

Whyburn Consortium

Hearing Statement (update)

Week 2 Matter 10

Respondent ID: 63

by CarneySweeney

Date: December 2024

(updated October 2025 in response to INS03a)



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PLANNING

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1.0 Introduction

CarneySweeney are acting on behalf of the Whyburn Consortium in making representations to the emerging Ashfield Local Plan (2023-2040), with representations having been made to the previous Regulation 19 consultation stage.

Our previous representations are not repeated here but should be read in conjunction with this Hearing Statement to the Inspector's Matters, Issues and Questions for Week 2: Matter 9 and Matter 10.

As requested, we have provided separate Hearing Statements for the following Matters:

- Matter 9 – The Supply and Delivery of Housing Land
- Matter 10 – Site Allocations

This document covers Week 2 Matter 10 – Site Allocations.

[Inspectors' Addendum MIQ's – document reference: INS03a](#)

This Hearing Statement (dated December 2024) has been updated to address the Inspector's Addendum MIQ's (document reference: INS03a). This update provides our response to the questions identified in INS03a for Matter 10, changes from the original document are shown in orange text within this document.



2.0 Week 2 Matter 10 – Site Allocations

Respondent ID: 63

Issue

Whether the proposed site allocations are justified and deliverable/ developable at the point envisaged

Questions

Site Allocation Overall

10.1 How were the site allocations chosen? What factors were considered? Is the approach justified? Is it evidence-based?

Chapter 7 of BP.01 is referred to as setting out the key factors the Council have taken into consideration in selecting “... the most appropriate sites that would deliver the Spatial Approach and achieve the Council’s vision for the future...” (Paragraph 7.1 of BP.01). Paragraph 7.2 of BP.01 goes on to refer to a sequential approach being undertaken for the site selection process comprising the following five stages:

- **Stage 1:** Sites with planning permission;
- **Stage 2:** Sites with a resolution to grant planning permission subject to signing a Section 106 legal agreement;
- **Stage 3:** Brownfield (previously developed) sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth;
- **Stage 4:** Greenfield sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth;
- **Stage 5:** Green Belt sites assessed through the SHELAA as ‘achievable’ or ‘potentially achievable’ and consistent with the Council’s strategic approach for sustainable growth.

Stages 3 – 5 of the above sequential approach for site selection refers to “...consistent with the Council’s strategic approach for sustainable growth”. However, it is unclear from BP.01 as to what “...the Council’s strategic approach for sustainable growth...” consists of and how this has been applied to the site selection process as there is no reference to an assessment as to whether the proposed allocations are consistent with this specific criterion.



It is also unclear what factors have been taken into consideration as part of the site selection process. Chapter 7 of BP.01 includes various sub-sections providing an overview of the Sustainability Appraisal, Green Belt Harm, Heritage Impact Assessment, Habitats Regulation Assessment and the Accessibility of Settlements Study. With regards to the Accessibility of Settlements Study (SEV.42), we have commented on this separately under Question 3.6, Matter 3 as the Council's justification to rely on this document in the absence of any update since its publication in 2010 has not been provided, particularly as this document informs the settlement hierarchy.

With the exception of Chapter 9 of BP.01 which seeks to set out the justification for the proposed Green Belt release sites, there is no clear explanation as to how the findings of the various documents referred to in Chapter 7 of BP.01 have been taken into consideration as part of the overall site selection process to deliver the now preferred spatial strategy for dispersed development.

In contrast, Paragraphs 8.13 – 8.20 of BP.01 proceeds to set out the reasons for why certain sites have not been proposed for allocation. Paragraph 8.15 of BP.01 refers to the removal of our client's site, Whyburn (HK028), as a New Settlement (3,000 dwellings) on the basis that the spatial strategy is not relying on large scale strategic sites such as New Settlements or Sustainable Urban Extensions and Whyburn, amongst other sites being excluded due to these sites being “... *inconsistent with the approach for dispersed development with no individual site delivering 500 or more dwellings...*”. Our submitted Hearing Statements for Matter 1 and Matter 3 discuss in detail the flaws with the spatial strategy approach, and the inconsistency between the findings of the Sustainability Appraisal and the Council's now preferred spatial strategy for ‘dispersed development’.

Furthermore, with the exception of the former New Settlements (Whyburn and Cauldwell Road) which formed the basis of the previous preferred spatial strategy approach (Option 10, CD.04), the proposed allocations shown on the Policies Map (SD.02a and SD.02b) for the Pre-Submission Draft document (SD.01), are the same as the proposed allocations from the Regulation 18 consultation stage (CD.02 and CD.03). It is therefore unclear how the proposed allocations, which supported a previous spatial strategy approach that included for a strategic scale of development (Option 10, CD.04), now supports the changed spatial strategy for ‘dispersed development’ (Option 3, SD.03).

