

TRIANGLE OPPOSITION GROUP (TOG)

RESPONSE TO LATEST CONSULTATIONS ON LAND ALLOCATIONS DPD

1 Introduction

TOG has campaigned for over ten years to protect the Oxenholme Triangle from inappropriate development. We have signed authority from over 200 local residents to represent their interests on the land allocation issue.

We support the general comments made by the Green Spaces Committee on the process and the major modifications.

2 Inspector's Ruling Required in Respect of Site RN133M

In the light of planning application SL/2012/0566 (Land West of Oxenholme Road), which incorporates all of Site RN133M, a ruling will be necessary from the Inspector on how soundness issues related to this site will be handled at the reconvened Hearings. This application is due to go to an Appeal Inquiry on 18 June, one week after the reconvened Hearings resume. TOG has been granted Rule 6.6 status at the Inquiry.

TOG has still to present evidence in respect of RN133M, on such matters as site selection, access, traffic impact, surface water flooding and Infrastructure, which have wider implications for the general soundness of the DPD. If the Inspector permits we will use the attached statement of case for the Appeal as a reference document.

3 Comments on Major Modifications

3.1 MM004

There are no proposed modifications to the development boundaries for Kendal contained in the DPD, despite the opportunity to do so. On this basis it is assumed that the LPA will now be supporting TOG in opposing the enlarged site

proposed in application SL/2012/0566. An explanation of this apparent policy conflict in the LPA will be sought at the Hearings.

3.2 MM024

As argued in our appeal statement of case we believe that an integrated approach to any proposed developments on the Oxenholme Triangle should be adopted. This could only be achieved by preparing a comprehensive development brief in consultation with the local community. It is appalling that major inroads into a designated Green Gap are being proposed without recourse to a development brief.

3.3 MM030

In line with the above comments, this policy should be reconsidered as part of a more comprehensive development brief, should any housing development on the Triangle be approved.

3.4 Modification Omission M2M

Site M2M should be deleted from the DPD as the Council's own viability study proves that the development of a business/science park on this sensitive site is neither viable nor deliverable. The viability study selected specific sites for testing, including M2M (see Appendix 3 to the viability study showing the site to be non-viable). From the description given in the viability study it is doubtful whether the testing was carried out on the basis of a business/science park rather than a general office/industrial unit mix and whether the modelling took on board the policy requirement of "a quality of design which reflects the high quality gateway site." If the testing did not incorporate these features, the viability position would be even worse than quoted.

It must also be emphasised that the Council has adopted a policy of denial in respect of the 2003 Inquiry into a proposed modification to the Local Plan to allocate a site approximating to

M2M (although slightly smaller) for employment purposes. As outlined in more detail in pages 2 and 3 of the attachment, the proposal was firmly rejected by the Inspector, for reasons still relevant today.

There appears to be no justification for continuing to include this site in the DPD, other than land availability.

DENNIS REED

Chair

Triangle Opposition Group

**APPEAL BY OAKMERE HOMES ON LAND AT OXENHOLME ROAD,
KENDAL (APP/M0933/A/13/2193338)**

**RULE 6 STATEMENT OF CASE FROM DENNIS REED ON BEHALF OF THE
TRIANGLE OPPOSITION GROUP (TOG)**

1 Introduction

The Triangle Opposition Group has campaigned for over ten years to protect the Oxenholme Triangle, a designated Green Gap between the town of Kendal and the village of Oxenholme, from inappropriate development. TOG has signed authority from over 200 local residents to represent their interests on this matter and we are supported by many more South Lakeland residents in our general approach.

2 Summary of Case

TOG argues that the LPA (South Lakeland District Council) has failed to place sufficient emphasis on the historic importance of the Green Gap and its vital role in preventing the coalescence of Kendal and Oxenholme. Its land allocation decisions on this site have been based on contradictory and partial evidence and the weight of public opinion has been ignored completely. The LPA has also adopted a piecemeal approach to the several developments proposed for the Green Gap, rather than devising an integrated strategy.

TOG does not believe that any development of the Green Gap within its current boundaries is justified. However, if the Inspector is minded to approve a change in the designated area we argue that a development brief for the whole Green Gap, developed in consultation with local residents, is essential. Any housing incorporated within this brief should be of an appropriate scale to recognise the sensitivity of the site and should not lead to greater coalescence between the two settlements.

