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**Whyburn Consortium**

**Hearing Statement**

**Week 2 Matter 10**

Respondent ID: 63

by CarneySweeney

**Date: December 2024**



**CARNEYSWEENEY**  
PLANNING

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## 1.0 Introduction

CarneySweeney are acting on behalf of the Whyburn Consortium in making representations to the emerging Ashfield Local Plan (2023-2040), with representations having been made to the previous Regulation 19 consultation stage.

Our previous representations are not repeated here but should be read in conjunction with this Hearing Statement to the Inspector's Matters, Issues and Questions for Week 2: Matter 9 and Matter 10.

As requested, we have provided separate Hearing Statements for the following Matters:

- Matter 9 – The Supply and Delivery of Housing Land
- Matter 10 – Site Allocations

This document covers Week 2 Matter 10 – Site Allocations.



## 2.0 Week 2 Matter 10 – Site Allocations

Respondent ID: 63

### Issue

*Whether the proposed site allocations are justified and deliverable/ developable at the point envisaged*

### Questions

#### **Site Allocation Overall**

*10.1 How were the site allocations chosen? What factors were considered? Is the approach justified? Is it evidence-based?*

Chapter 7 of BP.01 is referred to as setting out the key factors the Council have taken into consideration in selecting “... the most appropriate sites that would deliver the Spatial Approach and achieve the Council’s vision for the future...” (Paragraph 7.1 of BP.01). Paragraph 7.2 of BP.01 goes on to refer to a sequential approach being undertaken for the site selection process comprising the following five stages:

- **Stage 1:** Sites with planning permission;
- **Stage 2:** Sites with a resolution to grant planning permission subject to signing a Section 106 legal agreement;
- **Stage 3:** Brownfield (previously developed) sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth;
- **Stage 4:** Greenfield sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth;
- **Stage 5:** Green Belt sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth.

Stages 3 – 5 of the above sequential approach for site selection refers to “...consistent with the Council’s strategic approach for sustainable growth”. However, it is unclear from BP.01 as to what “...the Council’s strategic approach for sustainable growth...” consists of and how this has been applied to the site selection process as there is no reference to an assessment as to whether the proposed allocations are consistent with this specific criterion.



It is also unclear what factors have been taken into consideration as part of the site selection process. Chapter 7 of BP.01 includes various sub-sections providing an overview of the Sustainability Appraisal, Green Belt Harm, Heritage Impact Assessment, Habitats Regulation Assessment and the Accessibility of Settlements Study. With regards to the Accessibility of Settlements Study (SEV.42), we have commented on this separately under Question 3.6, Matter 3 as the Council's justification to rely on this document in the absence of any update since its publication in 2010 has not been provided, particularly as this document informs the settlement hierarchy.

With the exception of Chapter 9 of BP.01 which seeks to set out the justification for the proposed Green Belt release sites, there is no clear explanation as to how the findings of the various documents referred to in Chapter 7 of BP.01 have been taken into consideration as part of the overall site selection process to deliver the now preferred spatial strategy for dispersed development.

In contrast, Paragraphs 8.13 – 8.20 of BP.01 proceeds to set out the reasons for why certain sites have not been proposed for allocation. Paragraph 8.15 of BP.01 refers to the removal of our client's site, Whyburn (HK028), as a New Settlement (3,000 dwellings) on the basis that the spatial strategy is not relying on large scale strategic sites such as New Settlements or Sustainable Urban Extensions and Whyburn, amongst other sites being excluded due to these sites being "... *inconsistent with the approach for dispersed development with no individual site delivering 500 or more dwellings...*". Our submitted Hearing Statements for Matter 1 and Matter 3 discuss in detail the flaws with the spatial strategy approach, and the inconsistency between the findings of the Sustainability Appraisal and the Council's now preferred spatial strategy for 'dispersed development'.

