

**From:** [REDACTED]  
**To:** [Site Allocations Plan](#)  
**Subject:** PDE02415\_Site HG3-4 - plan public consultation  
**Date:** 16 November 2015 17:20:13  
**Attachments:** [S4-7a Leeds\\_CS Population Projections.pdf](#)

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Dear Sir/Madam,

### **Site HG3-4 public consultation**

Site HG3-4 (the “Site”) is described as an agricultural field to the rear of properties on Layton Lane. The site is bounded to the east by a tree line, though there is limited tree coverage on the remainder of the site. The site slopes from north to south. It is a Green belt site between existing properties on Layton Road to the west and Gill Beck which is deemed to be the eastern site boundary.

Leeds City Council (the “Council”) is now proposing to re-allocate the Site as safeguarded land (PAS).

The Government’s fundamental aim in its Green Belt policy is to prevent urban sprawl by keeping land permanently open; “the essential characteristics of Green Belts are their openness and their permanence” (paragraph 79 of the Framework). The NPPF goes on to establish that the purposes of the Green Belt are:

- I. to check the unrestricted sprawl of large built-up areas;
- II. to prevent neighbouring towns merging into one another;
- III. to assist in safeguarding the countryside from encroachment;
- IV. to preserve the setting and special character of historic towns; and
- V. to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

Any development on this Site would clearly cause a significant loss of openness. Self-evidently (in light of paragraph 79 of the Framework), that loss of openness causes harm to the Green Belt.

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#### PLAN NOT IN ACCORDANCE WITH NPPF - Loss of Openness

At the heart of the Council's decision to remove the Site from the Green Belt is a belief that it is not highly visible in the landscape because the open land it contains is screened by vegetation. However, lack of visibility due to boundary screening does not impact on the contribution this open Site makes to the purposes of the Green Belt. Loss of openness is not dependent on whether or not something can be seen. Whatever the level of visibility from public viewpoints, the loss of openness it causes is a significant component of Green Belt harm.

Turner [2015] EWHC 2728 (Admin), Lang J

*““Openness” is not defined in the NPPF. The Inspector, at paragraph 11, described it as “essentially freedom from operational development”. I agree with the Claimant that the meaning of openness is freedom from any development, not just operational development. It is apparent from paragraph 79 of the NPPF that openness is an “essential characteristic” of the Green Belt which the policy protects.”*

*“The Claimant submits that the Inspector wrongly elided the concept of openness with the concept of visual impact in paragraph 14. These are two different concepts, though often closely related...”*

PLAN NOT JUSTIFIED - To prevent neighbouring towns from merging into one another

Beyond the issue of openness, it is also considered that there is a conflict with the second purpose listed above - to prevent neighbouring towns merging into one another. The Site forms part of a buffer zone between Rawdon and Horsforth in order to prevent merging and to remove the Site from the Green Belt would therefore harm this purpose of the Green Belt. Any development on this land gap would significantly reduce the perceived or actual distance between Horsforth and Rawdon would erode the degree of separation between Horsforth and Rawdon, with the closest point becoming less than 150 metres away from Horsforth and its closest developments. One could argue, going forward, the plans to remove this land from greenbelt would contribute to a gradual and continual encroachment of development which would eventually see the erosion of the separating greenbelt and its purpose in this instance.

PLAN NOT JUSTIFIED - To preserve the setting and special character of historic towns

The existing boundary of Rawdon village with Layton Lane as its eastern most discernible development is strong, firm and clearly defined. It is of an ancient and historic nature which had defined Rawdon village as distinct from its surroundings and dates back to the 18<sup>th</sup> century. Thus the land to the east of Layton Lane has always provided a buffer zone with Horsforth. A development of ‘new-build’ properties would not only detract from the historic nature of the village whose origins actually stretch back to the 16<sup>th</sup> century, but, contribute to a growing urban sprawl of a large built up area, not in keeping with the village, its traditions or its historic setting.

PLAN NOT JUSTIFIED / NOT IN ACCORDANCE WITH NPPF / NOT POSITIVELY PREPARED -

Permanence

Paragraph 83 of the NPPF states that the “once established Green Belt boundaries should only be altered in exceptional circumstances. At the time, authorities should consider the Green Belt boundaries, having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.” To date, the Council has not provided a comprehensive (not selective) Greenbelt review addressing the intended permanence of the Greenbelt boundaries as a whole or the boundary of the site in question as required by Core Strategy. The Site Allocations Plan are therefore not positively prepared and unsound.