We support the intention of the LPA to refuse this outline planning application, and its grounds for doing so, but given the views outlined above we also request the Inspector to reject this appeal because:

- The proposed development, taken in conjunction with plans for adjacent sites, would terminally damage the Green Gap between Oxenholme and Kendal, leading to coalescence along Oxenholme Road and damage to wildlife corridors and habitats

- The development would impact adversely on the landscape character of the area, including prime gateway views into Kendal from the Helm
- The scale and intensity of the proposed development are unacceptable for this sensitive site and the resulting estate would dominate and overlook neighbouring properties
- There is a need for an integrated strategy to be developed for the whole Green Gap, including consideration of infrastructure issues such as highways impact, access, surface water flooding and wildlife corridors
- The local community must be involved in drawing up any development brief for the Green Gap, in the spirit of “localism”

3 The Green Gap and Coalescence

3.1 Historical Perspective

The South Lakeland Local Plan 2006 adopted initially in 1997, in its Policy C2 designated four Green Gaps in the district for “special protection”, “in order to prevent the coalescence of settlements and retain their distinct and separate characters.”(Ref 1)Only two of these designations involved Kendal, the Green Gaps between Oxenholme and Kendal (the Triangle) and Burneside and Kendal. It can therefore be assumed that the LPA considered that these two vulnerable areas were at the greatest risk of coalescence. It should be noted here that although some development of the Burneside Green Gap is also proposed in the Land Allocations DPD (Ref 2) this will be subject to a comprehensive development brief.

The land owner of the site under consideration at this Appeal objected to exclusion of his land along Oxenholme Road from the Local Plan in terms of housing development and this objection was considered by Inspector Patrick Whitehead in 1996 (Ref 3). In rejecting the proposed modification the Inspector stated, inter alia:

“The allocation now proposed would extend housing development along Oxenholme Road to within about 100 metres of the railway line and station.... I consider (this site) performs an important function in providing clear separation between the town and Oxenholme”

In 2003 an Inquiry took place on a proposed modification to the Local Plan to allocate a nearby site in the Oxenholme Triangle for employment purposes. This site approximates to site M2M in the current Land Allocations DPD now proposed for a business park. The Inquiry was conducted by Inspector Shelagh Bussey and attracted over 1000 objections (Ref 4). The Inspector rejected the modification proposed by the

LPA and many of her reasons are relevant to the case under consideration, including:

- That the Green Gap “has symbolic as well as visual significance, which would be significantly eroded”
- That Kendal and the village of Oxenholme are “separate settlements with distinctive and differing identities”
- “I am especially concerned about the possible adverse impact that the development could have on the lapwing breeding ground at the adjacent strawberry fields”
- That this is a “treasured landscape... very highly valued by residents and visitors” and that development “would have a very high impact on walkers on The Helm”
- That the LPA’s landscape assessment “was very dependent on subjective judgement”
- That “coalescence would be most noticeable from the panoramic viewpoints gained from the well used footpaths that run along the ridge of The Helm”

It must be noted that the current development site along Oxenholme Road would be more visually intrusive from most aspects of the Helm than the business park site which is partially concealed in a natural bowl.

In conclusion, the boundaries of the Triangle have been defined and tested over a period of many years and it is recognised that there is huge public support for the Green Gap’s continued protection. The Local Plan with alterations was re-adopted as recently as March 2006 which contains the current designation of the Green Gap. At the very least residents would have expected an exceptional case to be made for changes to the development boundaries. No such case has been made.

3.2 Core Strategy and Land Allocations Process

The Core Strategy (Ref 5) in paragraph 9.4 states that “green gaps are important in keeping individual settlements distinct and protecting their individual character”. In paragraph 9.5 it is stated “the precise boundaries of green gaps will be considered in the Allocations of Land DPD, based on an assessment of the value of the function of the green gaps.” It is unclear how this assessment was carried out in respect of the Oxenholme Triangle as no objective criteria were established for the reviews and no separate public consultation took place. It is strongly suspected that the proposed changes to the development boundaries have more to do with an opportunistic approach to land availability than any objective consideration of the Green Gap’s function.

The first discussion paper on the land allocations process in November 2008 (Ref 6)) stated that “the DPD will seek to allocate a series of green gaps” including one between Kendal and Oxenholme. We never envisaged that the process would result in the proposed significant shrinking of the green open space between the two settlements.

The lengthy consultative process leading to the Land Allocations DPD has compounded uncertainty as to how allocation of this site came about. At first it appeared the LPA adopted a policy of denial. The public were not informed of any of the details contained in section 3.1 above about the historical perspective on the designation of the Green Gap, despite protests from TOG. In the ‘Emerging Options’ stage of the Land Allocations process in respect of the site under appeal it was stated “the Council considers that the land does not function as a green gap...it is considered development in this location would not result in the coalescence of Kendal with Oxenholme” (Ref 7). Councillors took initial decisions to proceed with this site on the basis of this misleading information.

