



Dacorum Borough Council

Local Planning Framework

DACORUM SITE ALLOCATIONS DPD EXAMINATION IN PUBLIC

Statement by Dacorum Borough Council

Matter 11: Policy LA5: Icknield Way, West of Tring

September 2016

Purpose of this statement

The purpose of this statement is to summarise the Council's position regarding the following matters, issues and questions raised by the Inspector in advance of their discussion at the public hearing sessions.

To avoid repetition this statement includes cross references to appropriate technical work and includes relevant extracts as appendices.

Matters raised by Inspector and the Council's response

1. Has the Green Belt boundary been correctly defined?

1.1 The Dacorum Borough Local Plan 1991-2011 (Examination Document OT6) shows the whole of the LA5 site as being within the Green Belt. A revised Green Belt boundary was proposed in the Pre-Submission Site Allocations document (Examination Document SUB17). The proposed new boundary followed the hedgerow which runs from Aylesbury Road to Ickniel Way on the western edge of the LA5 housing development. In the Pre-Submission version of the Site Allocations DPD (Examination Document SUB17), the proposed open space, cemetery extension and traveller site in the western part of LA5 remained in the Green Belt.

1.2 On 21 July 2015, the Council's Cabinet considered a report on modifications to the Pre-Submission document (Examination Document SUB11). Paragraphs 4.2-4.7 in the report advised Members that there had been no fundamental change in national policy on Green Belts. However, paragraphs 4.8 and 4.9 gave Cabinet the following advice on cemeteries in the Green Belt:

"4.8 The Council's legal adviser has also highlighted that there has been recent clarification regarding the Government's approach to cemeteries in the Green Belt (as set out in the NPPF) through a judgement from the Court of Appeal¹. In contrast to the advice above, this change does result in a change to the Site Allocations DPD. This High Court² judgment clarifies that cemeteries are considered as inappropriate development within the Green Belt in terms of the definitions in the NPPF. This is because cemeteries are not listed in the text of the NPPF (paragraphs 89 and 90) as categories of development which are 'not inappropriate'. However, rather counter-intuitively, new buildings providing appropriate facilities for cemeteries are classified as appropriate development.

4.9 As a result of this case, the Council's legal adviser recommends that the cemetery extension site that forms part of Local Allocation LA5 is excluded from the Green Belt in the Site Allocations document. He has also advised that for consistency with the approach to the cemetery, and the approach to the Gypsy and Traveller Sites on LA1 and LA3, the adjacent Gypsy and Traveller site is also excluded from the Green Belt..."

1.3 The July 2015 Cabinet Report (Examination Document SUB11) proposed a change (SC7) to the Plan to reflect the above advice, which was published as part of the Focused Changes document (Examination Document SUB9). This change contained the following text on the Green Belt boundary:

"All of LA5 has been released from the Green Belt except for the western fields open space."

¹ Timmins and Lymn Family Funeral Service v Gedling Borough Council and Westerleigh Group. Judgement issued March 2014.

² Reference should be to Court of Appeal rather than High Court.