Furthermore, with the exception of the former New Settlements (Whyburn and Cauldwell Road) which formed the basis of the previous preferred spatial strategy approach (Option 10, CD.04), the proposed allocations shown on the Policies Map (SD.02a and SD.02b) for the Pre-Submission Draft document (SD.01), are the same as the proposed allocations from the Regulation 18 consultation stage (CD.02 and CD.03). It is therefore unclear how the proposed allocations, which supported a previous spatial strategy approach that included for a strategic scale of development (Option 10, CD.04), now supports the changed spatial strategy for 'dispersed development' (Option 3, SD.03).

It is also noted from the Hearing session for Matter 3 – Spatial Strategy, that the Council are relying on the Lichfield Paper 'Start to Finish', for imposing a development cap of 500 dwellings or less. Firstly, this document does not form part of the evidence base and so the Council's reliance on this paper to justify a 'cap' on the scale of development is questioned. Secondly, the Lichfield Paper 'Start to Finish', with the latest report dated September 2024, does not support the view expressed by the Council during the Hearing session for Matter 3 that sites of 500 dwellings or less have a faster rate of delivery.



Page 11 of the September 2024 Lichfield Paper 'Start to Finish' states as follows:

*"...When combining the planning approval period and planning to delivery period only sites comprising 99 dwellings or less will – on average – deliver anything within an immediate five-year (or parliamentary) period. Interestingly, sites of between 100 and 499 dwellings and all sites of 1,000 dwellings or more have a very similar combined planning approval and planning to delivery period of 6 to 7 years, despite significant variation in site size..."*

The findings of the latest Lichfield Paper therefore do not support the approach taken by the Council to impose a cap of 500 dwellings or less as part of the spatial strategy approach.

The site selection process is not therefore evidenced nor is it justified to support the now preferred spatial strategy approach as the proposed allocations do not represent a dispersed development strategy.

*10.2 In deciding whether to allocate sites for development, how did the Council take into account the effects of development on:*

- *Landscape character,*
- *The availability of best and most versatile agricultural land;*
- *The local and strategic road network;*
- *The need for new and improved infrastructure (including community facilities);*
- *Heritage assets; and*
- *Nature conservation.*

Whilst this is a question for the Council to respond to, as per our response to Question 10.1 above, overall, the Council's approach to the site selection process is not clearly evidenced, particularly in the context of demonstrating how the proposed allocations will deliver the now preferred spatial strategy approach for dispersed development. We may wish to make further comments during the Hearing sessions following a review of the Council's response.



*10.3 How did the Council take into account flood risk? Has the Plan applied a sequential, risk-based approach to the location of development, taking into account all sources of flood risk and the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property as required by paragraph 161 of the Framework?*

This is a question for the Council to respond to and depending on their response, we may wish to make comments during the Hearing session.

*10.4 Do the Plan's policies provide sufficient specificity of the requirements expected of the larger site allocations (i.e. those of 100 dwellings and above), particularly for sites where there is no planning permission in place?*

No. In the context of Policy H1, this policy comprises a tabled list of proposed allocations with no specific details/requirements as to what is expected to be delivered and nor is there any 'cross referencing' with any other relevant plan policies. The format of Policy H1 therefore confirms which sites are proposed for allocation, but it is left to the reader to review the entire Pre-Submission Draft document to establish if other policies set out specific requirements that would need to be met.

*10.5 Do the Plan's policies relating to the site allocations contain sufficient requirements to ensure that sites, particularly those comprised of multiple parcels of land, will be developed in a comprehensive manner?*

No. As per our response to Question 10.4 above, this policy provides no specific details/requirements as to what is expected to be delivered from the site allocations, and in turn, also fails to provide any policy direction to ensure that any proposed allocation comprising of multiple parcels will be developed in a comprehensive manner.

*10.6 What is the justification for the proposed restriction on development within 400m of the Sherwood Forest Possible Potential Special Protection Area (ppSPA)? Overall, will it be effective?*

Whilst this is a question for the Council to respond to, it is noted that the Habitat Regulation Assessment (SD.04) reports at Paragraph 3.3.1 that "Natural England provided consultation on the HRA Screening Report in 2021. This highlighted the importance of taking a 'risk-based' approach in the HRA in relation to development allocated within 400m of the Sherwood Forest ppSPA (i.e. areas of habitat with potential to support populations of woodlark (*Lullula arborea*) and nightjar (*Caprimulgus europaeus*)..."

