

## **Keighley Appendix 5**

### **Statement of Decision for BANKLANDS AVENUE EAST**

SD SD/K/H/28 & SD/K/H/28  
UDP SOM/K/UR5/29, K/H2.8, SOM/K/GB1/29, SOM/K/UR5/29  
IR Keighley/Pages 34, 119-120, 210

#### **CBMDC Decision and Reasons.**

Whilst the Council accepts the recommendation to delete the housing allocation K/H2.8, it does not accept the recommendation to add the land to the green belt.

In not allocating the site for housing, the Council accepts the Inspector's conclusion that the site is not appropriate to be allocated for that purpose. The Inspector has not dealt with the issue of out-migration in detail, nor do the sites he recommends for allocation in the plan for various purposes perform the role which the Council was seeking for Silsden. However, the Council accepts the importance which the Inspector attaches to the settlement hierarchy as set out in RPG12 and does not think that other issues weighing in favour of an allocation for immediate development are as weighty considerations as those weighing against its allocation for development now.

If accepted, the inspector's recommendation would result in land being added to the Green Belt. PPG2, at para 2.6, advises that "once the general extent of a Green Belt has been approved it should only be altered in exceptional circumstances". Paragraph 2.7 of PPG2 provides that the exceptional circumstance should "necessitate" a revision to the Green Belt boundary. The court case *Copas v The Royal Borough of Windsor and Maidenhead* ([2001] J.P.L. 1169) led to a very specific test being applied when adding land to the Green Belt. The case provides that there will be no exceptional circumstance which necessitates an addition to the green belt unless "some fundamental assumption which caused the land initially to be excluded from the Green Belt is clearly and permanently falsified by a later event".

The difficulty for the Council is that nowhere in the Policy Framework Volume, chapter 3 of the Keighley Constituency Volume or in specific consideration of this site does the inspector properly consider the Copas test. Nowhere is there any explanation of which, if any, fundamental assumption, which initially led to the exclusion of the land from the Green Belt, has been clearly and permanently falsified by a later event, or what that event might be.

In the Inspectors general consideration of the green belt (paragraphs 3.13 to 3.20 of the Policy Framework Volume) there is no specific reference to adding land to the green belt or the 'Copas' case. Therefore the Council's only course of action is to consider each site specific case where the Inspector has recommended adding land to the green belt in the light of the reasons provided in the reasoning and conclusions part of the Inspector's report for that individual site or other material found in the relevant constituency volume.

The Council accepts the Inspector's view at paragraph 3.42 (Policy Framework Volume) that the replacement plan replaces what exists rather than merely reviewing the current document. However, in the context of matters relating to the adopted Plan green belt, exceptional circumstances need to be demonstrated before the new Plan can replace what exists by changing the location of the adopted green belt boundary.

In paragraph 3.3 (Keighley Constituency Volume) the inspector states, "I have already concluded that the plan's settlement hierarchy should accord with advice in regional guidance. The draft plan classifies Silsden as a town. To my mind, the settlement should not be so categorised, using the tests in RPG12". In the statement of reasons covering the Plan Strategy the Council responds, "in considering the role of towns in the settlement hierarchy the Council agrees with the Inspector's view that Silsden should not be categorised as an urban area. However because of the status and function of Silsden it does not sit readily elsewhere in the hierarchy described in policy P1 of RPG12. The Council accepts the Inspector's conclusion that it does not score well in terms of current accessibility by public transport yet it has a good range of services (except for the absence of a secondary school) and has a much more substantial employment base than any other smaller settlement in the District. At present, until the RSS re-examines the role and function of settlements, Silsden should be regarded as a less well located smaller settlement though when compared to the other settlements in this category it offers a much broader range of services and is better served by public transport".

Having dealt with Green Belt in general in the Policy Framework Volume and Silsden's place in the settlement hierarchy in paragraph 3.3 onwards (Keighley Constituency Volume), the inspector goes on to look at the Green Belt around Silsden in paragraphs 3.43 and 3.44. The inspector states, "A large area of land was removed from the Green Belt in the adopted UDP in order to provide for the planned expansion of Silsden. Also the location policies of the plan do not support major development in Silsden in the future." In the inspectors view " the change in the role of Silsden from that envisaged in the adopted UDP could be an exceptional circumstance, which could justify an alteration to the boundary of the Green Belt" (paragraph 3.43 Keighley Constituency Volume). In the next paragraph the inspector indicates many of the sites are on the periphery of the settlement, and are open countryside, often indistinguishable from the Green Belt land beyond. .... and generally the inclusion of such land within the Green Belt would assist in moving towards sustainable patterns of development". These conclusions by the Inspector do not amount to an explanation for adding land to the green belt, which accords with PPG2 and the Copas case.

In paragraph 6.244 (Keighley Constituency Volume) the inspector states "The areas at Banklands Avenue are the largest allocations, comprise greenfield land, and should not be allocated for housing." Whilst agreeing with the fact that Banklands Avenue East is one of the largest allocations and does comprise of greenfield land the inspector does not provide an exceptional

circumstance for adding the land to the green belt if the housing allocation is removed. The argument is one for not allocating the land for housing, not one for adding it to the green belt.

