

Derek Whitmore (Individual) Response to SLDC Consultation 08Apr13 – 06May13.

Comments on "Ex063 Land Allocation DPD_5.4.13".

For definition of the word "sustainable" in this response please see "Forward" of NPPF (or see Comment 14).

Ref: MM028 Policy: LA2.2

1. Page 69/70 of Ex063 Land Allocation DPD_5.4.13 - Land north of Laurel Gardens

*"3.18 This large site is prominent in views in the local landscape and **provides local amenity value**. Significant landscaping measures will be required to maintain a high quality environment and safeguard the integrity of the proposed Green Gap to the north. **Development is likely to result in significant impacts on traffic flows on Burneside Road and the Kendal Town Centre network**. A Transport Assessment and Travel Plan will be needed and **it is likely that some off-site highways and transport mitigation will be required**. Green Infrastructure should be integrated and pedestrian/cycle links made to adjoining residential areas to the south and nearby main roads. **Measures may be needed to mitigate against existing flood risk on the east part of the site close to Burneside Road**. Deliverability of the site is affected by **major issues relating to the sewer network capacity, which may impact on timescales for development**. Given the size of the site, **development may result in the need for additional community infrastructure, which could be provided integrated within the site.**"*

Note the words that have been highlighted in bold support the evidence given below.

Comment 01 - No Environmental Study has been carried out/published to establish what impact the run-off water from this site R170M, and other sites at Hallgarth and Burneside, will have on the **unacceptable flooding problem in Kendal town and Carus Green**. Until the results and cost implications of this study are known and funding is **certain** to be in place, the site R170M is not deliverable (UNSOUND) within the plan period.

More evidence to support this statement – "Ex068 Infrastructure Delivery Plan" (page 40):

"4.33 There is always the residual risk that these defences may fail, as a result of either overtopping and/or breach failure. In Kendal the greatest area of risk is considered to be in central Kendal."

Comment 02 – When the Hydraulic Study has been carried out the flood defences must be such that they can cope with the estimated "*overtopping and/or breach failure*" for the projected highest floods in the years to come. This backs up the statement above – "Until the results and cost implications of this study are known and funding is **certain** to be in place, the site R170M is not deliverable (UNSOUND) within the plan period."

Comment 03 – This R170M Green Gap site is also land of most value to the existing community which is backed up by this statement in 'The Taylor Review' (Page 58):

*"20. Government policy is to increase the density of new housing as a means to maximising land use and better support local services. New extensions to settlements therefore may be relatively densely designed and built right up against the existing settlement to minimise the number of green fields 'swallowed up'. However, this will mean **they are built on exactly the land of most value to the existing community** – the fields or woods at the ends of their gardens, the green edge to the town. Local residents against new development may be accused of ignoring the needs of others for housing, but they have a genuine point. They may not have bought the right to their countryside views, but they certainly have paid for them, and **these developments are on exactly the fields of most landscape value to existing residents.**"*

This **Government Requirement** is specified in the "Forward" of the NPPF 2012 - page (i).

"Our natural environment is essential to our wellbeing, and it can be better looked after than it has been. Habitats that have been degraded can be restored. Species that have been isolated can be reconnected. Green Belt land that has been depleted of diversity can be refilled by nature – and opened to people to experience it, to the benefit of body and soul."

Site M170M is a Green Gap (i.e. has same function as Green Belt land) and **confirmed as such by a Government Inspector** at a previous hearing in 1996. People have purchased houses at extra cost over looking Green Gaps in the certainty that they would never have houses built on them. Now they are likely to be subjected to a grave injustice because SLDC are proposing to renege on their policy. **That is unless the inspector agrees with the previous inspector, and the Government Requirement stated above, and makes Policy LA2.2 unsound.**

2. Page 71 of Ex063 Land Allocation DPD_5.4.13 - Land north of Laurel Gardens

"DEVELOPMENT OF THIS SITE CANNOT TAKE PLACE UNTIL MEASURES ARE IN PLACE TO RESOLVE PRESSURE ON THE SEWERAGE NETWORK IN NORTH KENDAL (N.B. this first sentence is proposed to be deleted). IF AN APPLICATION FOR PLANNING PERMISSION IS BROUGHT FORWARD IN ADVANCE OF THE PHASING PROGRAMME IDENTIFIED, THE IMPACT ON THE WASTEWATER NETWORK WILL BE CONSIDERED TO ENSURE THAT THE IMPACT OF THE PROPOSAL, PLUS THE IMPACT OF ANY RELEVANT PLANNING PERMISSIONS IN EXISTENCE, IS ACCEPTABLE IN ADVANCE OF THE DELIVERY OF ANY INFRASTRUCTURE SOLUTION FOR THE WIDER NETWORK."

