

**Fylde Local Plan Examination**

**Matter 6**

**General Development**

**Hearing Statement**

**On behalf of Oyston Estates**

## 1.0 INTRODUCTION

- 1.1 Cassidy + Ashton are retained by Oyston Estates [OE] in respect to a number of sites within Fylde Borough including Whyndyke Garden Village, the largest development site within the Borough, and land at North Houses Lane, Lytham St Annes which is the subject of a current planning application [ref. 17/1025].
- 1.2 In respect to the Local Plan, OE are promoting the allocation of the application site at Lytham St Annes, the identified most sustainable settlement within the Borough.
- 1.3 Comments made should be read in conjunction with our previous submissions to the Local Plan process, in particular in respect to the Submission Version of the Local Plan.
- 1.4 The format of this statement follows the Inspector's own Matters Issues and Questions dated 15<sup>th</sup> May 2017.

### Matter 6 – General Development

**Issue 9 – Does the Plan provide a robust framework for the management and delivery of development across the Borough that is justified, effective and consistent with national policy?**

1. **Does the Plan overall take adequate account of shale gas exploration, production and distribution?**

OE has no comment to make on this issue, other than to say it is not considered that this will have any impact upon the wider housing market of the Borough.

2. **Does the Plan overall make sufficient provision for inclusive design and accessible environments in accordance with paragraphs 57, 58, 61 and 69 of the Framework?**

OE has no comment to make on this issue.

**Policy M1**

- 3. Policy M1 requires ‘each allocated site’ within the Strategic Locations for Development (SLD) to produce a masterplan and design code, to be approved by the Council and turned into SPDs.**
- a. Is the policy justified and consistent with national policy?**

Given the extensive work undertaken to progress the Borough’s largest strategic site at Whyndyke Garden Village, OE are supportive of the need for the preparation of masterplans and design codes for strategic sites. However, it should be recognised that this may have an impact upon delivery in respect to adding an additional hurdle to the planning process.

However, the primary concern is whether a consistent approach is being taken to all of the Strategic sites. Furthermore, any other large sites should be required to meet similar standards, in terms of the quality of development.

- b. Have the timescales for producing masterplans and design codes for each allocated site been taken into account in considering the timescales for site delivery? Are there any implications for the housing trajectory?**

It is not readily apparent if the Council has taken such requirements into account.

- c. Is the policy consistent with the wording set out in Policies SL1-SL4 regarding masterplans and design codes?**

OE has no comments to make on this matter.

#### **Policy GD1 - Settlement boundaries**

4. **Policy GD1 refers to development being focussed on previously developed land within and immediately abutting the existing settlements. Does this relate to allocated sites and if so are settlement boundaries drawn around them? Are the boundaries around each settlement justified?**

Settlement boundaries should incorporate developed and undeveloped land that functionally forms part of settlements together with land allocated for development. In the case of many of the allocated sites these are invariably greenfield and will result in settlement boundaries being expanded. This is an inevitable consequence of new development where insufficient previously developed land is available.

Furthermore, to accommodate future development needs, land between the built up area and the green belt should be incorporated within the settlement boundary where this fits into the character of the settlement and its form. This is an appropriate response to identify future opportunities for growth.

In this respect, the settlement boundary around St Annes is not justified. The land at North Houses Lane in particular should be incorporated within the Settlement Boundary.

There are a number of reasons for this:

#### ***Fylde Local Plan Preferred Option June 2013***

The Fylde Local Plan Preferred Option [Appendix CA1] identified land at North Houses Lane as a housing allocation and thus proposed that it be incorporated within the settlement boundary. In support of this proposal, the plan stated:

“7.5 Development of the strategic sites included in Policy SL1 will improve access to well-designed, good quality, affordable and resource efficient homes to serve the Borough’s key service areas. The sites contribute towards the development of dynamic and prosperous communities through the delivery of sustainable homes. The allocation of the sites will contribute towards a flexible and responsive supply of housing land in sustainable locations to meet the Borough’s housing requirements.

7.6 The Strategic Housing Land Availability Assessment 2012 update (SHLAA) demonstrates that there is not enough land within the defined settlements to meet the Borough’s housing requirement and that some sustainable sites on the edge of settlements will need to be allocated for housing [our emphasis].”

Thus the land was considered to represent a sustainable site on the edge of a settlement. This is clearly beyond question and is not disputed by the Council.

Following the receipt of representations to the Preferred Option, the Council undertook additional work including the issuing of a Strategic Site Assessment [SSA] in December 2015 [Appendix CA2].