- 1.4 Some objections were submitted to the Green Belt boundary change proposed in the Focused Changes document. The objection from CALA Homes included mention of the fact that the Government's revised Planning Policy for Traveller Sites (PPTS) (Examination Document REG4) stated that Green Belt boundaries should be altered only in exceptional circumstances to accommodate traveller sites.
- 1.5 The Council concluded that no change to Focused Change SC7 was required in response to these representations (see pages 17 and 18 of the Report of Representations January 2016 Part 2 (Examination Document SUB4)). One of the points made by the Council was that if the cemetery extension was left in the Green Belt, a planning application could be approved on the basis of very special circumstances, but it was prudent to remove the site from the Green Belt (and also the traveller site) as the opportunity was available through the Site Allocations Plan.
- 1.6 Another reason why the Council decided not to change the boundary amended by Focused Change SC7 related to paragraph 17 in the PPTS. This paragraph states that:
- “Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.”*
- This advice has been followed by the Council in SC7.
- 1.7 The Green Belt boundary as now proposed is shown on page 9 in the submitted Site Allocations Map Book (Examination Document SUB2).
- 1.8 This boundary now excludes all of LA5 from the Green Belt, except for the proposed open space (around 6.1 hectares) in the western fields. Whilst the Council could have proposed the removal of the whole of LA5 from the Green Belt in the light of the Timmins judgment, this course of action is not supported. This reflects paragraph 81 in the National Planning Policy Framework (NPPF), which advises local planning authorities to plan positively to enhance the beneficial use of the Green Belt, including by providing opportunities for outdoor sport and recreation. Clearly, this implies that outdoor sport and recreation are appropriate uses in the Green Belt. The Council's approach is consistent with that taken to leisure proposal L/4 at Dunsley Farm, Tring (see the Council's response to Matter 13, Question 3).
- 1.9 In the light of the above, the Council concludes that the Green Belt boundary has been correctly defined.

2. Has the effect of the proposed cemetery, play area and traveller site on the AONB been fully considered?

- 2.1 Matter 2, Question 10 asks: *“What work has been undertaken to assess the likely impact of proposed development on the Chilterns Area of Outstanding Natural Beauty?”* The Council’s response to this question includes reference to guidance in the NPPF (Examination Document REG10) on AONBs. It is concluded that none of the development proposed by the Site Allocations document in the AONB (including the cemetery extension and traveller site at LA5) constitutes ‘major development’.
- 2.2 Paragraphs 10.8-10.10 in the Council’s response to Matter 2, Question 10 relate specifically to LA5. These paragraphs refer to the proposed cemetery extension and traveller site, the Core Strategy Inspector’s view that the setting of the AONB can be protected satisfactorily through the masterplan process and the Landscape and Visual Impact Assessment for LA5 (Examination Document LA54).
- 2.3 Policy LA5 in the Site Allocations DPD and the LA5 Draft Master Plan (Examination Document 47) contain overall guidance on the AONB and also more detailed guidance on the cemetery extension, the public open space (which includes the play area) and the traveller site.
- 2.4 With regard to overall guidance on the AONB, Policy LA5 refers to the AONB in the ‘west of Tring vision’, whilst the Key Development Principles stress the need to limit the effect on views from the AONB (Principle 5), create a soft edge with the AONB (Principle 6) and retain existing landscaping and provide new landscaping and wildlife habitats (Principle 14). The draft master plan provides more detailed overall guidance on the AONB and the section on landscape principles (paragraphs 5.42-5.51) is particularly relevant.
- 2.5 Objectors to the Site Allocations Pre-Submission document (Examination Document SUB17) felt that the impact on the AONB was contrary to national policy, the Chilterns AONB Management Plan and the Council’s development plan. In the Report of Representations (Examination Document SUB12), the Council concluded that no change should be made to the Plan in response to these objections. The Council’s view was (and remains) that the LA5 development will not significantly harm the special qualities of the AONB, so will comply with Core Strategy Policy CS24. This conclusion took account of the Key Development Principles for Policy LA5 and the more detailed guidance in the LA5 draft master plan.
- 2.6 Some objections were also submitted concerning the impact of the individual elements of the LA5 proposals on the AONB. An explanation of Council’s consideration of the impact of the proposed cemetery extension, play area and traveller site on the AONB is given in paragraphs 2.8-2.20 below.
- 2.7 Careful consideration has been given to the impact on the AONB of the LA5 proposals and in overall terms the proposals will bring about an enhancement of the AONB. At present the AONB land in LA5 consists of agricultural land with limited public access and little in the way of landscaping. The Council’s proposals for the

AONB are intended to achieve public access across most of this land, together with much increased and enhanced landscaping and improved wildlife habitats.

