSION**

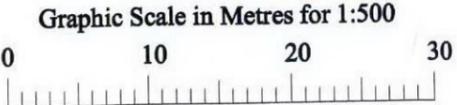
- 11.1 In light of the recent appeal decision at Grimes Dyke it is considered that there are no policy grounds not to release this site for housing. The site is in a reasonably sustainable location, and there are no technical objections to the proposal. It is considered that the proposal can be recommended for approval.

**Background Papers:** Application file

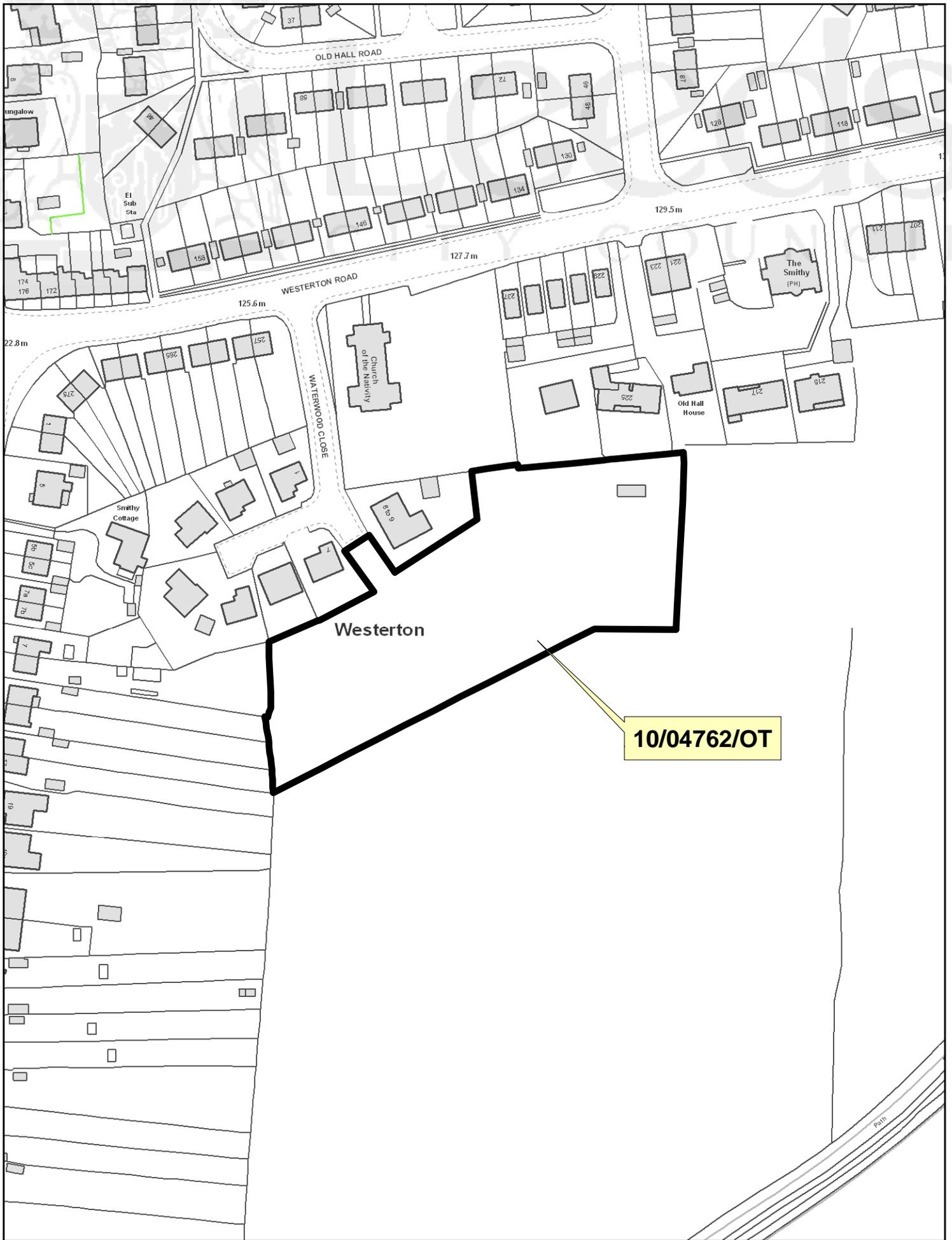
**Certificate of Ownership:** As applicant



LEEDS CITY COUNCIL  
 Please refer to Decision Notice  
 24 DEC 2010  
**REVISED**



<b>Project</b> Proposed Development Land off Waterwood Close, Tingley,	<b>Scale</b> 1:500 When plotted A3	<b>Plan Ref</b> Guymer-LA5 Date 24/12/2010
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# EAST PLANS PANEL

