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BY EMAIL AND BY POST
29 October 2010

Dear Mr Heselton

SELBY DISTRICT INTERIM HOUSING POLICY

Further to your letter of 29 September 2010, I write with reference to the above consultation document. On behalf of my client, Samuel Smith's Old Brewery (Tadcaster), I hereby enclose our representations in response to this consultation.

I trust the enclosed is clear; however, if you should have any queries regarding the content of this document, or the issues raised, please do not hesitate to contact me.

Yours sincerely

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cc. M. Butler

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SELBY DISTRICT INTERIM HOUSING POLICY CONSULTATION

Response of Samuel Smith Old Brewery (Tadcaster)

1.0 Introduction

- 1.1 We are instructed by Samuel Smith Old Brewery (Tadcaster) to submit representations in response to the Selby District Interim Housing Policy consultation.
- 1.2 From the outset we would like to make it clear that we fundamentally object to the proposed interim housing policy (“IHP”), on behalf of our client, for a number of reasons. Firstly, the IHP is contrary to the Development Plan and represents a significant departure from existing local and national planning policy; secondly, the Council has failed to adequately assess the policy against a reasoned evidence base; and finally, there has been no sustainability appraisal or strategic environmental assessment of the IHP. The Council has failed to state under what powers the IHP is being sought and neither the Council’s covering letter of 29 September 2010 nor the consultation document indicate the precise status of the IHP if adopted. We believe that if the Council were to adopt and apply the IHP, it would be acting outside of its statutory powers rendering any decision made in reliance of the IHP unlawful.
- 1.3 On the one hand, the IHP looks backwards to the existing Local Plan and seeks to plug a supposed gap in cover between it and the emerging Core Strategy. On the other hand, the Council says that comments on the IHP will assist in finalising the Core Strategy. Given that there has already been a period of consultation into the draft Core Strategy, and publication of the draft Core Strategy, it is quite wrong to effectively re-open consultation into the draft Core Strategy under cover of the consultation into this IHP.
- 1.4 Fundamentally, the justification given by the Council for introducing the IHP is grossly insufficient and lacking in evidence. Quite simply, no evidence has been provided to demonstrate that the proposed IHP is necessary or justified ahead of the adoption of the Core Strategy.

2.0 The Council's reasons for wanting to implement interim measures

- 2.1 The Council states that it is proposing to introduce the interim measures to control proposals for unplanned (windfall) housing development in order to bring local policy in line with current national guidance. Within the consultation documents, the only "current national guidance" referred to as triggering the purported requirement for a shift in the District's housing policy is the June 2010 revision of PPS3.
- 2.2 On 9 June 2010, the Coalition Government amended *Planning Policy Statement 3: Housing* ("PPS3") to exclude private residential gardens from the Annex B definition of previously developed land and delete the national indicative minimum density of 30 dwellings per hectare. It is envisaged that these changes will give Local Planning Authorities the opportunity to prevent over-development of neighbourhoods and 'garden grabbing'.
- 2.3 The Council alleges that the IHP will ensure the long term vitality and sustainability of settlements while avoiding the worst excesses of 'garden grabbing'. They also consider that, if this action is not taken, unacceptable amounts of housing may be provided in smaller, less sustainable settlements that will reduce the need for planned allocations of land.
- 2.4 The consultation document, however, fails to quantify or evidence this impact in any way. Furthermore, there is no sustainability appraisal or strategic environmental assessment of the implications of the IHP or indeed any legitimate assessment of its likely outcomes.
- 2.5 In commenting on the changes to PPS3, Steve Quartermain, Chief Planner at the DCLG, wrote in his letter to Chief Planning Officers of 15 June 2010:
- 'The amended policy document sets out the Secretary of State's policy on previously developed land and housing density. Local Planning Authorities and the Planning Inspectorate are expected to have regard to this new policy position in preparing development plans and, where relevant, to take it into account as a material consideration when determining planning applications' [emphasis added].*
- 2.6 The Government clearly does not envisage that the change in policy position contained in PPS3 would be so significant as to require local planning authorities to

introduce such measures as are proposed in the IHP outside of the LDF process, particularly where, as in this case, there is no evidence that existing Development Plan policies are so deficient as to necessitate such emergency measures where adoption of the Core Strategy is likely to be only 12 months away. Further comments on the relationship of the IHP to the emerging Core Strategy are set out below.

2.7 We therefore submit that the Council's justification for introducing the IHP is wholly inadequate.

3.0 Existing policy

3.1 Currently, policies H2A, H6 and H7 of the adopted Local Plan control proposals for new housing development.

3.2 Policy H2A states:

“In order to ensure that the annual house building requirement is achieved in a sustainable manner, applications for residential development up to the end of 2006 will only be acceptable on the following:

1) Previously developed sites and premises within defined Development Limits, subject to the criteria in POLICIES H6 and H7.

