

MATTER 5



JohnsonMowat
Planning & Development Consultants

Response to Craven District Council Local Plan Examination Inspector's Questions

September 2018

MATTER 5 **Residential Allocations**

CLIENT: KCS DEVELOPMENT LTD

SITE REFERENCE NO: GA025 – LAND OFF SKIPTON ROAD, GARGRAVE



CONTENTS

1.0 INTRODUCTION

2.0 RESPONSE TO INSPECTOR'S MATTER 5 QUESTIONS

Appendix One – Written Statement for S78 appeal in relation to site GA025

Appendix Two – Letter to [REDACTED] re Local Plan Process

Appendix Three – Johnson Mowat Preferred Housing Allocations Consultation Response (August 2016)



1.0 INTRODUCTION

- 1.1 This statement should be read alongside previous representations submitted on behalf of KCS Development Ltd in relation to the emerging Craven Local Plan.
- 1.2 A planning application for the residential development of 44 dwellings was submitted to the Council in February 2017 (application reference 30/2017/71778). The application was recommended for approval by Officers however refused consent at Planning Committee in June 2018. A Section 78 Written Representations appeal has been submitted against the refusal of planning permission (APP/C2708/W/18/3210048).
- 1.3 It should be noted that we do not consider it necessary to answer all of the Inspector's Questions. For the avoidance of all doubt those that we do wish to respond to have been set out

2.0 RESPONSE TO INSPCTOR'S MATTER 5 QUESTIONS

Issue 1 – Methodology

Q1. How were different sites considered for inclusion as allocations? What process did the Council follow in deciding which sites to include?

Q12. Was the site selection process robust? Was an appropriate selection of potential sites assessed, and were appropriate criteria taken account?

Q.13. Are the allocations justified, effective and consistent with national policy?

- 2.1 We raise strong objections to the Council's site selection methodology. We consider the process upon which the residential allocations have been selected is flawed, open to legal challenge and results in an unsound plan.
- 2.2 The Council's *Residential Site Selection Process* Background Paper (January 2018) (Ho008) sets out the site selection process indicating that Stage One sought to identify sites of at least 5ha in size capable of accommodating at least 5 dwellings, contain at least 0.1 ha of land at the lowest risk of flooding (FZ1) and be suitably located outside areas protected nationally or internationally for key habitats and plant and animal species. Those sites which passed Stage One were then subject to analysis against the Sustainability Appraisal Objectives where if performing at a satisfactory level the site would proceed to Stage Three and be included within the 'Potential Pool of Sites'. This methodology is not disputed.
- 2.3 It is however disputed that this assessment has not been made on the most up-to-date available evidence presented to the Council and therefore the proposed allocations are not wholly justified. In the case of site GA025 the information submitted by Johnson Mowat has been repeatedly overlooked by the Council resulting in the omission of a suitable and sustainable site and both a flawed consultation and site selection process.



- 2.4 KCS Development have demonstrated in representations and submissions of evidence to the Council throughout the Local Plan process that the Gargrave site GA025, Land off Skipton Road, meets the criteria for Stage One and Two tests; being located wholly within Flood Zone 1. It is therefore unjustified that the site has not been included within the Stage Three 'Potential Pool of Sites' and not subjected to public consultation as a possible housing allocation. It has been confirmed by the Council that Flood Risk status is the sole reason for not advancing the site.
- 2.5 We acknowledge that the Environment Agency's Flood Risk Mapping demarcates site GA025 falling partially within Flood Zone 2 and 3. We understand that is based upon a "broad brush" approach. However, detailed modelling work and a thorough assessment of the Leeds Liverpool Canal and Eshton Beck has demonstrated that the EA mapping, as published, is incorrect and the site is located in Flood Zone 1; at the lowest risk of flooding. The EA were involved in determining the scope and methodology of the works undertaken and the results were submitted both through the formal challenge process and as part of the planning application process for 30/2017/71778. The Council have been privy and party to these discussions at every step of the process.
- 2.6 The Officer's report to committee in relation to planning application 30/2017/71778 confirmed that Officers were satisfied that the site was not at risk of flooding. Furthermore, Flood Risk was not used as a reason for refusal.
- 2.7 Included at Appendix One is the Statement of Case recently submitted for a Section 78 appeal in relation to refused planning application 30/2017/71778. We wish to bring to the Inspector's attention Table 3.1 within that document which sets out the points at which the Council were informed that site GA025 is located within Flood Zone 1. This is also well documented in the representations to the Local Plan process, copies of which should have been provided to the Inspector.
- 2.8 In particular, on the 8th March 2017 the Environment Agency first wrote to the Council to confirm that GA025 was in Flood Zone 1. This was in advance of the pre-Publication draft Local Plan consultation. The Council continued to omit the site from the selection process.
- 2.9 In line with the Council's own methodology set out in the Background Paper the site should have been advanced for consideration as a potential housing site, not to do so is flawed and unsound. Site GA025 has been treated differently from all other FZ1 potential sites.
- 2.10 Despite the continued confirmation from the EA of the Flood Zone 1 status of the site (letters dated 8th March 2017, 28th March 2017 and 6th October 2017) the Council continue to consider the site to be Flood Zone 2 and 3 as set out in *Annex 1 to the Council's letter dated 20.06.18: schedule of Omission Sites at Regulation 19* (June 2018) (EL1.001c).
- 2.11 Whilst we acknowledge that the latest Johnson Mowat representations are replicated within the *Report of Representations (RPT2 – All Representations by Policy)* (CR067) the Council have not sought to respond to the representations made. On the 19th July 2018 Johnson Mowat



