

**REPRESENTATION TO THE 6th SET OF PROPOSED CHANGES
TO THE SELBY CORE STRATEGY**

**SUBMITTED ON BEHALF OF
SOUTH MILFORD PARISH COUNCIL**

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18th July 2012

1.0 Introduction

- 1.1 Directions Planning Consultancy has been instructed by South Milford Parish Council to prepare a response to the 6th Set of Proposed Changes to the Selby Core Strategy consultation document which was published in June 2012. Wherever possible we have referred to the sections to which our comments relate.

2.0 PC6.9 Paragraph 1.5

- 2.1 The paragraphs do not read well, as there are words missing. Also, the purpose of neighbourhood planning is not explained clearly. We therefore ask that the Council amends the words to take account of the amendments set out below:

"1.5a Neighbourhood Plans are prepared by a Parish Council or Neighbourhood Forum for a distinct geographic ~~particular neighbourhood~~ area. The scope of neighbourhood plans is set out provided in the NPPF, which makes clear and policies in neighbourhood plans should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

- 2.2 1.5b Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.

Parishes Councils and neighbourhood forums can use neighbourhood planning to, for example, set out the basis on which development will be accepted, ~~identify for special protection~~ green areas of particular importance to them and include community-led initiatives for renewable and low carbon energy. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

- 2.3 1.5c ~~The Council will consider making Community Right to Build Orders and Neighbourhood Development Orders.~~ Communities can use Neighbourhood Development Orders and Community Right to Build Orders to grant planning permission. Where such an order is in conformity with strategic Local Plan policies, Parish Councils and neighbourhood forums can grant planning permission for a specific development proposals or classes of development and no further planning permission is required for development which falls within its scope.

- 2.4 1.5d The Council will take a positive and collaborative approach to enable development to be brought forward under such an Order, including working with communities to identify and resolve key issues before applications are submitted. (PC 6.9)"

3.0 PC6.20 Policy CPXX

- 3.1 We object to the amendment made to paragraphs 4.39h and 4.39i which introduce the new words 'and other sustainable DSVs'. We believe the reference to other sustainable DSVs ambiguous, as it is unclear whether all DSVs are included within the reference or just the most sustainable of the DSVs. If it is the first then the insert need only state 'and DSVs', if it is the later then how are 'other sustainable DSVs' to be defined? If some DSVs are considered to be more sustainable than others then such a list and the criteria for that list need to be clearly set out and defined in the plan. We believe the wording in both paragraphs should be amended to read 'and DSVs', because the Council has already made clear the intention is for

DSVs to accommodate their own housing need. This is evident from the draft SADPD which sets out the approach to housing distribution across the DSVs. The change we propose would also be consistent with the proposed change to the wording set out in paragraph 4.39i, which refers to '...Tadcaster's and other settlements'.

- 3.2 We also object to the amended wording proposed to Policy CPXX, as we do not believe it addresses previous concerns raised in relation to the circumstances in which land might be released from the Green Belt and identified for development in the SADPD. In particular, Criterion E is unclear, open to misinterpretation and does not define the circumstances in which the release of Green Belt land will be considered exceptional. We therefore propose that the criterion should be replaced with:
"Under Criterion D4 (above), the SADPD will determine the detailed Green Belt boundary to endure beyond the Plan period. The SADPD may remove land from the Green Belt in exceptional circumstances in order to satisfy those identified development needs set out in the Core Strategy which cannot otherwise be accommodated within existing development limits. The SADPD will look to locate development in accordance with the established settlement hierarchy and with reference to the purposes and objectives of Green Belt policy as set out in the NPPF."
- 3.3 However, neither these proposed words or the existing Criterion E refer to 'plan B' (as described in paragraph 4.39i) being the exceptional reason for the release of land from the Green Belt. If the exceptional reason set out in 4.39i does constitute the trigger for a Green Belt review, then surely this should be set out in the Policy? As a result, we consider that Policy CPXX requires an additional criterion to make clear the exceptional reason for the Green Belt review, which would include a sequential test to ensure all other sustainable options had been considered before 'plan B' is deployed.
- 3.4 Furthermore, Criterion E refers to the safeguarding of land for the delivery of development in future plans. The safeguarding of land was a matter first raised by the Council in the 5th Set of Proposed Changes, and the matter did not appear in the submitted Core Strategy. It therefore represents a main modification which, when taken with other main modifications, an assessment will need to be made of whether the plan has altered to such an extent that 'by death of a thousand cuts' (to quote the York Planning Inspector) the amended plan appears to be substantially different to the submitted plan.
- 3.5 We do not believe that the plan should refer to the safeguarding of land because the Core Strategy did not intend for there to be a full review of the Green Belt or to safeguard land for the future. It originally intended to allow for land to be released within a limited number of settlements to accommodate a relatively small amount of development. The number of expected boundary changes and also the amount of land that will now be required has increased through the Examination process. We continue to question whether the change represents a significant redirection that is not allowed for through the procedures of drafting development plan documents.
- 3.6 It should be noted that if the Council is to refer to criterion D4 in defining boundaries then some safeguarding may occur in any event. This is because if the Council follows physical features then it may require more land to be released than is required for development in