PLAN NOT IN ACCORDANCE WITH NPPF - 'Exceptional circumstances'

Paragraph 82 of the NPPF states that New Green Belts should only be established in exceptional circumstances, for example when planning larger scale developments such as NEW settlements or MAJOR urban extensions. The intention here is not for greenbelt to be removed for minor developments which result in 'green belt encroachment and green belt erosion', but large scale development such as new towns and villages. As such removal of sites HG3-4 amongst others, does not constitute either of these exceptional circumstances.

Were the Council to try justify the lack of a five year housing supply as an 'exceptional circumstance', for removal of these sites from greenbelt, then given these sites are being proposed as allocated as safeguarded for housing beyond 2028, these properties do NOT therefore form any detailed part of this, or the next five year housing supply. Lack of a five year housing supply, or "growth", cannot, therefore be argued as being relevant in allocating land out of greenbelt for delivery of housing in more than 13 years' time. So where has the Council outlined exactly its reasoning that a lack of housing supply or failure to develop a five year housing supply should be accepted as exceptional circumstances in this instance? This is clearly a matter of interpretation, however, lack of, or failure to develop a housing supply plan should not provide justification for the Council to 'land-grab' green belt land and amend green belt boundaries at will to fulfil housing supply 'quotas' in line with questionable population growth statistics. For surely, this such approach, propagated into the future will continue to be used to trim away the edges of the Green Belt and result in continued encroachment and urban sprawl, thereby completely eliminating the core requirement and objective of the Greenbelt.

Simply the fact that the site may be suitable for development is not an exceptional circumstance in itself;

*Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council [2015] EWHC 1078 (Admin), Jay J*

*"Mr Turney ... submitted that the fact that a particular site happens to be suitable for housing development cannot, without more, constitute an exceptional circumstance justifying an alteration of the Green Belt. I agree with Mr Turney insofar as this goes... Suitability simpliciter cannot logically be envisaged as an exceptional circumstance.*

Furthermore, as shown by the case below, once a green belt has been established, agreed and embedded, it requires more than a nominal planning approach to make adjustments to the boundary. Planning concepts, local area plans or a change in these, do not in their own right, constitute an 'exceptional circumstance' which justify a change in greenbelt boundary. As such, a housing supply plan (or conversely, a lack or), cannot be deemed an exceptional circumstance for amendment of the Greenbelt. "Growth" in particular, in itself, would not be deemed as an 'exceptional circumstance', given that population and housing growth has been a consistent and permanent feature of the demographics profile of Leeds since the early 20<sup>th</sup> century.

*Gallagher Homes Ltd v Solihull Borough Council [2014] EWHC 1283 (Admin), Hickinbottom J*

*Christopher Lockhart-Mummery QC and Zack Simons appeared for the Claimant*  
*“Preparing a new local plan is not, of itself, an exceptional circumstance justifying alteration to a green belt boundary. “*

*“124. There is a considerable amount of case law on the meaning of "exceptional circumstances" in this context. I was particularly referred to Carpets of Worth Limited v Wyre Forest District Council (1991) 62 P & CR 334 ("Carpets of Worth"), Laing Homes Limited v Avon County Council (1993) 67 P & CR 34 ("Laing Homes"), COPAS v Royal Borough of Windsor and Maidenhead [2001] EWCA Civ 180; [2002] P & CR 16 ("COPAS"), and R (Hague) v Warwick District Council [2008] EWHC 3252 (Admin) ("Hague").*

*“125. From these authorities, a number of propositions are clear and uncontroversial.*

*i) Planning guidance is a material consideration for planning plan-making and decision-taking. However, it does not have statutory force: the only statutory obligation is to have regard to relevant policies.*

*ii) The test for redefining a Green Belt boundary has not been changed by the NPPF (nor did Mr Dove suggest otherwise).*

*a) In Hunston, Sir David Keene said (at [6]) that the NPPF "seems to envisage some review in detail of Green Belt boundaries through the new Local Plan process, but states that 'the general extent of Green Belts across the country is already established'". That appears to be a reference to paragraphs 83 and 84 of the NPPF. Paragraph 83 is quoted above (paragraph 109). Paragraph 84 provides:*

*"When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development".*

*However, it is not arguable that the mere process of preparing a new local plan could itself be regarded as an exceptional circumstance justifying an alteration to a Green Belt boundary. National guidance has always dealt with revisions of the Green Belt in the context of reviews of local plans (e.g. paragraph 2.7 of PPG2: paragraph 83 above), and has always required "exceptional circumstances" to justify a revision. The NPPF makes no change to this.*