It is also noted from the Hearing session for Matter 3 – Spatial Strategy, that the Council are relying on the Lichfield Paper ‘Start to Finish’, for imposing a development cap of 500 dwellings or less. Firstly, this document does not form part of the evidence base and so the Council's reliance on this paper to justify a ‘cap’ on the scale of development is questioned. Secondly, the Lichfield Paper ‘Start to Finish’, with the latest report dated September 2024, does not support the view expressed by the Council during the Hearing session for Matter 3 that sites of 500 dwellings or less have a faster rate of delivery.



Page 11 of the September 2024 Lichfield Paper 'Start to Finish' states as follows:

"...When combining the planning approval period and planning to delivery period only sites comprising 99 dwellings or less will – on average – deliver anything within an immediate five-year (or parliamentary) period. Interestingly, sites of between 100 and 499 dwellings and all sites of 1,000 dwellings or more have a very similar combined planning approval and planning to delivery period of 6 to 7 years, despite significant variation in site size..."

The findings of the latest Lichfield Paper therefore do not support the approach taken by the Council to impose a cap of 500 dwellings or less as part of the spatial strategy approach.

The site selection process is not therefore evidenced nor is it justified to support the now preferred spatial strategy approach as the proposed allocations do not represent a dispersed development strategy.

10.2 In deciding whether to allocate sites for development, how did the Council take into account the effects of development on:

- *Landscape character,*
- *The availability of best and most versatile agricultural land;*
- *The local and strategic road network;*
- *The need for new and improved infrastructure (including community facilities);*
- *Heritage assets; and*
- *Nature conservation.*

Whilst this is a question for the Council to respond to, as per our response to Question 10.1 above, overall, the Council's approach to the site selection process is not clearly evidenced, particularly in the context of demonstrating how the proposed allocations will deliver the now preferred spatial strategy approach for dispersed development. We may wish to make further comments during the Hearing sessions following a review of the Council's response.



10.3 How did the Council take into account flood risk? Has the Plan applied a sequential, risk-based approach to the location of development, taking into account all sources of flood risk and the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property as required by paragraph 161 of the Framework?

This is a question for the Council to respond to and depending on their response, we may wish to make comments during the Hearing session.

10.4 Do the Plan's policies provide sufficient specificity of the requirements expected of the larger site allocations (i.e. those of 100 dwellings and above), particularly for sites where there is no planning permission in place?

No. In the context of Policy H1, this policy comprises a tabled list of proposed allocations with no specific details/requirements as to what is expected to be delivered and nor is there any 'cross referencing' with any other relevant plan policies. The format of Policy H1 therefore confirms which sites are proposed for allocation, but it is left to the reader to review the entire Pre-Submission Draft document to establish if other policies set out specific requirements that would need to be met.

10.5 Do the Plan's policies relating to the site allocations contain sufficient requirements to ensure that sites, particularly those comprised of multiple parcels of land, will be developed in a comprehensive manner?

No. As per our response to Question 10.4 above, this policy provides no specific details/requirements as to what is expected to be delivered from the site allocations, and in turn, also fails to provide any policy direction to ensure that any proposed allocation comprising of multiple parcels will be developed in a comprehensive manner.

10.6 What is the justification for the proposed restriction on development within 400m of the Sherwood Forest Possible Potential Special Protection Area (ppSPA)? Overall, will it be effective?

Whilst this is a question for the Council to respond to, it is noted that the Habitat Regulation Assessment (SD.04) reports at Paragraph 3.3.1 that "Natural England provided consultation on the HRA Screening Report in 2021. This highlighted the importance of taking a 'risk-based' approach in the HRA in relation to development allocated within 400m of the Sherwood Forest ppSPA (i.e. areas of habitat with potential to support populations of woodlark (*Lullula arborea*) and nightjar (*Caprimulgus europaeus*)..."

It is further noted that Paragraph 3.1 of the Statement of Common Ground between Ashfield District Council and Natural England (SCG.06) reports that both parties agree the following:

- "The HRA sets out a comprehensive assessment of the Local Plan impacts (both alone and in-combination) on the identified Habitats Sites, including the Sherwood Forest ppSPA.



- *The conclusions of the HRA are accurate in identifying that the Local Plan will have no adverse impact on site integrity of the Habitats sites, or upon the ppSPA, either alone or in-combination."*

On the basis of the above, we have no specific comments to make at this stage but depending on the Council's response to this question, we may wish to make comments during the Hearing session.