Comment 04 – I believe SLDC acknowledge that they should not have worded the first sentence in this way **because it sets a precedent**, so they propose to make it vague. With the first sentence removed the paragraph is no longer definitive. There is nothing about what can happen if the planning application is not "brought forward". The word "considered" is also non-definitive, it is left to someone's opinion. **The existing statement in the LA DPD (i.e. see first sentence above) must be retained.** It is much better than the modified one proposed. It clearly states existing sewerage problems will be fixed before building can start. However this note should be extended to include **"Measures must also be in place to ensure the rain water run-off has zero impact on Kendal town when the river Kent floods."**

These statements must not be "watered down" by using words like "mitigate" or "considered". This only leaves points for the lawyers to argue over on appeal.

Extract from page 69 (Item 3.18) of Ex063 in reference to site R170M states:

"Development is likely to result in significant impacts on traffic flows on Burneside Road and the Kendal Town Centre network."

Comment 05 – Increase in traffic was one of the major complaints in a recent SLDC consultation. This leads to deterioration in the health & well-being of local people. Site R170M will add more traffic to the streets of Kendal and make junction congestion worse. Therefore another definitive note must be added that states:

"DEVELOPMENT OF THIS SITE CANNOT TAKE PLACE UNTIL IT IS CERTAIN THAT MEASURES ARE IN PLACE TO SHOW THAT THE LIMITS OF THE 2010 LAW ON AIR QUALITY AND SLDC'S DEFINITION OF ACCEPTABLE JUNCTION PERFORMANCE HAVE BEEN MET IN KENDAL, AND CAN BE MAINTAINED."

Again this must not be "watered down" with vague words.

For definition of "Acceptable Junction Performance" see page 9 of "Kendal Transport Study (Jan12)".

Comment 06 – More evidence to back up statement above. The LA DPD targets are purely aspirational (or "Planning Speak") and not "realistic". The acquisition of funding and the proposed dates for completion of infrastructure are at **very high risk**. There are no authorised/ signed documents to guarantee funding will be available on time. In fact just the opposite there are numerous statements that funding cannot be guaranteed, only suggestions where the funding can be applied for. Examples to support this statement can be found on pages 14 (2.11), 15 (2.13), 16 (2.16) & 18 (2.18-20) of the "Draft Infrastructure Delivery Plan 22.3.13". Note the date 22.3.13. This evidence has conveniently been left out of "Ex068 Infrastructure Delivery Plan".

The only way to cover the **very high risk of delayed funding** is by adding the above note (see Comment 05) to each site in the Kendal area:

Comment 07 - DEFRA states that the limits of the Law on Air Quality **must be met as soon as possible**. Even if a concession were to be obtained from the Secretary of State it would only be for a short period. The Law on Air Quality has limits that must be met and thus SLDC councillors cannot make their own choice of **"houses over health"**, even if there is only one area in Kendal above the law's limits. SLDC are only proposing *".... to ensure congestion in the town in 2022 would be no worse than congestion in 2022 without proposed allocations."*

There is only one way to meet DEFRA's mandate and making the LA DPD sound and that is by SLDC giving top priority to meeting and maintaining its traffic standards before the present priority of building more houses at the expense of the health and well-being of its people.

Comment 08 – Air Quality is being measured and reported annually. **Junction Congestion must also be measured and reported annually.** Junction Congestion is complained about more than the "hidden killer" air pollution. SLDC must measure and meet (with spare capacity) their traffic standards before development is allowed on site R170M in order to conform to Government Requirements (see Comment 14/2).