A more reasoned analysis of the Green Gap was produced in the Kendal Fact Files 2012 (Ref 8). This analysis states:

“The main point of risk of coalescence exists at the point Hayclose Road meets Oxenholme Road... thus it is the eastern most part of the existing Green Gap where risk of coalescence is greatest, this being where the village of Oxenholme is most closely located to the built up area of Kendal (Kendal Parks Estate and Oxenholme Farm buildings).”

It is precisely to this area that the proposed development will reach; when taken with the rugby club development (see below), it will effectively close the gap between the two settlements on both sides of Oxenholme Road.

The LPA analysis then goes on to argue, however, that the railway line provides a strong separation boundary between the two settlements, in other words that there is no need for a green gap at all at this point!

Despite this analysis, which at least recognises coalescence is an issue, in the Sustainability Appraisal Scores by Settlement published with the DPD (Ref 9) the site in question receives a score of green with two ticks on coalescence defined as “development of site has no potential to contribute to coalescence currently or in the foreseeable future”.

From this maze of contradictory and subjective material a decision was taken to allocate this site for a major housing development and to redraw the boundaries of the Green Gap significantly. We believe this whole process to be inherently unsound.

4 Overall Development Strategies for the Green Gap

4.1 Introduction

The LPA has approached development of the Green Gap in a piecemeal fashion, rather than adopting an integrated development strategy. The site under appeal cannot be considered in isolation from the other two extant proposals for the Triangle:

a) Rugby Club (planning application SL/2011/0896)

This site, of 4.9 hectares immediately to the south east of the site under appeal, has planning approval for a two storey clubhouse, 205 car and four coach parking spaces, three pitches including floodlighting and a new vehicular access from Oxenholme Road (Ref 10)

b) Business/Science Park (M2M in Land Allocations DPD)

This site of 6.52 hectares to the south of the site under appeal is in the same location (although larger) than the employment site rejected by the Inspector in 2003 (see section 3.1 above).

The failure of the LPA to consider the proposals for the Oxenholme Triangle in an integrated way leads to a number of serious flaws in their approach to the site under appeal.

4.2 Closure of the Green Gap along Oxenholme Road

Approval of the housing estate taken together with the rugby club development would, in effect, complete the coalescence of Kendal and Oxenholme along Oxenholme Road. The argument that a large clubhouse building and car park hard-standing can somehow preserve the green gap is risible.

4.3 Sustainability Assessment

No sustainability assessment has been undertaken of the combined impact of the above developments. Furthermore, in the land allocations process the sustainability assessment of the small original site proposed for housing (RN133) was carried forward to progressively larger emerging sites: the current proposal covers more than twice the area of RN133 (Refs 11 and 12).

The combined current housing development site with the rugby club site has far more in common with Site R120 from the emerging options consultation. In the land allocations sustainability assessment it was

acknowledged that site R120 had one of the lowest scores in the Kendal area scoring “particularly poorly with regard to impact on landscape impact, potential coalescence of Kendal and Oxenholme and it being a green field site” (Ref 13)

4.4 Wildlife and Biodiversity

Contrary to paragraph 117 of the NPPD (Ref 14) we are not aware of any biodiversity assessment of the combined impact of the developments proposed for the Triangle. No mapping of components of the local ecological networks or the wildlife corridors has taken place across the Triangle.

The proposed housing estate and the rugby club will sit across a tributary of the River Kent which is covered by the Kent Special Area of Conservation, “an internationally important habitat, particularly for the seriously threatened White Clawed Crayfish” (Ref DPD para 3.6). No integrated protection measures have been considered.

Overlapping both these development sites are long established breeding grounds for the lapwing. No analysis has taken place as to how these breeding sites can be protected from the combined developments.

4.5 Surface Water Flooding

No analysis has taken place of the combined surface water flooding risks of developing 18-19 hectares of the Triangle. The LPA’s own Environmental Protection Officer shares this concern in respect of the housing proposal, stating “regard does not appear to have been given to the impact of the adjacent site (rugby club) in respect of land drainage matters” (Ref 15).

The current Oaks Estate was built on marshy ground at the foot of the Triangle. Some back gardens already become waterlogged in wet weather and there is serious concern about the flooding risks involved in removing such a significant area of pasture.

4.6 Traffic and Highways Impact

No combined analysis has taken place of the likely traffic and highways impact of these three development proposals. As things stand there will be two extra vehicular accesses and one emergency access off the narrow Oxenholme Road within a short distance of each other. It is unlikely that the already congested junctions to the north into the centre of town will be able to cope with the increased traffic flow without major mitigating measures.

4.7 Development Brief

An integrated approach to development of the Green Gap could only be achieved by preparing a comprehensive development brief, covering all the above issues, as has been proposed by the LPA for other sensitive sites.