wrote to the Council to set out the flaws in the site selection process and seek the Council's response to the representations made. The letter is included at Appendix Two and to date no response has been received.

2.12 We note that there remain a number of employment and housing allocations within the draft Local Plan which are at higher risk of flooding including areas of FZ2 and FZ3, these are listed by the Council within *Annex 3 to the Council's letter, dated 20.06.18 List of Sites within Flood Zone 2 or 3* (June 2018) (EL1.001f). We particularly note housing allocation SK044, wholly located within FZ2 and mixed use allocation SK139, almost wholly located within FZ3. That these sites have not been treated in the same manner as site GA025 further demonstrates the unsound approach to the site selection process.

2.13 Paragraph 100 of the Framework (2012) is clear that:

"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making is safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards."

2.14 Having continually failed to acknowledge the latest advice from the EA in relation to site GA025, that the site is FZ 1, the Council have failed within the provisions of paragraph 100 to produce a Local Plan taking into account the advice of the EA. Furthermore we consider that the continued disregard for the most robust and up to date evidence put before the Council is contrary to the provisions of paragraph 158 of the Framework which states:

"Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area..."

2.15 As a result of not assessing the sites on the most up to date, robust and available evidence, the site selection process cannot be considered as sound nor has the process been conducted in a manner that is consistent with national policy.

Issue 7 – Strategy for Gargrave – Tier 3 (Policy SP10)

GA009 – Land off Eshton Road

Q1. What is the justification for the proposed site boundary, which excludes certain parcels of land to the rear of Eshton Road, but includes others?

2.16 We do not consider that there is any justification for the proposed site boundary which results in a development that is not in keeping with the existing character and built development in this part of the village. Development along Eshton Road is primarily of a single plot depth and



properties benefit from a road frontage. The development of GA009 would be contrary to this existing pattern.

Q3. How has the accessibility of the site by non-car modes been taken into account?

- 2.17 Johnson Mowat have previously made representations to the Craven Local Plan in relation to accessibility of GA009 in both the Preferred Housing Options consultation in August 2016 and the Pre-Publication Draft consultation. These comments remain appropriate and accurate.
- 2.18 Given the proposed use of GA009 for C2 extra care units we consider accessibility by non-car modes to be of the utmost importance.
- 2.19 Whilst site GA009 is in proximity to bus stops on Eshton Road, these serve the infrequent bus services 75, 210, 211, 873 and 884. Only four buses operate Monday to Saturday to Skipton and Malham, it should also be noted that two of these buses are in close proximity to one another 10.00am (no. 210/211) and 10.01am (no. 75) further reducing choice of travel times. Sunday services are also limited along this route with three buses to Malham throughout the day, one bus to Easingwold and two buses to Malham.
- 2.20 We remain of the view that there are alternative sites within Gargrave which provide better choice of travel by public transport, namely GA025 which is located on a high frequency bus route with the nearest bus stop within 400m.
- 2.21 Please see appendix three for the full assessment of site accessibility.

Q4. What is the current status of the Gargrave Neighbourhood Plan? Is the site identified for residential development in the NP?

- 2.22 The Neighbourhood Plan sets out a number of housing allocations, including sites with consents approvals and single new housing site and the identification of a site for extra car provision in line with the draft Local Plan proposals. Proposed Local Plan housing allocation GA009 was rejected at the very early stages of the Neighbourhood Plan making process by the Working Group as a suitable option for residential allocation however, given the progress of the Local Plan is now identified within the Neighbourhood Plan.
- 2.23 Site GA009 has performed poorly at every stage of consultation both in the Local Plan and Neighbourhood Plan processes. The May 2015 NP assessment of the site concluded:
- “Open, undulating pasture in the open countryside, adjacent to the Yorkshire Dales National Park. Generally poor accessibility to services and to the existing road network. Some policy constraints – identified as Special Landscape Area in the adopted Development Plan and part of the site is at risk of flooding. Not well related to village and considered to be important to the setting of Gargrave and to views of the National Park from the village and key amenity corridors, notably the Leeds Liverpool Canal. **Final Assessment – Inappropriate** (emphasis added).”*
- 2.24 The Gargrave Submission Neighbourhood Plan (June 2016) omitted the site as an allocation. This plan was submitted to the Council for Examination however not advanced.