*b) For redefinition of a Green Belt, paragraph 2.7 of PPG2 required exceptional circumstances which "necessitated" a revision of the existing boundary. However, this is a single composite test; because, for these purposes, circumstances are not exceptional unless they do necessitate a revision of the boundary (COPAS at [23] per Simon Brown LJ). Therefore, although the words requiring necessity for a boundary revision have been omitted from paragraph 83 of the NPPF, the test remains the same. Mr Dove expressly accepted that interpretation. He was right to do so.*

*iii) Exceptional circumstances are required for any revision of the boundary, whether the proposal is to extend or diminish the Green Belt. That is the ratio of Carpets of Worth.*

*iv) Whilst each case is fact-sensitive and the question of whether circumstances are exceptional for these purposes requires an exercise of planning judgment, what is capable of amounting to exceptional circumstances is a matter of law, and a plan-maker may err in law if he fails to adopt a lawful approach to exceptional circumstances. Once a Green Belt has been established and approved, it requires more than general planning concepts to justify an alteration.*"

#### PLAN NOT POSITIVELY PREPARED / NOT JUSTIFIED – Growth targets underpinning housing needs within Core Strategy

The Council has also failed to revise its housing targets in response to the latest ONS and population projections which put the current target of 70,000 homes out of date. The revised ONS census data, calculations and population projections specify that the city would only require development of 48,000 homes. Independent studies show that assumptions used underpinning these housing requirements are also flawed in that the housing projections have been overestimated without due consideration being given to latest data, current census data, effect of commuter flow (commuting ratio 0.85), effect of household size (ie an increase of 1 person in the population will not necessarily equvalate to 1 new household/property), and employment statistics.

“The Census population figure for Leeds (751,500) is significantly lower than the indicative population estimate of 780,925 published by ONS in November 2011 and the largest fall in population has been seen in the 20 – 29 age group”

Data used is inconsistent with the 2011 Strategic Housing Market Assessment (done by GVA/edge analytics) and widely higher than these projections. Attached is an independent review carried out by Wharfedale and Airedale Review Development Group. The calculations driving the Leeds Core Strategy Housing Target are thus deeply flawed. This huge difference between required housing targets and the figures used in the Leeds Core Strategy could make the difference between saving vast tracts of Green Belt Land and the permanent loss of these valuable and historic habitats. The plan is thus unjustified and unsound.

#### PLAN NOT EFFECTIVE / NOT IN ACCORDANCE WITH NPPF / NOT POSITIVELY PREPARED - Sustainable patterns of development

Paragraph 84 of the NPPF states that when drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. IM Properties Development Ltd v Lichfield DC [2014] EWHC 2440 (Admin), Patterson J stated that Paragraph 84 “is clear advice to decision makers to take into account the consequences for sustainable development of any review of green belt boundaries. As part of that patterns of development and

additional travel are clearly relevant.”

The Council’s Highways department comments state that the Site has poor accessibility to local services. Highways also accept that there are local congestion issues. The A65 is full and over capacity, the recent works to Horsforth roundabout, including the introduction of traffic lights has in fact made the traffic and congestion issues worse. Using my own experience and first hand evidence, my journey to New Pudsey train station every morning, which is only three miles, used to only take 10 minutes. However, since the works to the roundabout, my journey has now doubled. However, Highways appear to suggest that there are mitigation measures. Given mitigation measures already appear to have already been put in place, unsuccessfully, I cannot see how further development on this Site, which would inevitably lead to more traffic movements, would ensure the safe and free flow of traffic. Traffic congestion requires sustainable solutions, the mitigation measures already put in places just increases the overall road traffic with higher carbon and other polluting emissions whilst still creating traffic problems. The proposals would not only increase traffic and energy pollution, the impacts on the surrounding wildlife habitat would be hugely detrimental and no measures or proposals to mitigate these aspects have been presented to offset such impacts.

Other than traffic considerations, schools and local amenities are heavily oversubscribed in the area, and as such further housing development would require greater investment in local schools, amenities and traffic measures.

Releasing this Site from Green Belt would not produce a more sustainable outcome. Such reallocation is simply tinkering around the edges of the existing Greenbelt and the proposals are being widely interpreted and perceived as a form of stealth land grab from the Green Belt and an unjustified encroachment into the Green Belt with no wider plan or pattern of sustainability to support such development.

