



Our Ref: A110848

17th April 2019

FAO Kerry Trueman
Programme Officer Solutions Limited
32 Devonshire Place
Prenton
Wirral
CH43 1TU

Dear Ms Trueman

**ALLERDALE LOCAL PLAN (PART 2) EXAMINATION – MAY 2019
ID REPRESENTOR ID 519
MRS S HETHERINGTON & MR G BELL
RESPONSES TO THE INSPECTOR'S MATTERS, ISSUES AND QUESTIONS
MATTERS 3B AND 3C**

Further to the Planning Inspectors' matters, issues and questions raised on the 14th March 2019, please find below responses to the questions raised for Matters 3b and 3c on behalf of our client – Mrs S P Hetherington and Mr G Bell.

Our client owns land to the rear of Ellenfoot Drive Maryport. The site was previously identified as a "Discounted Reasonable Alternative 1" site at the Preferred Options stage of the Local Plan (Part 2) preparation. The total site area of our client's land amounts to some 9.3ha. The site reference given at the time was 3/MAR/036/R. Previous representations were made on behalf of Mrs S Hetherington and Mr G Bell at the Preferred Options stage in March 2017 and more recently at the Submissions stage on the 16th November 2018.

Our response to each of the questions raised by the Planning Inspector for Matters 3b and 3C, which are relevant to our client's site at Ellenfoot Drive, Maryport are set out below.

Issue 3b: Housing Allocations – Deliverability and developability (Policies SA8-SA29)

Q26 – Are the proposed housing sites allocated in the ALPP2 deliverable and/or developable having regard to Footnotes 11 and 12 of the NPPF?

It is notable that the Allerdale Local Plan (Part 2) Site Allocations Housing Topic Paper [September 2018 (updated January 2019)] shows that both Site SA12 - Maryport Marina, Maryport and Site SA13 – Whitecroft, Maryport would come forward in the latter part of the Local Plan period post 2023.

The Housing Topic Paper also refers to a planning permission granted for land west of Strand Street Maryport with a yield of 34 dwellings, which is assumed to come forward in the period 2019-2023. The other site which may come forward is located at Ewanrigg Hall, which was granted planning

Lakeland Business Park, Lamplugh Road, Cockermouth, Cumbria, CA13 0QT
Tel: +44 (0)1900 898 600 Fax: +44 (0)1900 826 324
Email: Website: www.wyg.com

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Registered Office: Arndale Court, Otley Road, Headingley, Leeds, LS6 2UJ





permission on the 10th May 2016 under application 2/2015/0218 with a yield of 124 dwellings. This scheme has yet to be implemented.

Site allocation SA12 (Maryport Marina) would only come forward in 2026/2027 with a total yield of 20 dwelling units split between the two years, and Site SA13 (Whitcroft, Maryport) would only come forward in 2024/2025 yielding 25 dwellings per year onwards.

Given that these two housing allocations would not come forward until much later in the Plan period as described above, there would appear to be a gap in the potential supply of new housing derived from the allocations in Maryport (defined as a Key Service Centre) before that date. Consequently, it is questionable as to whether these two allocations would indeed meet the requirements of the NPPF, which requires the allocation of 'deliverable and 'developable' sites and ones that meet the development needs of the area (i.e. Footnotes 11 and 12 of the NPPF).

This contrasts with the position with our client's site to the rear of Ellenfoot Drive (Site 3/MAR/036/R), which is achievable, suitable and available for the following reasons. The site:

- Is a 'greenfield' site sustainably located adjacent to an existing residential neighbourhood on the edge of the settlement;
- Is accessible to the Town Centre by walking, cycling and public transport and accessible to a range of local community facilities;
- has a suitable vehicle access that can be provided via Ewanrigg Brow and the north;
- would have limited adverse effects on local amenities or adverse landscape and visual effects because it is a well contained site within a landscape bowl;
- lies in Flood Zone 1 and is not subject to flooding issues;
- has no archaeological or historic environment interests within it; and
- has no other physical constraints or other barriers to it being 'deliverable' for development now, as required by the NPPF.

Q27 – Are there any significant factors that indicate any of the sites should not be allocated? Is there a risk that site conditions or constraints might prevent development or adversely affect viability and deliverability?

The NPPF is clear that sites should only be allocated where they could either be 'deliverable' or 'developable' as defined in Annex 2: Glossary of the NPPF. Identified below are a number of site conditions and barriers relating to both site allocations SA12 and SA13, which ultimately are likely to affect their potential for development in accordance with the NPPF.