5 Scale and Intensity of the Development

5.1 Scale

The original proposal for housing in this area was site RN133, a relatively small extension to the Oaks estate of 2.94 hectares. Despite huge public opposition this was increased at emerging options stage to RN133M at 4.87 hectares and then again before the DPD was published by incorporating parts of RN301M to a final size of 5.97 hectares. These successive increases in scale appear to have been in response to requests from the landowner.

Even this expanded site is insufficient for the landowner, who now seeks to expand the site further to 6.95 hectares, south-eastwards towards Oxenholme. This further extension takes the site outside the Kendal development boundary proposed in the Land Allocations DPD and should be rejected on these grounds alone.

Both the LPA and developer appear to justify this proposal on the grounds of a “natural extension” to the existing Oaks estate. As shown previously the boundaries of the Oaks estate were very clearly defined, and tested, in the Local Plan some 15 years ago and the estate was confined to low lying ground around the hospital. The Green Gap was given “special protection” and it was on this basis that houses have been bought and sold on both the Oaks and Oxenholme Road. The current proposal seeks to build extensively on higher ground to the detriment of neighbouring properties.

5.2 Intensity

The intensity of the development proposed in the outline proposal is inappropriate for such a sensitive setting (Ref 16).

The Land Allocations DPD proposes 100 houses for RN133M, this proposal is for 148 houses: a 48% increase in houses on a site only 16% bigger. The indicative layout of the estate shows buildings very close to the boundaries of the Oaks and Oxenholme Road with marginal or non-existent buffer zones. Because of the gradients of the land this new estate would dominate and overlook many existing properties if it was to be approved in line with the indicative layout.

6 Community Engagement and Public Consultation

Community engagement on this site has not been a success story.

In the consultation on ‘emerging preferred options’ in 2011, the responses to the proposals for RN133M were 230 opposed and 1 in favour (believed to be the landowner). Despite this level of opposition the size of the site was further increased.

At the request of both councillors and senior officers, TOG suggested nearby sites as alternatives (opposite ASDA off Burton Road) which in many respects had advantages over the Triangle sites: minimal impact on other houses, access on to the main A65, minimal impact on coalescence , more positive sustainability appraisals, less impact on the landscape character, land apparently available for sale. The LPA undertook no more than a cursory examination of our suggested alternatives and was not willing to engage in discussion with us about the relative merits of the alternative sites.

In terms of the current planning application no meaningful engagement has taken place with the developer. In order to be able to make a statement of public participation the applicant gave three days notice at the height of the holiday season in 2012 of an ‘exhibition’. 37 people attended this exhibition of which the large majority were opposed to the scheme and most of the questions raised could not be answered by the applicant’s representatives. This cannot be regarded as satisfactory public consultation. No attempt has been made by the developer to meet with TOG to discuss our concerns.

7 Conclusion

The Inspector is asked to reject the appeal on the grounds given in Section 2 above.

DENNIS REED

CHAIR TRIANGLE OPPOSITION GROUP (TOG)

April 2013

ANNEX: REFERENCES (TO BE USED IN EVIDENCE)

Ref 1: South Lakeland Local Plan 2006 (and Alterations) Final Composite Plan May 2007 Page 49

Ref 2: Land Allocations DPD Submission Edition May 2012

Ref 3: South Lakeland Local Plan Inspector's Report 1996 Pages 44-45

Ref 4: South Lakeland Local Plan Alteration No1 2002: Inspector's Report on Objections (7 October 2003)

Ref 5: South Lakeland LDF Core Strategy (October 2010)

Ref 6: Allocations of Land DPD Discussion Paper (November 2008)

Ref 7: Kendal Emerging Options Consultation Stage 1 (Final Version) Appendix 8 Page 185

Ref 8: Kendal Fact File February 2012 Appendix 5 Pgs 363-367

Ref 9: Land Allocations DPD Appendix 1 Sustainability Scores by Settlement (SLA10c)- Pages 1-11, 24, 37, 48, 50

Ref 10: Committee Report Kendal Rugby Club SL/2011/0896

Ref 11: Emerging Options Map of Kendal SE

Ref 12: DPD Map 1.3 Kendal SE

Ref 13: Kendal Fact File February 2012 Pgs 44-49 and 167-172

Ref 14: National Planning Policy Framework

Ref 15: Response of Shaun Senior (SLDC Environmental Protection Officer) to SL/2012/0566 20/09/2012

Ref 16: Indicative Housing Estate Layout

PLEASE NOTE THE LPA HAS BEEN ADVISED OF THESE REFERENCES. ANY NOT CONTAINED IN THE DOCUMENT LIBRARY FOR THE APPEAL WILL BE INCLUDED WITH MY PROOFS OF EVIDENCE.