It is further noted that Paragraph 3.1 of the Statement of Common Ground between Ashfield District Council and Natural England (SCG.06) reports that both parties agree the following:

- "The HRA sets out a comprehensive assessment of the Local Plan impacts (both alone and in combination) on the identified Habitats Sites, including the Sherwood Forest ppSPA.





- *The conclusions of the HRA are accurate in identifying that the Local Plan will have no adverse impact on site integrity of the Habitats sites, or upon the ppSPA, either alone or in-combination.”*

On the basis of the above, we have no specific comments to make at this stage but depending on the Council’s response to this question, we may wish to make comments during the Hearing session.

## **Changes to the Green Belt boundary**

*10.7 Why has the Green Belt Assessment not considered sites against the Green Belt purpose of ‘assisting with urban regeneration’ as set out at paragraph 138(e) of the Framework? Is this justified?*

This is a question for the Council to respond to and depending on their response we may have comments to make during the Hearing session.

*10.8 Taking each site proposed to be released from the Green Belt in turn, what would be the extent of the harm to the Green Belt if the boundaries were changed in the locations as proposed? Are there any ways in which harms could be minimised or mitigated?*

Whilst this is a question for the Council to respond to, it is noted that following our response to Question 3.15 under Matter 3, the Council has published an amended Background Paper 4 (BP.04a) now dated September 2023. However, previously BP.04a was a document dated July 2020, accessed from the Examination Library on 4<sup>th</sup> November 2024. It is presumed that the Council has identified an error in the Examination Library and have sought to rectify this, but clarification would be welcomed.

Having reviewed BP.04a (dated September 2023), whilst this document includes Chapter 4 ‘Mitigation to reduce harm to the Green Belt’, BP.04a does not specifically deal with how harm to the Green Belt could be minimised or mitigated. Table 4.1 is noted to provide a list of “...*some mitigation measures...*” which are referred to as measures that could be as part of the planning and development process.

Paragraph 4.5 of BP.04a goes on to state that “... *which mitigation measures are the most appropriate will vary, depending on local circumstances and will need to be defined as part of the master planning process...*”. This statement therefore suggests that measures to minimise or mitigate harm to the Green Belt have not been considered as part of this plan making process. It is also unclear from this statement which of the proposed allocations under Policy H1 would be the subject of a ‘master planning process’ in the context that the scale of development forming part of the preferred spatial strategy approach for dispersed development is capped at sites of less than 500 dwellings.

We note that the Council are due to provide a response to this question, and so we may have comments to make during the Hearing session.



*10.9 Taking each proposed change to the Green Belt boundary as set out in document ADC.02a in turn, has it been clearly defined, using physical features that are readily recognisable and likely to be permanent as required by paragraph 143 of the Framework?*

This is a question for the Council to respond to, taking each site in turn as requested. However, from an initial review of the ADC.02a, the plan 'Key' is not clear in identifying what is being presented. For example, there is reference to areas being covered by 'Green Belt 2002' and 'Proposed Green Belt'. It would be clearer if ADC.02a showed areas of 'existing Green Belt' and 'proposed land for removal/inclusion in the Green Belt'. Noting that the Council are due to provide a response to this question, we may have further comments to make during the Hearing session.

### **Site Allocations**

*Questions 10.10 – 10.76, relating to Policy H1.*

We do not seek to provide a response to each proposed allocation forming part of Questions 10.10 – 10.76 as this is a matter for the Council to respond to as these questions relate to specific matters, and requests for updates. However, a review of the proposed allocations under Policy H1 has been undertaken as part of our Hearing Statement for Matter 9. Noting that the Council are due to provide a response to Questions 10.10 – 10.76 as part of their Hearing Statement, we may wish to make further comments during the Hearing session following a review of the Council's response.

### **Employment Allocations**

*Questions 10.77-10.88, relating to Policy S6a and Policy S6b*

We have no comments in respect of the proposed employment allocations under Policy S6a and Policy S6b.