- 2.25 Only at a very late stage (May 2018) was a revised NP submitted to the Council which highlighted the site as a “*Craven District Council Local Plan Site Allocation Extra Care Homes*”. It is stressed within the NP text, paragraph 6.1.28 that “*as the site did not come forward during or through the preparation of the NDP it has not been included as a specific site allocation in the Gargrave NDP*”.
- 2.26 The site therefore continues not to be favoured by the Neighbourhood Working Group as an allocation.
- 2.27 On behalf of KCS Development, Johnson Mowat have continued to make representations to the Neighbourhood Plan in relation to the suitability of site GA025 for allocation. Site GA025 has historically performed well in the Neighbourhood Plan process being the second favoured residential site only behind GA031. Again, we understand that it is only due to the perceived flood risk of the site that it has not progressed for allocation.

Q7. What is the fluvial and/or surface water hazard identifies in the supporting text to Policy SP10? Is the allocation consistent with paragraph 100 of the Framework, which states that Local Plans should apply a sequential, risk based approach to the location of development to avoid where possible flood risk to people and property?

- 2.28 Site allocation GA009 is listed by the Council within *Annex 3 to the Council's letter, dated 20.06.18 List of Sites within Flood Zone 2 or 3 (June 2018) (EL1.001f)* as being located partially within Flood Zone 2 and Flood Zone 3.
- 2.29 We are aware of alternative sites within the village for residential development or extra care use which are in sustainable locations and wholly located within Flood Zone 1, namely GA025. This site has been proven to be located in Flood Zone 1, a status which is now confirmed by the Environment Agency, please see Appendix One. GA025 would therefore be a sequentially preferable site to the GA009. As such it is considered that the allocation of GA009 is contrary to paragraph 100 of the Framework.

GA031 – Land West of Walton Close

Q8. How has the accessibility of non-car modes of transport been taken into account?

- 2.30 As set out in paragraph 2.16 above Johnson Mowat have previously made representations to the Craven Local Plan in relation to accessibility of GA031 in both the Preferred Housing Options consultation in August 2016 and the Pre-Publication Draft consultation. These comments remains appropriate and accurate.
- 2.31 GA031 is not situated on a bus line at all with the nearest bus stop 750m away situated in the heart of the village, this is considered to be poor accessibility. It is our view that there are alternatives sites in more sustainable locations.
- 2.32 I again refer the Inspector to appendix three.



Q9. What is the current status of the Gargrave Neighbourhood Plan? Is the site identified for residential development in the NP?

- 2.33 We acknowledge that the Neighbourhood Plan has been submitted to the Local Authority to progress to Examination however we consider the plan still to be at early stages, having not been subjected to formal examination. In addition we are aware of a number of outstanding objections to the plan and as such the Neighbourhood Plan attracts only limited weight.

Q11. (and Q6.) Is it clear to decision-makers, developers and local communities what the provision of “social infrastructure” would entail for the purpose of the Policy SP10? Is the Policy effective in this regard?

- 2.34 The Development Principles for each of site GA009 and GA031 state that the proposals must accord with local plan policies H2, INF3 and INF6 (which set out requirements for contributions towards affordable housing, education provision and sport, open space and recreational facilities) and all other local plan policies. In this respect Policy SP10 does set out what the provision of social infrastructure might be. What is not clear is the extent to which these sites will contribute.
- 2.35 We raise concerns regarding the contribution to social infrastructure from allocation GA009 towards education and sport provision as a C2 Use Class for extra care.
- 2.36 Through the planning application (reference 30/2017/71778) process for GA025 a significant planning gain package was agreed between the applicant and the Council towards social infrastructure. This included 40% affordable housing (above the emerging policy threshold of 30%), education contributions and a significant Public Open Space contribution. The details of which can be found in Section 7 of Appendix two to this statement.
- 2.37 It is considered that this planning gain package is greater than those which can be offered as part of the development of allocations GA031 and GA009 and therefore Policy SP10 is not effective in providing the most beneficial provision of social infrastructure for the settlement.



APPENDIX 1

Note from Craven District Council

The appendices have not been uploaded due to data protection constraints - please contact the Programme Officer if you wish to view them.