#### **Strategic Site Assessment December 2015**

The SSA considered land at North Houses Lane and stated the following:

“St Annes is a Key Service Centre which includes a town centre with access to a range of services and facilities to meet main and daily shopping needs. St Annes is an accessible location within the borough with access to good public transport including regular access to rail services and close proximity to motorway and strategic road network.

There is a high potential for negative environmental impact on the Pink Footed Geese. If this could be overcome, the site could form an urban extension to St Annes [Our emphasis].

Notwithstanding the above, the site has been omitted from the RPO version of the Local Plan because the majority of the site is designated as a Biological Heritage Site.”

Therefore the clear conclusion from this is that the site is ideally located to meet future housing needs and if the ecological constraints can be addressed or can be demonstrated to no longer be of relevance, then the site should be at least incorporated within the settlement boundary of St Annes and at best be allocated for housing development.

Notwithstanding this, the Revised Preferred Option deleted the site as an allocation using the justification that the majority of the site formed part of a Biological Heritage Site [BHS]. It was noted in the Site Assessment that part of the site known as Valentine's Kennels was the subject of an application for 60 dwellings. This was a separate BHS and now has planning permission as it was accepted that the purpose for designating the BHS no longer applied to the site [Appendix CA3].

#### ***Lytham Moss Biological Heritage Site***

The citation for the Lytham Moss BHS is attached as Appendix CA4. This clearly states that:

*"The site comprises 283 hectares of farmland on the Lytham Moss between Heyhouses, Long Wood and Peel.*

*The site is of ornithological importance as a winter feeding ground for flocks of Pink-footed Geese and Whooper Swans with bird numbers exceeding 0.5% of the British wintering population."*

The land at North Houses Lane therefore relates to only just over 5% of the BHS area. Provided it is demonstrated that it no longer serves a role as part of the BHS function [ie to provide a winter feeding ground for whooper swans and pink footed geese], its loss would not undermine the function of the BHS and it could be incorporated in the settlement boundary [as accepted on the neighbouring Valentine's Kennels site].

## St Anne's Neighbourhood Local Plan Examiners Report August 2016

The Examiner for the St Anne's Neighbourhood Local Plan gave detailed consideration to the efficacy of the proposed settlement boundary for the town [Appendix CA5]. Given the depth to which he considered this matter, his recommendations should be regarded as a major factor in the consideration of the settlement boundary for St Annes through the Fylde Local Plan itself.

In particular, the Examiner stated in his report:

*"In terms of the coherence of the settlement boundary, the arguments are just as compelling, as the previously referred to ie that it is the Green Belt boundary that should be the limit of the urban area. It could be argued that the logical urban edge will be the North House Lane to the east and the Green Belt to the north. However equally I am aware that there are ecological issues affecting Lytham Moss, as the land is used for grazing of overwintering birds, in this case the pink footed goose. It is identified as a Biological Heritage Site as well as being part of a wider network of linked sites of ecological importance. That, in itself, is not a reason to exclude it from changes to the settlement boundary and the consideration of any proposal would be required to have regard to the ecological impact on the site and protected species, at any application stage [our emphasis]."*

Again this provides significant weight to the argument that the site represents a logical extension of the settlement boundary, in this case, according to the Examiner, whether or not the ecological constraints can be addressed.

Following the receipt of the Examiner's Report, the Council instructed an Addendum to the HRA Screening Opinion

## HRA St. Anne's on the Sea Neighbourhood Plan Addendum to Screening Opinion

### October 2016

However, the Addendum [Appendix CA6] seemed to reserve judgement as to the importance of the land at North Houses Lane, but did not object to the inclusion of the site within the Settlement Boundary [it was not considering the suite as a housing allocation] by stating:

*"4.1.3 Consequently, it is considered that, whilst likely significant effects cannot be ruled out; there is little value in subjecting the Neighbourhood Development Plan to Appropriate Assessment at this stage. Instead, text within the Plan should make it clear that development on this site would only be consented subject to a) monitoring following the Queensway Development which takes into consideration the potential impact of the Queensway Development on the dynamics of the over-wintering bird populations within the wider area and b) a project-level HRA being undertaken.*

*4.1.4 Therefore, if the Plan is amended to include this additional text, then further HRA at the plan level can be screened out. As such, inclusion of the additional site would not affect the current conclusion of no likely significant effect presented within the HRA Screening Opinion of the current St Anne's on Sea Neighbourhood Development Plan [our emphasis]."*

Interestingly, the Addendum set out that there were no records of the site being used by either pink footed geese or whooper swans in records dating back to 2010. Even records for adjacent land date back a number of years with one of those areas now the subject of a woodland planting scheme to facilitate the creation of a nature park which is accepted will not be suitable for geese and swans.