Changes to the Green Belt boundary

10.7 Why has the Green Belt Assessment not considered sites against the Green Belt purpose of 'assisting with urban regeneration' as set out at paragraph 138(e) of the Framework? Is this justified?

This is a question for the Council to respond to and depending on their response we may have comments to make during the Hearing session.

10.8 Taking each site proposed to be released from the Green Belt in turn, what would be the extent of the harm to the Green Belt if the boundaries were changed in the locations as proposed? Are there any ways in which harms could be minimised or mitigated?

Whilst this is a question for the Council to respond to, it is noted that following our response to Question 3.15 under Matter 3, the Council has published an amended Background Paper 4 (BP.04a) now dated September 2023. However, previously BP.04a was a document dated July 2020, accessed from the Examination Library on 4th November 2024. It is presumed that the Council has identified an error in the Examination Library and have sought to rectify this, but clarification would be welcomed.

Having reviewed BP.04a (dated September 2023), whilst this document includes Chapter 4 'Mitigation to reduce harm to the Green Belt', BP.04a does not specifically deal with how harm to the Green Belt could be minimised or mitigated. Table 4.1 is noted to provide a list of "...some mitigation measures..." which are referred to as measures that could be as part of the planning and development process.

Paragraph 4.5 of BP.04a goes on to state that "... which mitigation measures are the most appropriate will vary, depending on local circumstances and will need to be defined as part of the master planning process...". This statement therefore suggests that measures to minimise or mitigate harm to the Green Belt have not been considered as part of this plan making process. It is also unclear from this statement which of the proposed allocations under Policy H1 would be the subject of a 'master planning process' in the context that the scale of development forming part of the preferred spatial strategy approach for dispersed development is capped at sites of less than 500 dwellings.

We note that the Council are due to provide a response to this question, and so we may have comments to make during the Hearing session.



10.9 Taking each proposed change to the Green Belt boundary as set out in document ADC.02a in turn, has it been clearly defined, using physical features that are readily recognisable and likely to be permanent as required by paragraph 143 of the Framework?

This is a question for the Council to respond to, taking each site in turn as requested. However, from an initial review of the ADC.02a, the plan 'Key' is not clear in identifying what is being presented. For example, there is reference to areas being covered by 'Green Belt 2002' and 'Proposed Green Belt'. It would be clearer if ADC.02a showed areas of 'existing Green Belt' and 'proposed land for removal/inclusion in the Green Belt'. Noting that the Council are due to provide a response to this question, we may have further comments to make during the Hearing session.

Site Allocations

Questions 10.10 – 10.76, relating to Policy H1. (excluding questions under INS03a, responded to separately below)

We do not seek to provide a response to each proposed allocation forming part of Questions 10.10 – 10.76 as this is a matter for the Council to respond to as these questions relate to specific matters, and requests for updates. However, a review of the proposed allocations under Policy H1 has been undertaken as part of our Hearing Statement for Matter 9. Noting that the Council are due to provide a response to Questions 10.10 – 10.76 as part of their Hearing Statement, we may wish to make further comments during the Hearing session following a review of the Council's response.

Inspectors' Addendum MIQ's INS03a

Kirkby area site allocations

H1KI – Central Avenue, Kirkby

10.40.1 Is the proposed allocation justified?

No. The site is the subject of planning application reference: V/2024/0060, approved 27th June 2024 subject to conditions for full planning permission "demolition of garages and construction of 16 dwellings and associated infrastructure". It is further noted from the Council's online planning facility that a number of conditions (including pre-commencement conditions) have been discharged, with construction underway.

The Council's latest Housing Land Monitoring Report 2025 (ADC.13), published in the Examination Library on 17th September 2025, indicates that proposed allocation H1KI would be delivered in Year 1 (25/26). On the basis that the Site has planning permission, is under construction and anticipated to be delivered in the next year the



justification for such a site to be a proposed allocation is unclear. The Council should therefore clarify the evidence base which they believe justifies the allocation of this Site. We may wish to comment further in the Hearing Session.

H1Km – Abbey Road, Kirkby

10.40.2 Proposed additional site reference H1Km would be located within the Green Belt. Do exceptional circumstances exist that would justify amending the Green Belt in this location?

Whilst a question for the Council to respond to, where there is Green Belt release, we strongly agree that the extent of housing need, together with the lack of suitable non-Green Belt sites justifies extensive Green Belt release in the district. However, we note that with regards to this proposed allocation, the justification for its release from the Green Belt is a matter for the Council to address.