In terms of site SA12 (Maryport Marina), the form and location of the site would dictate a style of development (principally apartments), which would only be attractive to a specific developer used to dealing with this kind of product. The Allerdale Local Plan Viability Study (September 2018) states that the risks involved in this form of development mean that it is generally only likely to be viable in high value areas – Maryport is defined as a low value area. The Viability Assessment confirms that a standalone apartment development for the Maryport Marina site is unlikely to be viable in the lower value areas of the Borough at the present time. The Allerdale Local Plan Viability Study (September 2018) shows that the site is not viable with a negative surplus of -£346 per sqm even without an affordable housing requirement.



This site is also unlikely to meet the general housing needs of the area as set out in the Allerdale Borough Council's Housing Study 2016, which shows that generally a much higher proportion of people surveyed in the 2016 Household Survey preferred houses (64.2%), and a much lower proportion prefer flats (5.3%).

There are other significant issues affecting this site including potentially ecology relating to the proximity of the Maryport Harbour SSSI, surface water drainage, contamination and conservation issues, which will need to be resolved and count against it being sufficiently attractive to a potential developer. Given the paucity of housebuilders generally operating in Cumbria and the specific type of accommodation proposed for this site, there must be some serious doubt as to the likelihood of this site coming forward even in the time period identified in the Local Plan.

In terms of Site SA13 (Whitecroft), there are issues to resolve over its proximity to the Scheduled Ancient Monument (SAM) and the likely effects of new housing upon its setting - there will have to be consideration of a buffer zone to avoid any adverse impacts. There are other archaeological remains within the site itself for any developer to have to deal with, which may adversely affect the deliverability of the site. Part of the site lies in Flood Zone 3, which is located at the eastern end of the site and this will impact on the developability of the site.

The site adjoins the Solway Estate Industrial Park which makes it less attractive to developers (and occupiers) because of the likely amenity issues affecting it such as noise, traffic, fumes and dust. In addition, access to the site would need to be taken off the busy Main Road (A596), and it is recognised by Allerdale Borough Council that there will be a need for infrastructure improvements. Furthermore, Cumbria County Council would seek an Education contribution of £29,000 for this allocation (see Cumbria County Council Allerdale Local Plan Pre-Submission Consultation technical Response November 2018).

All these constraints will have an adverse impact on the overall financial costs of the development compared against the likely development revenues on the sale of the proposed dwellings in this area. The Allerdale Local Plan Viability Study (September 2018) shows that for site SA13 it could be viable assuming a development of market housing with a small surplus of £9 per sq.m. With 10% affordable housing provision the surplus becomes a deficit of -£13 per sq.m, and with a 20% affordable provision the deficit increases to -£53 per sq.m. The Viability Study has made generalised assumptions and it will not have taken into account site specific constraints (and excludes highways infrastructure), such as those outlined above.

Whilst it is recognised these two proposed allocations are located close to the built up part of Maryport, cumulatively, there are a significant number of other major factors that would need to be overcome before these sites could either be 'deliverable' now or be 'developable' and have a reasonable prospect that that it will be brought forward as part of the Local Plan. These matters are significant and would impact upon the viability and attractiveness of the proposed allocations to a relatively small pool of developers who operate in Cumbria. As with site SA12, there must be doubt as to whether site SA13 would come forward in the time period identified in the Local Plan.

Q28 – Are the proposed sites viable having regard to the provision of infrastructure, affordable housing and other policy requirements and taking into account any environmental constraints requiring mitigation?



Please see answer above to Question 27, which broadly sets out our response to this question.

The Allerdale Local Plan Viability Study (September 2018) raises strong doubts as to whether the two allocations – SA12 (Maryport Marina) and SA13 (Whitcroft) - would be viable taking into account the need for infrastructure, environmental improvements and mitigation, the provision of affordable housing and meeting other policy requirements.

The Viability Assessment is not site specific and will not have taken into account all material factors relating to each site. Given that there are relatively few house developers operating in Cumbria, and particular in West Cumbria, where there is any doubt as to viability of a site this is likely to dissuade any developer to come forward because of the increased risks. In light of the particular market conditions operating in West Cumbria, any additional costs could become disproportionate where market values are also low in this case. It is vital that Allerdale Borough Council should allocate sites that are easily deliverable and developable in accordance with the NPPF, otherwise there is a strong likelihood that they will not be able to provide for the objectively assessed needs for housing in the area.

Q29 – Do Policies SA6 and SA8-SA29 provide sufficient clarity on the likely affordable housing and infrastructure requirements for each site to allow for an assessment of viability and deliverability?

The constraints identified in Policy SA12 (Maryport Marina) and Policy SA13 (Whitcroft) are not sufficiently explicit and somewhat undermine the potential barriers to development.

With regard to site SA12 (Maryport Marina), insufficient emphasis is given to the proximity of the site to Maryport Harbour SSSI, and what the implications of this might be and what mitigation might be required. The results of the Allerdale Borough Council's Habitats Regulations Assessment (CD-9) are noted. The site abuts Flood Zones 2 and 3 and this factor should be made clear in the Policy.