Page 64/65 of "Ex063 Land Allocation DPD_5.4.13"

"3.6 Key local factors influencing the location of new development in Kendal are"

Bullet 8

" Minimising the impact of development on Kendal's central traffic system, promoting sustainable transport and achieving a positive impact on the Kendal Air Quality Management Area;"*

Comment 09 - Note the words "*achieving a positive impact*". How can this happen when more houses, means more cars and SLDC have no plans to meet their traffic standards. Also note that action plans have not worked for at least the last 20 years.

AND

"3.7Cumbria County Council has examined the traffic impacts of the proposed land allocations and put forward a series of mitigating measures to ensure that congestion and air quality impacts are minimised."

"3.7 the Council will ensure that new development within the Kendal area makes an appropriate contribution to measures to mitigate the environmental impacts of traffic"

Comment 10 - SLDC frequently use vague words (as in the lines above) which are deliberately indefinite. As an example "*mitigate*" means "*make less severe*" so the "*environmental impacts of traffic*" will still be severe. It should state - "**must**" meet certain requirements/standards.

Without the note, stated in Comment 05, the LA DPD and site R170M is UNSOUND because SLDC will carry on using vague words and not meeting the statutory limits for Air Quality, and not meeting the people's wishes on Junction Performance, as they have done in previous years.

Comment 11 – Cumbria County Council's original stance (see Cumbria CC Kendal Transport Study (Jan12)) was that a Southern Relief Road, a Northern Development Route and Dowker Lane improvements were required for Kendal. SLDC have removed the Canal Head development from the LA DPD and made a new Local Plan for the Canal Head. This undoubtedly was driven by a lack of resources rather than need and throws further doubt on SLDC ever achieving their standard on "Acceptable Junction Performance" which is one of the people's main wishes.

Without the note, stated in Comment 05, all the sites in Kendal area are UNSOUND because SLDC will not report annually on Junction Congestion and not meet the people's wishes on Junction Performance. SLDC will ignore their standards as they have done in previous years.

Comment 12 - The LDF so far has cost taxpayers hundreds of thousands of pounds, and if you add the cost of protesters hours it runs into millions. **One of the main objectives of the LDF was to reduce the number/cost of appeals by developers.** A recent planning proposal has shown that appeals will still be high. One developer even put in an appeal request before SLDC had rejected his planning application.

This is partly due to the fact that SLDC use non-definitive words (see Comment 10 above). These are a lawyer's charter to make money.

It will also happen because SLDC does not have a Quality System, Quality Manual or Quality Manager. The SLDC Building Control Group does have a Quality Control System to BS EN ISO 9001:2000 and SLDC requires its suppliers to have a Quality Control System (see Schedule C - Supplier Questionnaire.pdf). All large Government Departments (e.g. Ministry of Defence) have a Quality Management System.

If SLDC had a Quality System they would have a Quality Manual listing all their requirements and standards. A Quality Manager would have the responsibility of ensuring standards/requirements are specified, met and maintained. Only by having a Quality System having a list of **non-negotiable standards/requirements**, which has been approved as sound by a Government Inspector, will the number of appeals be reduced and costs kept down.

An example would be the "*at least 35%*" affordable houses requirement. Building affordable houses is one of the main reasons given by SLDC for having the LDF in the first place. Even the previous figure of 50% was reduced to 35% to make it easily achievable. A way must be found to prevent developers appealing against this sort of requirement/standard. The next thing that will happen is that developers will claim that the site is not viable if they have to meet the Building Regulations. It can be argued that the 2010 Law on Air Quality is more important than some Building Regulations.

The wishes of the people are that **only affordable dwellings are built in South Lakeland**. They find it unacceptable that £33 billion pounds will be spent on building a rail link between London & Birmingham when it could be spent on affordable homes, and this is only one example.

It must be established before a site can be included in the LA DPD that the developer can make a profit after meeting all SLDC's non-negotiable standards/requirements or the site is not "sustainable" and must not be included in the LA DPD. No houses should be built on a site rather than break standards. **Standards are there to protect the health and well-being of the people** and make the site "sustainable" in line with "Forward" section of the NPPF (see Comment 14/2). **A more suitable site should be found instead which is "sustainable".**

Comment 13 - Only 206 houses were built over the year 2012-13 instead of the specified 400 and only 46 were affordable (or 22% instead of "at least 35%"). SLDC figures show that from the beginning of the plan period 2003 to end of 2013 (10 years results) the total for South Lakeland was 2044 / 10 = 204 average / year and of these "affordable" were 493 / 10 = 49 average (or 24% instead of "at least 35%").