2) Sites allocated in Phase 1.”

3.3 Policy H6 is associated with housing development in the market towns and villages that are capable of accommodating additional growth. Within the defined Development Limits of these market towns and villages, proposals for residential development that meet the requirements of policy H2A or involve the conversion or change of use of a building are acceptable in principle. In order for planning permission to be granted policy H6 requires that proposals for development also meet seven criteria, relating to detailed matters of design and impact.

3.4 Policy H7 is associated with housing development in villages that are capable of accommodating only limited growth. Within the Development Limits of these villages, residential development is restricted to sensitive infilling on previously developed land, and other small-scale redevelopment of previously-developed land

and premises, or the conversion or change of use of existing buildings. Again, in order for planning permission to be granted six criteria relating to detailed matters of design and impact must be satisfied.

- 3.5 As a result of the amended PPS3 definition of previously-developed land, proposals for new housing development in the market towns and villages capable of accommodating additional growth is now limited to the conversion or change of use of buildings or proposals on previously developed land that complies with the amended definition. Any proposal for housing on a private residential garden would be contrary to Development Plan policy and national guidance.
- 3.6 Similarly, proposals for housing development on private residential gardens within villages that are capable of accommodating only limited growth would be contrary to development plan policy. Therefore, housing proposals in these villages, under current adopted policy, would be restricted to the conversion or change of use of existing buildings, sensitive infilling on previously developed land that accords with the new PPS3 definition and other small-scale redevelopment of previously developed land and premises that similarly accord with the new PPS3 definition.
- 3.7 We contend, in the absence of any evidence to the contrary, that the adopted policies of the Local Plan are adequate to ensure a sustainable delivery of sufficient housing development until the Core Strategy is adopted.

4.0 Proposed Interim Housing Policy

- 4.1 In a similar fashion to Local Plan policies H6 and H7, the IHP deals with the two tiers of settlement separately. Within the Development Limits of Selby, Sherburn in Elmet, Tadcaster and the designated Service Villages, housing development comprising conversions, replacement dwellings, development/redevelopment on previously developed land and appropriate scale development on greenfield land (including conversion of farmsteads) will be acceptable in principle.
- 4.2 Within the Development Limits of Other Villages, housing development comprising conversions, replacement dwellings, sensitive development/redevelopment on previously developed land, 'filling of small linear gaps in otherwise built up frontages' on greenfield land and conversion of farmsteads will be acceptable in principle.

- 4.3 There are clearly significant differences between the adopted Local Plan policies and the IHP. In contrast to policy H6 and PPS3, the IHP would make proposals for housing development on private residential gardens acceptable in principle. In addition, proposals for housing development on agricultural fields, paddocks and other non-residential greenfield land within Development Limits, such as land that was previously-developed but where the remains of any permanent development have blended into the landscape, would also be acceptable in principle. Development on these sites is not permissible under adopted Development Plan policy and is discouraged under national policy.
- 4.4 In contrast to policy H7 and PPS3, the IHP would also, subject to comprising the filling of small linear gaps in otherwise built up frontages, make proposed housing development on private residential gardens acceptable in the poorly serviced 'Other Villages'. As mentioned above, this could also include agricultural fields, paddocks and other non-residential greenfield land.
- 4.5 Neither Local Plan policy H6 nor H7 refer specifically to farmsteads. The IHP, however, makes specific reference to the acceptability of farmsteads for housing development. This is discussed in further detail below.
- 4.6 The IHP has also made changes to the classification of certain villages. Policies H6 and H7 of the adopted Local Plan list under the respective policies those villages to which the policy applies. The villages under policy H6 are deemed as being capable of accommodating additional growth and as having 'a reasonable service base in their own right, or are located relatively close to larger settlements and employment opportunities' (paragraph 5.71 of the Local Plan). These villages are now referred to as Service Villages within the IHP. The villages listed under policy H7 are deemed as being capable of accommodating only limited growth; locational factors, an inadequate service base, poor supply of previously-developed land and existing sensitive character and patterns of development are cited in the Local Plan as being reasons for inclusion under this policy (paragraphs 5.73 and 5.74 of the Local Plan). These villages are now referred to as 'Other Villages' in the IHP. This is discussed in further detail below.