H1Kn – Southwell Lane, Kirkby

10.40.3 Is the proposed allocation justified?

No. The site has previously been discounted as a proposed allocation by the Council for the following reason:

“... A Reserved Matters application was submitted for this site in 2018 and remains pending a decision. There has been little recent activity and therefore uncertainty surrounding realistic delivery...”

[Extract from Table 3, Page 25 of Examination Document Reference: BP.01]

BP.01 is dated October 2023 and on the basis that the Council discounted this site due to uncertainty surrounding a realistic delivery, and that there is no evidence to demonstrate that this site will now come forward in a realistic timeframe.

Whilst the 2025 SHELAA Form (SEV.20bb, Reference: KA057), which was only available on 17th September 2025 suggests that the site is now potentially available, in terms of its suitability, it is stated that “A Local Wildlife Site occupies approximately 40% of the site”. Such a designation is also indicated on the Policies Map for the Submitted Plan (SD.02a) as a wider nature site designation (EV4) covering part of the site. The Council’s justification therefore to now propose a housing allocation on part of a proposed nature site designation is not evidenced and would appear in principle to be problematic.

Furthermore, Paragraph 6.5 of the Consultation Document states that “... the potential yield for this site is based on historic lapsed permissions and sketch layout”. The Council’s reliance on a historic lapsed planning permission for the proposed yield is patently unsound.



The Council should clarify therefore what evidence is being relied upon to justify this site as a proposed allocation. We may wish to comment further in the Hearing Session.

H1Ko – Former Kirkland’s Care Home, Fairhaven, Kirkby

10.40.4 Is the proposed allocation justified?

No. This site has previously been discounted as a proposed allocation by the Council for the following reason:

“This site was formerly occupied by a care home before being demolished in 2020. It is owned by Nottinghamshire County Council but was not put forward for assessment via the SHELAA. In respect of housing, the site cannot be deemed developable where the availability of the site is not certain, and therefore cannot be relied upon for future delivery. Ashfield Council have been proactive in approaching the landowners but have not received any submission for the site to be assessed for development potential.”

[Source: Table 4, Page 27 of Examination Document Reference: BP.01]

The 2025 SHELAA Form (SEV.20bb, Reference: KA058), which was only available on 17th September 2025 is noted to suggest that the Site is available. However, in terms of suitability, it is noted that the Site is referred to as being potentially suitable, with reference made to “Area of low / medium / high risk surface water flooding on Fairhaven Road... Contaminated land site investigation recommended.” There is no evidence base supporting the Additional Housing Site Allocations consultation to demonstrate that the flood risk and contamination constraints have been considered, nor that the flood risk sequential test has been addressed.

Whilst it is noted that a planning application has since been submitted to the Council, reference: V/2025/0544 “Construction of 20 dwellings”, validated on 24/09/2025, with a target decision date 24/12/2025, the soundness of the site as a proposed allocation remains unclear. The Council’s latest Housing Land Monitoring Report 2025 (ADC.13), includes proposed allocation H1Ko in the trajectory, with delivery and completion of the total units anticipated in Year 2 (26/27). If the delivery of this Site is anticipated in the next 2 years, we question why such a site forms a proposed allocation. We may wish to comment further in the Hearing Session.

H1Kp – Pond Hole, Kirkby and H1Kr – Ellis Street, Kirkby

10.40.5 Proposed additional site allocations referenced H1Kp and H1Kr fall within the Kirkby development opportunity site area as shown on page 78 of the plan. Have these sites already been accounted for elsewhere in the proposed housing trajectory having regard to their status under policy S11?

Question 10.40.5 is a matter for the Council to respond to and depending on the Council’s response to this



question, we may have further comments to make during the Examination Hearing session.

H1Kq – Former Wyvern Club site, Lane End, Kirkby

10.40.6 Is the proposed allocation justified?

No. The suitability of this site is questioned as the proposed allocation appears to be on the basis of the site forming part of the Kirkby Town Centre Spatial Masterplan (SEV.34). However, within the Spatial Masterplan document the site is shown to fall within 'Project B1'. This area is referred to as forming part of the western 'station' gateway opportunity to redevelop and reconfigure the area to enhance access to/from the station, and to provide a focus to the gateway, and to develop vacant land on the edge of the town centre. There is however no reference to this site being earmarked for residential development.

It is noted that a planning application has since been submitted for this site, application reference: V/2025/0433 - Proposal for apartment complex containing 12 residential units and associated parking, validated on 08/08/2025 with a target decision date 7/11/2025. However, the principle of a residential use on this Site appears to be in direct conflict with the Kirkby Town Centre Spatial Masterplan.