There is also no reference to the need to provide affordable housing to accord with Policy SA3 (Affordable Housing). The Allerdale Local Plan Viability Study (September 2018) shows that the site is not viable with a negative surplus of -£346 per sqm even without an affordable housing requirement.

In terms of site SA13 (Whitcroft), the proximity of the Scheduled Ancient Monument (SAM) to the site and what that means in terms of a developer having to potentially provide a buffer zone so as to protect the setting of the SAM should be made clear in the Policy. It is also not clear as to whether the existing access onto the A596 is acceptable, and what physical alternations would be required to make an access onto the A596 acceptable to serve the proposed development of 300 dwelling units.

There is no reference to the amount of affordable housing that would need to be provided on the site to accord with Local Plan Policy SA3 (Affordable Housing).

Q30 – Are the site specific requirements for each of the housing sites in Policies SA8-SA29 adequately justified?

As set out above in answer to Q29, the site specific requirements for each housing site are not adequately justified and nor are the implications adequately explained within the Policies. In the same vein the methodology used to assess and discard previous proposed housing sites was not sufficiently



reasoned which has led to our client's site (3/MAR/036/R – Ellenfoot Drive, Maryport) being discarded at the preferred options stage.

The planning justification for discarding site (3/MAR/036/R – Ellenfoot Drive, Maryport) in favour of those that were subsequently supported, such as Sites SA12 (Maryport Marina) and SA13 (Whitecroft) is not supported by the actual evidence as outlined above in answer to Q26.

Issue 3c – Housing Allocations – Site Specific Issues

Land at Maryport Marina, Maryport (SA12)

Q31 – Is the proposed allocation (20 units) justified and appropriate in terms of the likely impacts of the development?

The scale of the proposed housing (i.e. 20 units) will have a limited effect on the overall housing supply. Given the likelihood that there is limited prospect of this site coming forward easily for development, it's inclusion as an allocation is not considered justified or appropriate.

In order to deal properly with the need to provide for much needed housing, more suitable 'deliverable' sites must be proposed in the Local Plan. The site belonging to our client (i.e. 3/MAR/036/R – Ellenfoot Drive, Maryport) is one that would be 'deliverable' and should be considered for inclusion in the Local Plan (Part 2).

Q32 – Has sufficient regard been had to the close proximity of the development to the Maryport Harbour Site of Special Scientific Interest?

The impacts of the proposed residential development of the site and its' proximity to the Maryport Harbour SSSI could have implications for mitigation. The results of Allerdale Borough Council's Habitat Regulations Assessment (CD-9) is noted.

Q33 – Is the suggested Main Modification MM12 justified? Is this necessary in the interests of soundness?

It is agreed that the Main Modification MM12 is justified and necessary to provide reference to the importance of the Maryport Harbour SSSI by the inclusion of the reference to the need for a landscape scheme.

Land adjacent to Whitecroft, Maryport (Policy SA13)

Q34 – Is the proposed allocation (300 units) justified and appropriate in terms of the likely impacts of the development?

The Allerdale Borough Council Housing Study 2016 shows that across the Borough as a whole the house sales market is active and demand for home ownership is high, in particular the demand for three and four-bedroom houses (particularly detached) and three-bedroom bungalows. In light of these findings there need for 'deliverable' housing sites of this scale in Maryport is clearly justified.



However, there are a significant number of hurdles to overcome with the allocation of the Whitecroft site as outlined above in answer to Q27 above. The site specific responses from Cumbria County Council to the Submissions Local Plan (Part 2) highlights that for Policy SA13 – Whitecroft, Maryport, vehicular access issues will be a major matter that will need to be resolved, including provision of a second emergency access towards the southern most point of the site adjacent to the A596 together with wider transport infrastructure improvements.

The level of development upon the site will be impacted upon by the fact that part of the site lies in Flood Zone 3, and Cumbria County Council has confirmed that no development will be permitted within Flood Zones 2 and 3. Cumbria County Council has confirmed that sustainable drainage measures will need to be incorporated within the site, and an allowance made to accommodate flood storage areas and the free flow of water. They also advise that Eel Sike (Main River) and surface water drainage issues will need to be addressed and the potential for flood reduction to the adjacent land.

There is also the potential for currently unknown archaeological remains to survive buried on the site, and Cumbria County Council advise that any future application should be accompanied by an archaeological desk-based assessment and the results of an evaluation, in this instance a geophysical survey will need to be undertaken prior to development.

The site has been available for a number of years and it has not come forward for development for implementation over that period. This would tend to indicate that the site is not very attractive to developers in part due to its location adjacent to the Solway Estate Industrial Park, but also because it is located on a busy main road and will be subject to the above technical matters that will need to be addressed. It is also not as well related to the built-up area given its' siting to the other side of the Solway Industrial Estate.