5.0 Implications of the introduction of the interim housing policy

- 5.1 As mentioned above, the IHP significantly expands the range of locations that are acceptable, in principle, for residential development and allows housing to be built on land that was not previously under threat from development, e.g. agricultural fields, paddocks and other non-residential greenfield land, prior to the publication of PPS3. The IHP consultation has provided no evidence to justify this and we believe that, as a result, this will give rise to a greater level of residential development in less sustainable and more environmentally sensitive locations and further stretch existing services and resources, despite the fact that these very issues are cited by the Council as being problems that the IHP would address. It is our contention that the policy wholeheartedly fails to achieve its aims and is entirely unnecessary.
- 5.2 The IHP reintroduces the notion of ‘garden grabbing’ despite the Government’s actions in removing an in-principle acceptance of such development. To go further and effectively make all greenfield land within Development Limits acceptable in principle for new housing development is contrary to both the Development Plan and Government guidance.

Link to Local Development Framework

- 5.3 The IHP consultation document states that the Council is considering the introduction of the IHP to control proposals for ‘windfall’ development before adoption of the Core Strategy, despite there being no evidence presented to demonstrate that this is necessary, particularly in view of the fact that the District has in excess of 5 years supply of housing (Annual Monitoring Report 2008-2009) when taking no account for windfalls. To suggest that the IHP is required on delivery grounds, therefore, would be fundamentally flawed. Paragraph 1.7 of the consultation document also claims some consistency between the IHP and the emerging Core Strategy in terms of the relaxation of controls for new housing development in Selby, Sherburn in Elmet, Tadcaster and the designated Service Villages. However, the Core Strategy is still subject to ongoing assessment and the soundness of its policies is far from having been tested. The implications of seeking to introduce a new approach to releasing land for housing development, as proposed within the IHP, is that the Council is pre-judging the soundness of the draft Core Strategy policy. There is no evidence that a fundamental shift in policy is required ahead of the adoption of the Core Strategy, the process for which is the correct place for policy formulation and assessment.

- 5.4 The Council is seeking to introduce its preferred Core Strategy policies early, without proper consultation, under cover of the IHP by bypassing the democratic and transparent LDF process (as referred to in paragraph 1.3 above). We have been advised that such actions on the Council's part are unlawful.
- 5.5 As referred to in paragraph 1.2, the Council has failed to indicate the precise status of the IHP if adopted. Paragraph 6.4 of PPS12 advises that Councils should not produce planning guidance other than SPD where the guidance is intended to be used in decision making or the coordination of development. If it does so, this could be construed as the Council wishing to circumvent the provisions for consultation and sustainability appraisal which SPDs have. Furthermore, paragraph 6.1 of PPS12 states that SPDs should not be prepared with the aim of avoiding the need for the examination of policy which should be examined. Therefore, if the Council intend the IHP to be adopted as a SPD they should go through due process, which they have failed to do. On the other hand, if the Council intends the IHP to comprise any other form of policy provision, it should be subject to proper examination. Our view is that in light of the fact that the IHP represents a departure from Development Plan policy, it cannot be adopted as an SPD as in doing so it would be contrary to the guidance of paragraph 6.1 of PPS12.

Classification of Villages

- 5.6 As mentioned in paragraph 4.6 above, the IHP has made changes to the classification of certain villages. Appleton Roebuck, however, has been retained as a Service Village in the IHP. This is despite the LDF Core Strategy Background Paper No.5: *Sustainability Assessment of Rural Settlements* categorising Appleton Roebuck as ranking among the least sustainable settlements in the District with a population of over 600. In fact, it was ranked as the *least* sustainable of the 29 villages that were assessed. This assessment was prepared as recently as February 2010 and forms the evidence base to Selby District's emerging Core Strategy. In contrast, some villages that performed better, in sustainability terms have been effectively moved from a policy H6 category to a policy H7 category. The consultation document contains no explanation whatsoever to account for this.

Implications for Villages

- 5.7 The implications of the IHP in relation to the village of Appleton Roebuck, therefore, as well as other Service Villages with a poor sustainability ranking, is that not only will it continue to be categorised as a village capable of accommodating additional growth despite its inherent unsustainability, but also it will be subjected to further pressures from housing development, over and above that which existed before, as a result of the IHP's relaxation of controls over the release of greenfield land.
- 5.8 This is contrary to the Council's claim, set out in paragraph 1.5 of the consultation document, which states that without the IHP smaller, less sustainable settlements would be subjected to unacceptable amounts of housing. This is an unfounded and illogical claim to make. The changes to the PPS3 definition of previously-developed land, as set out above, now restricts even further the level of housing development that can come forward in both the Service Villages and Other Villages listed in the IHP. Setting aside the unexplained anomaly of Appleton Roebuck, the least sustainable settlements are generally regarded as those falling under the 'Other Village' category and the shift in Government guidance has effectively removed the potential for unsustainable and harmful 'garden grabbing' in these settlements. This can only be regarded as a positive policy development and effectively already achieves what the Council wrongly claim would be the outcome of the IHP. Whilst the IHP is slightly more restrictive than policy H7 was prior to the PPS3 revision, by limiting development in residential gardens to a more defined definition of 'infill', it unfortunately turns the corner and becomes more relaxed than the aforementioned Local Plan policy by allowing development on other greenfield land that may form part of a built-up frontage within the Development Limits, such as agricultural or equine land.
- 5.9 In summary, therefore, the IHP will undoubtedly result in unacceptable levels of housing development in unsustainable settlements, contrary to both the adopted Development and national policy guidance.