### Report to Committee March 2017

The matter was taken forward by the Council in March 2017 [Appendix CA7] in considering the Neighbourhood Plan. The situation was summarised in the following manner:

*“14. The Council ... commissioned Arcadis (the Council’s ecological consultant) to carry out an Addendum to the HRA, and following receipt of this document officers re-consulted Natural England, who considered that it was unacceptable to refer to any issues and uncertainty at planning application stage and that as the land was considered and calculated into the mitigation calculations for the Queensway residential development site then any proposal to extend the settlement boundary would need to be Appropriately Assessed at plan stage and that in any case as the HRA concludes proposals would lead to a likely effect (or where there is uncertainty) the Plan could not progress in its modified form.*

...

*16. As a consequence of the above, officers sought further legal advice from counsel, who concurred with officers and Natural England, that the Plan (with the inclusion of this one modification) did not satisfy the “basic conditions” tests, which are the pre-requisites for a lawful NDP, and as such Fylde Council were completely within their rights not to accept this particular recommendation. As the amendment has not been accepted in order to allow the Plan to meet one of the basic conditions tests and for no other reason, further consultation on and examination of the Plan is not required under paragraph 13, Schedule 4B of the Town and Planning Act 1990 (as amended).”*

Accordingly, the Council determined to set aside the advice from their own Ecological Consultants and not take the land forward as part of the settlement boundary. However, the report had a significant error in referring to the site as part of the mitigation to Queensway. This is in fact not the case. The site is not shown as part of this mitigation and indeed is in separate ownership.

Notwithstanding this, the pertinent issue returns to ecological matters. The current application for the site includes reference to the lack of use of the site by geese and swans but the lack of suitability of the site is perhaps best summarised by the shadow HRA prepared by Kensington Homes with regard to the reserved matters for the Queensway development. The plan attached as Appendix CA8 combined with our own drawing at CA9, shows the extent of existing and future disturbance of the site by highways and residential development, such that the whole of the site and immediately adjacent land is unsuitable for use by geese or swans.

It is therefore, more than clear that not only is the land suitable for incorporation within the settlement boundary, but the ecological constraints have been overplayed and are at best no longer applicable to the site.

Given the identified need for additional housing land within the Borough and the establishment of a settlement hierarchy which supports development at Lytham St Annes above other locations within the Borough, the incorporation of additional land at North Houses Lane within the St Annes settlement boundary therefore satisfies all criteria in respect to the goal of sustainable development.

However, as acknowledged by the Neighbourhood Plan Examiner, failure to include land between the existing settlement boundary and the green belt would compromise the ability of the Neighbourhood Plan's [and therefore by inference the Local Plan's] ability to facilitate sustainable development in the Borough as a whole.

**5. Will some settlement boundaries be determined through Neighbourhood Plans? If so, does this need to be referenced in GD1?**

The Council have previously indicated that Neighbourhood Plans will be used to determine certain settlement boundaries. They have also indicated during the preparation of Neighbourhood Plans that the Local Plan will be used to determine settlement boundaries.

This inconsistency has only served to undermine the robustness of the development plan process within Fylde.

For example during the preparation of the St Annes Neighbourhood Plan, the Examiner recommended that an area of land be incorporated within the settlement boundary as it lie between the existing built up area and the Green Belt and would provide for the additional

development needs of the settlement. Failure to incorporate the site, the Examiner stated, would result in the Plan not being Sound as it would not represent Sustainable Development.

The Council's response to this recommendation was that housing allocations would be determined through the Local Plan process and therefore there was no need to revise the Settlement Boundary of St Annes through the Neighbourhood Plan process which could therefore be made after a Referendum without incorporating this change which would then be considered through the Local Plan process.

It is acknowledged that the St Annes Neighbourhood Plan specifically did not allow for housing allocations and accepted that these would be catered for in the Local Plan.

However, for the Elswick Neighbourhood Plan process to take an opposite approach demonstrates a severe lack of consistency which only leads to confusion and the basis for potential challenge.

**6. The policy refers to 'settlement development targets'. Is this appropriate and consistent with national policy?**

Although OE has no detailed comments to make in this matter, it seems appropriate to seek to identify the largest number of dwellings to come forward from the largest and most sustainable settlement.

**7. Is it necessary to refer to agricultural land within a settlement boundary policy?**

The incorporation of agricultural land within a settlement boundary can be appropriate if that land is identified to address future development needs without harming the green belt or if that land is allocated for development.

- 8. In relation to greenfield land within settlement boundaries paragraph 8.3 lists other matters that will be taken into consideration when considering development proposals. Should these matters be included in the policy? Would this be justified?**

Broadly speaking, OE supports the criteria set out in para. 8.3 and would accept their incorporation within the policy. Support for previously developed land over greenfield land accords with national policy but it is generally accepted that there is very little previously developed land that is suitable for development within the settlement boundaries, thus requiring the use of greenfield land in appropriate locations.