order to ensure the boundaries are permanent. The Council only need allocate sufficient land and does not need to allocate all the land that is released for the separate and distinct purpose of creating defensible long term boundaries.

4.0 PC6.33 and PC6.34 Policy CP1A, paragraph 4.47

4.1 We object to the Council introducing a change in policy approach towards the development of garden land through the supporting text rather than the correct means which is to add 'garden land' into the list of appropriate development in Selby, Sherburn in Elmet, Tadcaster and DSVs under Policy CP1A.

4.2 Paragraph 53 of the NPPF requires local planning authorities to "consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area." As a result, Selby DC must first determine whether development of garden land is acceptable through the evidence base before a policy approach is set out in the plan. The Council has failed to follow the correct approach and instead appears to be introducing a change to policy through the supporting text.

4.3 We neither support or object to the change in policy approach because we have not seen the Council's justification for why it is reasonable for garden land to be developed. However, we do not believe the plan to be sound if the change is not approached in the correct manner and reference to garden land is included within supporting text rather than within Policy CP1A.

5.0 PC6.39 Paragraph 5.28 Appendix 5

5.1 We strongly object to the Council's definition of windfall development because it is not in conformity with the NPPF. The NPPF sets out a definition for windfall sites within the Glossary, which states:

"Windfall sites: Sites which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available."

5.2 The NPPF definition of 'previously-developed sites', which is also set out in the Glossary states:

"Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."

5.3 The NPPF definition of windfall sites clearly excludes garden land, given it is explicitly excluded from the definition of 'previously developed land'. Furthermore, paragraph 48 of the NPPF states that garden land should be excluded from past and future windfall rates. The Council is therefore incorrect to state that 'garden curtilages' constitute windfall development. Paragraph 5.28 should therefore be amended to remove the reference to 'garden land'.

- 5.4 Whether garden land is considered acceptable for development needs to be discussed and dealt with as a separate matter to windfall development, given that garden land would not suddenly constitute previously developed land just because a local authority supports development of such land. The two matters are distinct and separate.
- 5.5 If Selby DC is to support the development of garden land within Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages then this policy approach needs to clearly be stated, which includes having been justified in the evidence base and set out in a policy within the Plan. At the moment, there is neither evidence nor policy for the development of garden land. Changing the definition of garden land through an amendment to supporting text is not the correct means by which to introduce a change to policy through this set of proposed changes. Instead, 'garden land' should be introduced to the descriptions of acceptable development within Policy CP1A.
- 5.6 Please also see our comments in relation to proposed changes PC6.33 and PC6.34.
- 6.0 PC6.51 Policy CP3 Appendix 7**
- 6.1 We welcome the approach put forward, which means the Council will not reallocate development from Tadcaster to other parts of the district unless the situation arises after all other reasonable attempts have been exhausted.
- 7.0 PC6.99 Policy CP16**
- 7.1 We welcome the changes being proposed to this policy, which now refer to neighbourhood plans, local distinctiveness and open space.
- 7.2 However, we believe that a further change should be introduced to the policy in relation to the new approach which will see the development of garden land supported within settlements besides Secondary Villages. Paragraph 53 of the NPPF is clear that "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."
- 7.3 We therefore believe that to be sound, situations which might cause harm to a local area should be spelt in the Core Strategy and Policy CP16 provides the appropriate opportunity to do so. Reference needs be made within Policy CP6 to situations where the development of garden land will be considered acceptable or else situations where harm will be resisted, including where residential amenity will be detrimentally affected, local distinctiveness will be harmed, important gaps in development would be lost or over development would result. Without such a criterion, paragraph 53 will not fully be addressed in accordance with the NPPF.
- 8.0 Conclusions**
- 8.1 We would welcome the opportunity to discuss our representation with the Council, particularly given the fundamental issues we have raised in relation to the soundness of the documents.