Farmsteads

- 5.10 The reference to 'farmsteads' within the proposed IHP is unnecessarily confusing. Unlike adopted policy the IHP makes specific mention of farmsteads, but does not

provide a definition of a farmstead. Various definitions exist, some of which include both farm buildings and the land surrounding them.

- 5.11 Under policies H6 and H7 of the adopted Local Plan, the conversion of buildings on farmsteads to residential use within Development Limits is already acceptable, regardless of the PPS3 changes, and numerous planning permissions granted by the Council, with no mention of an in-principle objection, demonstrate this. The land around them cannot be developed, as it does not constitute previously-developed land. Various examples exist where residential garden land has been provided around converted farm buildings, but this has not brought about any objection from the Council by reference to in-principle acceptability.
- 5.12 The background text to the consultation, suggests that it is the Council's intention to now make specific reference to the conversion of farmsteads as being acceptable within housing policy, because farmsteads had previously been categorised as greenfield and ineligible for conversion. As stated above, this is clearly not the case.
- 5.13 If reference to farmsteads were removed entirely from the IHP, the conversion of farmstead buildings would still be permitted, under both the first and second bullet of paragraph 1. of the policy. In addition, under the first bullet, additional development within the curtilage of farmsteads would also be permitted, through reference to 'appropriate scale development on greenfield land'. Under the second bullet, the lack of a clear definition of a "farmstead" may give rise to confusion over whether the Council is seeking to allow new housing development on land surrounding farmstead buildings, thus putting potential pressure on unsustainable locations.
- 5.14 Reference to farmsteads within the IHP, therefore, is unnecessary and potentially confusing without clear definition and explanation.
- 5.15 Notwithstanding the above, the release for housing development of greenfield land surrounding farmstead buildings will result in unjustified levels of greenfield development in unsustainable locations and to the detriment of the form, character and environmental quality of many settlements in the District, which is in conflict with adopted Local Plan policy and national policy guidance. Where farmsteads remain relatively untouched within the more rural settlements of the District, the buildings and surrounding spaces often add an important historical reminder of a settlement's origins and can form an essential part of its character. To encourage

further modern development in these locations will erode this character and much of the District's agricultural heritage.

6.0 Summary of Objections

- 6.1 The IHP is not properly evidenced and is not in accordance with adopted Local and national planning policy. Furthermore, there has been no sustainability appraisal or strategic environmental assessment of the IHP, as required by the Planning and Compulsory Purchase Act and EU Strategic Development Directive respectively. Consequently, to adopt and apply the IHP on the basis of the current consultation exercise would be unlawful.
- 6.2 The Council has presented inadequate justification for the IHP and the very limited reasons that are provided in the consultation document do not justify the direction of the policy. It is our contention that the IHP is simply not necessary.
- 6.3 The IHP reintroduces the notion of 'garden grabbing'. Whilst the Government has acted to exclude private residential gardens from the definition of previously-developed land, the IHP would make development on such sites acceptable within Selby District without justification. Furthermore, the IHP goes above and beyond this by making all greenfield land within Development Limits potentially acceptable in-principle for new housing development. The result is that agricultural land, paddocks and other non-residential greenfield land, such as land that was previously-developed but where the remains of any permanent development have blended into the landscape, is now under threat from residential development. The Council claims that such an approach is in accordance with the emerging Core Strategy. However, the Core Strategy is yet to complete its consultation process and its policies are yet to be tested for their soundness; consequently, no support can be taken for the IHP from the Core Strategy.
- 6.4 Our client objects in the strongest terms to the inclusion of Appleton Roebuck as a Service Village under the IHP on the basis of clear evidence which demonstrates that the village is not capable of accommodating further residential development in a sustainable fashion.

- 6.5 The introduction by the IHP of an in-principle acceptance of housing development on farmsteads is both confusing and unnecessary and is likely to erode the character of the District's rural settlements.
- 6.6 The implications of the IHP are that the towns and villages of the District will be subjected to housing development on greenfield land on an inappropriate scale. Sites that are unsustainable, environmentally sensitive and that make a valuable contribution to the form and character of settlements will be lost.

Cunnane Town Planning

29 October 2010