The assessment of this Site in the 2025 SHELAA (SEV.20bb, reference: KA060) (available on 17th September 2025), makes no reference to the Kirkby Town Centre Spatial Masterplan (SEV.34), which appears to be the basis in which the site is being proposed for allocation. The SHELAA assessment also refers to the site being *"...in an industrial area and infilled quarries. Contaminated land site investigation required."*

The allocation of this Site for residential development is therefore not justified based on the obvious lack of evidence base to demonstrate the site's suitability, deliverability and a conflict with the Kirkby Town Centre Spatial Masterplan. We may wish to comment further in the Hearing Session.

H1Kr – Ellis Street, Kirkby

10.40.7 Is the proposed allocation justified?

No. The assessment of this Site in the 2025 SHELAA (SEV.20bb, reference: KA061) (available on 17th September 2025) refers to a proposed 'mixed use'. It is therefore unclear if the concluding assessment of the Site as *"...available, potentially suitable, and potentially achievable"* is in respect of any residential element only or a mixed-use scheme.

In terms of site suitability, the SHELAA assessment also refers to the site being *"within landfill buffer zones, factory on site. Contaminated land Site investigation required"*, with reference also made to *"...a remediation plan is being developed with the neighbouring development site."* Again, there is no evidence demonstrating



that the land contamination/remediation required for this site is capable of being addressed. Whilst this work is referred to as being underway, this evidence does not form part of the emerging plan.

The Council should therefore clarify the evidence base being relied upon to support the allocation of a site assessed for 'mixed uses' under Policy H1.

Sutton area site allocations

H1Sai – Pendean Way, Sutton

10.67.1 Is the proposed allocation justified?

No. This Site is noted to have the benefit of full planning permission for 12 dwellings, reference V/2023/0156, with construction underway. The Additional Housing Site Allocations document also makes reference to progress being underway with the completion of site naming and numbering, and through our research some of the units are being released for sale by the developer. The sales process associated with this site therefore suggests that the development is likely near completion prior to any subsequent adoption of the Submitted Plan.

The Council's latest Housing Land Monitoring Report 2025 (ADC.13), published in the Examination Library on 17th September 2025, also indicates that proposed allocation H1Sai would be in delivered Year 1 (25/26). Therefore, on the basis that the Site has planning permission, is under construction and anticipated to be delivered in the next year the justification for such a site to be a proposed allocation is unclear.

The Council should therefore clarify the evidence base which they believe justifies the allocation of this Site. We may wish to comment further in the Hearing Session.

H1Saj – Between Redcliffe Street and Leyton Avenue, Sutton

10.67.2 Is the proposed allocation justified?

We have no comments at this stage but may wish to comment during the Hearing Session following a review of the Council's response to this question.

H1Sak – Rookery Lane, Sutton

10.67.3 Is the proposed allocation justified?

We have no comments at this stage but may wish to comment during the Hearing Session following a review of the Council's response to this question.



H1Sal – Newark Road/ Coxmoor Road**10.67.4 Is the proposed allocation justified?**

We have no comments at this stage but may wish to comment during the Hearing Session following a review of the Council's response to this question.

H1Sam – Beck Lane South, Skegby**10.67.5 Would the proposed additional site have any effects on the Teversal Pastures SSSI? If so, what mitigation measures would be required to avoid harm to the designated site? How would these be secured?**

Question 10.67.5 is a matter for the Council to respond to and depending on the Council's response to this question, we may have further comments to make during the Examination Hearing Session.

H1San – Radford's Farm, Dawgates Lane, Skegby**10.67.6 Would the proposed additional site have any effects on the Teversal Pastures SSSI? If so, what mitigation measures would be required to avoid harm to the designated site? How would these be secured?**

Question 10.67.6 is a matter for the Council to respond to and depending on the Council's response to this question, we may have further comments to make during the Examination Hearing Session. However, we do wish to raise that this proposed allocation is located in the open countryside and detached from the Main Urban Area. The Council's evidence base to support such an allocation which would not align with the settlement hierarchy is therefore unclear, and in the absence of this evidence, the proposed allocation has not been justified.

The Council's approach to the site selection process is not clearly evidenced, and so it remains unclear how the newly proposed additional sites will deliver the now preferred spatial strategy approach for dispersed development.

Employment Allocations**Questions 10.77-10.88, relating to Policy S6a and Policy S6b**

We have no comments in respect of the proposed employment allocations under Policy S6a and Policy S6b.