#### PLAN NOT JUSTIFIED / NOT IN ACCORDANCE WITH NPPF - Conserving and enhancing the natural environment

The site is home to a diverse wildlife habitat (also being a UK Biodiversity Action Plan (BAP) Priority Habitat) with bats, fieldfare, lapwing, red kite, curlew, sparrowhawk, tawny owl and the ancient Ghyll Beck (Red Beck). The site also contains a number of species of protected mature trees (with TPOs) and ancient woodland.

Releasing the land from Green Belt will certainly not conform with the NPPF legislation for the Council in meeting the tests below (Paragraph 109);

- Protecting and enhancing valued landscapes, geological conservation interests and soil;
- Recognising the wider benefits of the ecosystem services;
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the government’s aim to halt the overall decline in biodiversity;

In fact, removing the site from Green Belt for development would not only be detrimental to all these habitats, but planning for development on these sites would not be permissible under Paragraph 118 under the NPPF which states that 'planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats, including ancient woodland, and the loss of aged or veteran tree found outside ancient woodland'.

To date, the Council has not provided any suitable or comprehensive list of specific mitigation measures to avoid the harm which would impact the diverse wildlife or historic and ancient woodland and beck of the site. Nor has the Council provided any details of how the policies of classifying the site as protected for future development would 'promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets' (paragraph 117 NPPF).

The site is closely linked to Rawdon Cragg Wood conservation area and forms part of Leeds City Councils own Strategic Green Infrastructure of Aire Valley.

#### PLAN NOT JUSTIFIED / NOT IN ACCORDANCE WITH NPPF / NOT POSITIVELY PREPARED - Agricultural Land

Paragraph 112 of the NPPF also states that "local authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality land." Site HG3-4 is classed as grade 3a agricultural land and therefore the best and most versatile agricultural land, over which other grades of land should be released over first in preference to when allocating Green Belt boundaries. In addition, if the population growth projections are to be believed, the requirement for more intensive utilisation of agricultural land will become paramount in the years ahead to help support and sustain populations (both through food and employment). Given this class of agricultural land is of a finite and limited resource within the borough, the case for prioritising the use of grade 3a agricultural land as land for development is a clearly an untenable argument.

The NPPF is clear on one of its key objectives being that planning policies should support economic growth in rural areas in order to create jobs and prosperity (Section 3, NPPF), particularly through the promotion and development and diversification of agricultural and other land based rural businesses (paragraph 28). The proposed sites reallocations, switching prime agricultural land for housing do not appear to be consistent with these aims and will not seek to encourage the agricultural growth in the area – in fact quite the opposite, again conflicting with the objectives for sustainability.

There is no doubt, that in proceeding their local plans, local planning authorities are required to ensure that the "full objectively assessed needs" for housing are to be met, "as far as is consistent with the policies set out in this Framework". Those policies

include the protection of Green Belt land. Indeed, a whole section of the NPPF, s.9, is devoted to that topic, a section which begins by saying "The Government attaches great importance to Green Belts": para.79. The Framework seems to envisage some review in detail of Green Belt boundaries through the new Local Plan process, but states that "the general extent of Green Belts across the country is already established." It seems clear, that such a Local Plan could properly fall short of meeting the "full objectively assessed needs" for housing in its area because of the conflict which would otherwise arise with policies on the Green Belt or indeed on other designations hostile to development, such as those on Areas of Outstanding Natural Beauty or National Parks. (Hunston Properties Ltd v Secretary of State for Communities and Local Government [2013] EWCA Civ 1610; [2014] J.P.L. 599 (CA (Civ Div))

More recently, the Minister for Planning, Nick Boles, has drawn attention to the fact that countryside and landscape may warrant protection even if there is no 5 year supply (Statement by Nick Boles dated 27 March 2015).

### Conclusion

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of the Green Belt is its openness. The essential characteristic of Green Belts is their permanence and their protection must be maintained. The purposes of including land in Green Belts are of paramount importance to their continued protection, and it is not only important to prevent the spread of urban sprawl into the countryside, it is very valuable to local communities for recreation and access to green areas.

I have outlined a number of arguments which put the proposals at 'odds' with the key requirements and the broader objectives and intentions of the NPPF and the guidelines held within. Furthermore, lack of comprehensive Green Belt review (rather than a selective review) does not lend itself to supporting the Core Strategy. As such, I deem the proposals are in many ways not justified, lawful, effective or positively prepared. Furthermore, the plans fail to adequately present any detailed list of specific mitigating measures which would be inherently required to support or argue any change of use of the Green belt land.

I therefore respectfully request that for all of the above reasons the Site remains within the Green Belt.

Kind regards,

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