The inspector considers in paragraph 13.42 (Keighley Constituency Volume) that the majority of the Silsden land is not required for development within the plan period and should be included in the Green Belt to safeguard the countryside from encroachment. The fact that land is not required in the plan period does not constitute an exceptional circumstance for adding the site to the green belt, rather it is again an argument for not allocating the site for housing.

The Council agrees with the inspector in paragraph 13.42 (Keighley Constituency Volume) that the site comprises of an extensive area of open land, but again this does not constitute an exceptional circumstance for adding the land to the green belt, rather than an argument for not allocating it for housing.

The inspector continues "Silsden is a small town in a rural area, and I recommend the allocation of other sites to meet local needs arising after the plan period. Consequently the Banklands Avenue sites are not required as safeguarded land. On the other hand the sites do fulfil Green Belt purposes, by preventing the outward spread of Silsden and protecting the countryside from encroachment. It is therefore appropriate that these sites be included within the Green Belt". Allocating the site Green Belt would prevent the outward spread of Silsden and protect the countryside from encroachment is not enough to amount to an exceptional circumstance under the requirements set out in the Copas case The Council sets out in its statement of reasons for the plan strategy that Silsden should be referred to as a less well located smaller settlement though when compared to other settlements in this category it offers a much broader range of services and is better served by public transport. The fact that the Inspector has recommended other sites to meet local needs after the plan period is not an exceptional circumstance for adding this site to the green belt.

The Council does not agree with the inspector that following the removal of Silsden as a Town from the settlement hierarchy that this phase 2 housing allocation should be deleted and included in the Green Belt. The Council feels that if the site is not required for phase 2 housing then it would be more appropriate to allocate it as Safeguarded Land under UDP Policy UR5. PPG2 states in paragraph 2.12 that "In order to ensure protection of Green Belts within this longer timescale, this will in some cases mean safeguarding land between the urban area and the Green Belt which may be required to meet longer term development needs". The Council consider that the site at Banklands Avenue East meets the requirements stated in PPG2 paragraph 2.12 which states "When providing safeguarded land local authorities should consider the broad location of anticipated development beyond the plan period, its effects on urban areas contained by the Green Belt and on areas beyond it, and its implications for sustainable development".

Rather than adding the site into the Green Belt the Council feel it is more appropriate that it should be designated as safeguarded land. The RDDP defines safeguarded land as “land between the built up area and the Green Belt and other sites all of which are not appropriate for development in the plan period but would be reconsidered for development at plan review.....These sites are protected by a policy which will ensure that any uses of the land do not prejudice the potential for development in the longer term”.

Annex B of PPG2 gives further advice on safeguarded land stating “safeguarded land comprises areas and sites which may be required to serve development needs in the longer term, ie well beyond the plan period”. Banklands Avenue East may be required for longer term development needs and is also capable of being developed when needed which is a requirement of paragraph B2 of Annex B to PPG2.

Paragraph B3 of PPG2 Annex B requires safeguarded land should be located where future development would be an efficient use of land, well integrated with existing development, and well related to other existing and planned infrastructure , so promoting sustainable development. The Council considers that Banklands Avenue East together with the other areas of land in Silsden which it proposes to allocate as safeguarded land would, if developed, provide an opportunity to improve infrastructure and services at the same time as providing sustainable development.

Paragraph B4 of PPG2 Annex B says Local Authorities should have regard to the contribution which future redevelopment might make to remedying urban fringe problems, producing attractive well-landscaped urban edges. The development of this site would provide the opportunity to achieve an attractive well landscaped and defensible boundary to the urban edge of Silsden.

The site meets all of the requirements of PPG2 regarding safeguarded land. Therefore it is appropriate to follow the advice set out in PPG2 which justifies allocating the site as safeguarded land rather than adding the land to the Green Belt when there has been no explanation of exceptional circumstances which accords with the Copas case.

Currently, part of the boundary of the Banklands Avenue East site follows the route of the Silsden Eastern bypass, which this Inspector has recommended be deleted from the plan and included within the Green Belt. Realistically any future development of the site could only take place by developing a bypass to create means of access and support traffic movement in and around the town. Therefore the Council proposes to allocate Banklands Avenue East with boundaries as shown in the RUDP as safeguarded land. This would create a boundary between the site and the green belt that does not relate to any physical features on the ground. This replicates the position in the adopted UDP, which was adopted in the light of the same version of PPG2. The Council feels that the future development needs justify the allocation of the site as safeguarded land even though it creates a green belt boundary which does not follow recognisable features on the ground.

Referring to this site and the Green Belt boundary the inspector states in his report prior to the adoption of the UDP in 1993 that "The previous boundary to the Green Belt was easily identifiable. The Eastern By-pass will be more so and it will be particularly defensible. .... It is a logical extension of the town and is part and parcel of the development package" (paragraph K4.260 Volume 5 Keighley Proposals).

The Council agrees that a recreational allocation is not appropriate. Provision for recreation has been made in the RUDP for other parts of Silsden.

The Council therefore feels that if the site is not required for residential purposes at this moment in time then it would be appropriate to allocate the site for safeguarded land. The site qualifies for this allocation as it meets all the requirements of safeguarded land stated in PPG2 and as set out above.