It is obvious from these figures that the targets in the LA DPD are only aspirational (or "Planning Speak") and not deliverable (i.e. UNSOUND).

One of the questions that must be asked to confirm SOUNDNESS is "Are there realistic timescales related to the objectives". The specified numbers are clearly **not "realistic"** and therefore the proposed modified LA DPD is UNSOUND.

Further evidence:

Houses will be built **only** when the developer believes he can **sell** them at a reasonable profit. Previous year's results have shown this is what happens. Since the start of the plan in 2003-04 SLDC have never met their target figure of 400 housing completions per annum.

SLDC have not yet managed to get proposed developers to agree on what constitutes a reasonable profit (see Viability Report). This should have been negotiated before sites were selected. It is another **high risk** problem until it is solved.

There is no guarantee that the new initiative by the Government of the Mortgage Help Scheme will boost house sales over the next decade.

Quotes (sources are available) -

"Experts at the IPPR, the think tank, said that the move will 'inflate the house price bubble', rather than dealing with a lack of housing in the UK."

"A spokesman for Priced Out, which campaigns for more affordable housing, said that the scheme will 'push house prices even higher and will help create a bigger housing crisis in a few years' time."

A crucial issue is that "House Price-to-Earnings ratio" will still be above 9 for South Lakeland. When interest rates rise it will cause a lot of people to default on their mortgage payments.

The Government's Main Requirements are specified in the NPPF by the Rt. Hon Greg Clark MP in the Ministerial Forward on page (i). In summary they are:

1. The purpose of planning is to help achieve sustainable development.
2. Sustainable means ensuring that we have better lives but doesn't mean worse lives for future generations.
3. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world.
4. We must house a rising population, which is living longer and wants to make new choices.
5. We must respond to the changes that new technologies offer us.
6. Sustainable development is about change for the better, and not only in our built environment.
7. Our natural environment is essential to our wellbeing, and it can be better looked after than it has been.
8. Green Belt land that has been depleted of diversity can be refilled by nature – and opened to people to experience it, to the benefit of body and soul.
9. Our historic environment – buildings, landscapes, towns and villages – can better be cherished if their spirit of place thrives, rather than withers.
10. Standards of design need to be much higher.
11. So sustainable development is about positive growth – making economic, environmental and social progress for this and future generations.
12. Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.
13. Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.
14. Planning should be a collective enterprise and not just "the preserve of specialists".

Comment 14 - With reference to the above list, the development of site R170M (policy LA2.2) is not "**sustainable**" (i.e. UNSOUND) because it does not meet these important Government Requirements:

1. The key word here is "**help**". This means that these listed **Government Requirements have priority over the remainder of the NPPF**. The remainder of the NPPF is only for help/guidance and with good reason because it is full of conflicting statements.
2. Site R170M is **not "sustainable"** as defined above. SLDC have never been serious about meeting their traffic standards. Even houses just built, or planned to be built this year, will make "**worse lives for ourselves**" in the Kendal area. If SLDC were serious, infrastructure would now be in place to meet and maintain all their standards. This neglect of important standards will continue as it has done in the past and "**mean worse lives for future generations**". **Standards are there to protect the health and well-being of the people.**
3. "**Growth**" must take place on sites which meet these Government Requirements. Site R170M is not one of them, as shown by the evidence in this response.
4. The land to "**house a rising population**" must meet these Government Requirements. Site R170M does not meet these requirements, as shown by the evidence in this response.