#### **Policy GD2 – Green Belt**

- 9. The policy states that national guidance for development in the Green Belt will be applied. Should this refer to national policy rather than guidance and include reference to other policies in the Plan including GD4, GD5, H6 and H7? Does the plan clearly set out how development in the Green Belt will be assessed?**

OE has no comments to make on this matter.

- 10. Paragraph 8.6 of the justification text states that no review of the Green Belt has been undertaken, but minor alterations of the Green Belt may be required to accommodate the boundaries of some site allocations or to amend minor anomalies. Paragraph 8.7 also refers to boundary changes. What are the details of these changes and are they consistent with paragraph 83 of the Framework which states that Green Belt boundaries should only be altered in exceptional circumstances?**

National planning guidance is very clear in respect to Green Belt boundaries, in that alterations can only be made in exceptional circumstances. Given the availability of alternative sites, there are no exceptional circumstances prevailing within Fylde Borough and therefore no revisions should be made to Green belt boundaries.

- 11. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate except for the development types listed. Other forms of development are also not inappropriate and these are listed in paragraph 90. Paragraph 88 clearly states that 'very special circumstances' will not exist unless harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Does paragraph 8.7 of the Plan accurately reflect the Framework in relation to very special circumstances?**

OE has no comments to make on this matter.

#### **Policy GD3 - Areas of Separation**

- 12. Two Areas of Separation are proposed within the plan.**
- a. Are the areas of separation justified and is the policy consistent with the Framework?**
  - b. How have the boundaries been determined and will they be effective?**
  - c. Para 8.10 states that the policy will apply to all forms of development in the areas. Is this justified? Does the policy clearly define what development will and will not be acceptable within these areas? Is it clear what is meant by the use of the term 'inappropriate development'? How will development proposals be assessed?**

OE has no comments to make on this matter.

**Policies GD4 and GD5 – Development in the countryside**

- 13. Do Policies GD4 and GD5 apply to the countryside, Areas of Separation and the Green Belt? Is this clear within the policy? Are the policies justified and consistent with national policy?**

OE has no comments to make on this matter.

- 14. Are both policies consistent with Policy S1 which includes allowing ‘minor infill development’ within rural areas?**

OE has no comments to make on this matter.

- 15. Is reference within Policy GD4c to ‘minor extensions’ to existing homes and other buildings appropriate and justified? Is it consistent with national policy?**

OE has no comments to make on this matter.

- 16. Paragraph 8.14 which relates to Policy GD5 refers to Policy GD4. Is this correct?**

OE has no comments to make on this matter.

- 17. Is it clear in GD5 what is meant by ‘large developed sites’?**

OE has no comments to make on this matter.

18. **Should reference be made to the NDA redundant facilities site at Springfield within Policy GD5? Can the Council clarify why redundant farms, holiday caravan parks and sites are excluded from the policy?**

OE has no comments to make on this matter.

19. **Policy GD5 promotes mixed use development on large developed sites in the countryside. Is the policy sufficiently clear about the mix of uses that would be acceptable on such sites?**

OE has no comments to make on this matter.

#### **Policy GD6 – Promoting Mixed Use Development**

20. **The policy appears to only refer to strategic sites. Is this correct and if so is this consistent with other policies including GD5?**

OE has no comments to make on this matter.

21. **Paragraph 8.19 refers to categories set out in Policy GD6. Can the Council clarify what this means?**

OE has no comments to make on this matter.

22. **Is the policy sufficiently clear about the mix of uses that would be acceptable on sites?**

OE has no comments to make on this matter.

**Policy GD7 – Achieving Good Design in Development**

- 23. Do the various criteria, particularly under the section on general principles of good design, provide a clear indication of how a decision maker should react to development proposals? Are the requirements justified?**

OE has no comments to make on this matter.

- 24. The Ministerial Statement (MS) of 25 March 2015 set out a new approach for the setting of technical standards for new housing comprising new additional Building Regulations on water and access and a new national space standard. The MS states that ‘the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need and where the impact on viability has been considered ...’. Policy GD7 requires all new homes to ‘comply with all relevant design and quality codes in the National Technical Standards’. Is this approach justified and based on robust evidence of identified need? Has the impact of applying these standards on viability and land supply been considered? (Also refer to Policy H2)**

OE has no comments to make on this matter.

- 25. The policy includes reference to advertisements. Is the policy adequate in this regard taking into account that the Advertisement Regulations state that “A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety”?**

OE has no comments to make on this matter.

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