This contrasts with the site that belongs to our client (i.e. 3/MAR/036/R – Ellenfoot Drive, Maryport), which is 'deliverable' because it is not adversely affected by major environmental issues that could stop the site from coming forward in the short term, and it so should be considered for inclusion in the Local Plan (Part 2) as originally intended prior to the Preferred Options stage of the Local Plan (Part 2). This site is deliverable in that it is:

- achievable - because the land is an attractive greenfield site on the edge of the built-up area;
- suitable – because the site lies in a sustainable location abutting existing housing, lies in proximity to other local services and facilities, and would be a logical extension to the urban area offering a good quality residential development site able to meet expected housing needs as evidenced in the Allerdale Borough Council Housing Study; and
- available - because our client owns the whole site and there are no known constraints to development of the site as outlined above. The matters raised by Allerdale Borough Council at the Preferred Options stage were exaggerated.

All the necessary technical documents to support the delivery of this site would be submitted through the planning application stage.

Q35 – Has the impact of the proposed housing allocation on the nearby Scheduled Ancient Monument: Romano -British Settlement and trackway at Ewanrigg been adequately assessed? Is the



allocation consistent with the Framework in this regard and other Policies in the ALPP1 which seeks to protect the historic environment?

The full effects of the proposed development upon the Scheduled Ancient Monument does not appear to have been assessed as part of the Local Plan preparation process. Cumbria County Council has provided limited assessment, and Historic England has stated in their response to the Pre-Submissions Local Plan (Part2) consultation relating to Policy SA13 (Whitecroft, Maryport):

"While we support this policy, the wording relating to the archaeological remains is slightly ambiguous. It is unclear if the desk-based assessment and geophysical survey would be occurring pre- or post-determination of a planning application. Given the need to determine the archaeological potential before determination, it would be helpful to make this clear within the relevant bullet."

Given this uncertainty on this issue alone, there must be some doubt as to the capability of this site coming forward for delivery as required by the NPPF. It is not clear as to the extent of the site that could be deliverable over the Plan period to meet the anticipated 300 units identified for the site, and it is not clear that the proposed allocation would meet the tests in the NPPF.

In this regard the NPPF states:

"Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability" (paragraph 67).

It goes on to state:

"Planning policies should identify a supply of:

- a) specific, deliverable sites for years one to five of the plan period; and***
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.*** (Paragraph 67)

The NPPF is specific in relation to the historic environment and states:

"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal." (paragraph 190).

In addition, the NPPF states:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation



(and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." (paragraph 193).

The NPPF is clear about the assessment to be made by Local Planning Authorities where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

***"a) the nature of the heritage asset prevents all reasonable uses of the site; and
b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
d) the harm or loss is outweighed by the benefit of bringing the site back into use"***
(paragraph 195).

Finally, the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset:

"this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."(Paragraph 196)

Given all these uncertainties, it is likely that the land adjacent to Whitecroft, Maryport (Policy SA13) would not be entirely suitable and developable.

Q36 – Are the suggested Main Modifications MM13 and MM14 justified? Are they necessary in the interests of soundness?

The Proposed Modifications MM13 and MM14 do not go far enough to ensure the deliverability of the proposed allocation site for all the reasons outlined above. Notwithstanding the Modifications, there are still questions as to the extent of the site that could be developed and therefore what quantum of housing could be delivered on the site.

These matters need to be resolved prior to the allocation of the site in order to be robust and provide confidence over the site as required in the Government's guidance on housing and economic land availability assessments. The allocation is still susceptible to uncertainty, which is likely to raise concerns as to its attractiveness to the market in West Cumbria. This situation would not be acceptable given the need to bring forward with certainty those sites that are ready for development as required by the NPPF.

Conclusions

In conclusion, the approach taken by Allerdale Borough Council appears inconsistent as it has previously dismissed our client's site (i.e. 3/MAR/036/R – Ellenfoot Drive, Maryport) on grounds that cannot be substantiated. In answer to Question 26 above it has been demonstrated that this site is achievable suitable and available in accordance with the requirements of the NPPF.



Whereas Allerdale Borough Council has promoted the allocation of the site adjacent to Whitecroft (Policy SA13), which is much less preferable in policy terms and one that the Council clearly recognises as being a sensitive location with real question marks as to its deliverability and developability.

For these reasons it is recommended that our client's site (i.e. 3/MAR/036/R – Ellenfoot Drive, Maryport) is put forward in preference to Policy SA13 (Whitecroft, Maryport).

Yours sincerely,

Graham Hale

Graham Hale

Associate

WYG Group Ltd