5. The “**changes that new technologies offer us**”, in housing terms, only applies to developments which meet these Government Requirements. Site R170M is not one of them, as shown by the evidence in this response.
 6. Development of site R170M is **not a “change for the better”**. People’s lives will be worse because it will make the natural environment in close proximity to Kendal **worse not better**. As described in this response.
 7. Site R170M is a Green Gap (N.B. has same function as a Green Belt) and must be “**better looked after**” by not building on it.
 8. The whole of this Green Gap between Kendal & Burneside “**has been depleted of diversity can be refilled by nature – and opened to people to experience it, to the benefit of body and soul.**”
 9. Kendal is a small historic market town and changing it into a large urban sprawl means it will **not be “better cherished”**. Hence building on this site (and other Kendal sites) will make the “**spirit of the place**” “**wither**” rather than “**thrive**”.
 10. “**Standards of design need to be much higher**” on sites which meet these Government Requirements. Site R170M is not one of them, as shown by the evidence in this response.
 11. “**sustainable development**” and “**positive growth**” must take place on sites which meet these Government Requirements. Site R170M is not one of them, as shown by the evidence in this response
 12. Note only “**sustainable**” development “**should go ahead without delay**”. Site R170 is **not “sustainable”** for the reasons stated in this response.
 13. Development of site R170M will **not “enhance and improve the places in which we live our lives”** for the people of Kendal. The reasons why are stated in this response.
 14. SLDC has not met this requirement of “**collective enterprise**”. They have “ticked the box” but their consultations have been a waste of tax payer’s money. They ignored the wishes of the people so much that they were forced to get together as a group i.e. Green Spaces. Kendal Town Council is in favour of a number of alternatives but SLDC have refused to discuss the alternatives with both KTC and Green Spaces.
- Top priority must be given to sites meeting these Governments Requirements. A site must not be included in the LA DPD unless it meets these requirements. The remainder of the NPPF is full of conflicting statements but it is only for help/guidance and on appeal should not override an SLDC decision as long as the site meets all the Government Requirements listed above.**

Final Comment – If SLDC was a truly professional organisation it would have a Quality Manual containing its standards/ requirements, a Quality System and a Quality Manager responsible for maintaining these standards/ requirements and meeting the Governments Requirements in the NPPF (see Comment 14).

Measurements must be made against these standards/requirements and if they are not met then relevant building must be suspended until they can be met. This is the way Government approved suppliers work to maintain its standards for its “customers” e.g. the armed forces. **It must also be the way that SLDC must work to maintain the health and well-being of its customers (i.e. taxpaying citizens).**

To prevent expensive appeals by developers the only logical way forward is for SLDC to have a quality document containing a list of **non-negotiable standards/requirements** approved/signed as SOUND by a Government Inspector. **Any site that does/will not meet SLDC’s standards/requirements must be removed from the LA DPD. The Government does not give the presumption to build developments that are deemed by the neighbourhood council as not being “sustainable” with regard to the Government Requirements defined in the “Forward” of the NPPF (see Comment 14).**

The idea that the limits of the 2010 Law on Air Quality do not need to be met until technology catches up is absurd. **No organisation is above the law.** Even if a concession is obtained from the Secretary of State, the statutory limits must still be met as soon as possible. SLDC have never given priority to meeting these limits for at least the last 20 years. **SLDC have always put building houses before the health and well-being of the people.**

Alternative sites are available but have been ignored. There is a developer whose wishes to develop a site close to J36 of the M6 but the site is not included in the LA DPD. The recently announced policy of developing the M6 corridor (**but not including Kendal**) is an excellent idea because it will keep a lot of traffic away from the roads of South Lakeland, especially Kendal.

Because there is such a **very high risk of funding not being available on time** it is essential that this definitive note be added to the LA DPD for all Kendal sites:

DEVELOPMENT OF THIS SITE CANNOT TAKE PLACE UNTIL IT IS CERTAIN THAT MEASURES ARE IN PLACE TO SHOW THAT THE LIMITS OF THE 2010 LAW ON AIR QUALITY AND SLDC’S DEFINITION OF ACCEPTABLE JUNCTION PERFORMANCE HAVE BEEN MET IN KENDAL, AND CAN BE MAINTAINED.

One senior councillor has stated that councillors have to make difficult choices for the good of all the people. It is obvious that SLDC councillors have chosen “**houses over health**” as in past years.

THE HEALTH AND WELL-BEING OF THE PEOPLE MUST TAKE A HIGHER PRIORITY THAN ANYTHING ELSE IN THE LOCAL PLAN. THE MODIFIED PROPOSED PLANS CURRENTLY DO NOT DO THIS AND HENCE THE LA DPD IS NOT SOUND.