Cemetery extension

- 2.8 The Council has prepared a Background Issues Paper specifically relating to burial space needs within the Tring area (Examination Document SA6). Issue 6 in this document examined where the cemetery extension or new cemetery should be located. Four options were assessed, including Option 2 for a detached cemetery extension in the western part of LA5. Paragraph 3.31 explains the approach that the Council would take with this option to ensure that the cemetery extension will enhance the AONB. The document concludes that Option 2 is preferred, as it meets the long term need for burial space, is deliverable and would not result in any serious problems that could not be mitigated or overcome.
- 2.9 Key Development Principle 10 in Policy LA5 requires the cemetery extension to be well landscaped. Principle 11 makes it clear that the car parking and associated facilities for the cemetery will be located in the development area, adjacent to the cemetery extension. There will be no cemetery buildings or car parking in the AONB.
- 2.10 The Council proposed no changes to the Plan in response to objections at the Pre-Submission stage regarding the impact of the proposed cemetery extension on the AONB (see page 77 in Examination Document SUB12). This was because the Council considered that the cemetery extension will enhance the AONB and because the draft master plan proposes a green cemetery and explains how this will be achieved (see paragraph 2.12 below).
- 2.11 Objections at the Pre-Submission stage also called for the cemetery extension to be provided in the form of a 'green burial ground', to soften the impact on the Green Belt and AONB. In response to this point, the Council decided that Key Development Principle 10 should be amended to include a requirement for a significant area of natural burials (see Minor Change MC32 in the Focused Changes document – Examination Document SUB9). This change has been incorporated into the submitted plan.
- 2.12 Paragraphs 5.52-5.58 in the LA5 draft master plan set out more detailed principles on the cemetery extension principles. Paragraph 5.56 is of most relevance:

“The proposed new burial space is within the AONB, so great importance is attached to creating a green cemetery that blends harmoniously into the countryside. The site for the cemetery extension is already partly screened by the tree belt along Aylesbury Road and the existing hedgerows within the site. Further planting should be carried out to soften the impact of the cemetery extension and help to create a long term defensible Green Belt boundary (see Figure 3). It is envisaged that a significant amount of land will be reserved for natural burials. Part of this area will involve the planting of trees to mark graves and part will take the form of a wildflower meadow. This should help to ensure that the cemetery extension does not cause serious harm to the AONB. Indeed, the AONB will be enhanced by the proposed new planting.”

- 2.13 It should also be noted that cemeteries are often located in AONBs and that they are usually attractive, tranquil, leafy places. For example, churchyards attached to historic parish churches. Furthermore, the Chilterns Crematorium (commissioned by Aylesbury Vale, Chiltern and Wycombe Councils) was completed as recently as 2005. It has a far greater impact on the Chilterns AONB than the proposed cemetery extension at LA5 will have.

Play area

- 2.14 Key Development Principle 15 in Site Allocations Policy LA5 proposes a play area for older children in the western fields (within the AONB). This proposal resulted in objections at the Site Allocations Pre-Submission stage. Objectors considered that the children's play area should be located in the main development area, not the AONB.
- 2.15 The Council decided in response to these representations (see Examination Document SUB 12), that no change to the plan was required:

“...a location in the western fields is proposed in order to minimise disturbance to residents in the new housing. The play area would not cause significant harm to the special qualities of the AONB, as the LA5 Draft Master Plan (paragraph 5.40) states that it should be designed creatively to fit in with the AONB and that brightly coloured metal equipment should be avoided. Also, it will be relatively small (about 0.1 hectares, or only 1.5% of the proposed western fields public open space).”

- 2.16 The response also commented as follows regarding the proposed public open space:

“...the proposed public open space has the potential to considerably enhance the AONB. The section on ‘Landscape Principles’, on pages 36-39 of the LA5 Draft Master Plan, shows that the proposals for the open space will include the retention of existing trees, the retention and enhancement of existing hedgerows, additional tree planting of native species and the creation of new wildlife habitats...”

- 2.17 The fact that the play area will form a very small component of a large new public open space (6.1 ha in total) is an important point. Key Development Principles 13 and 14 in Policy LA5 require the open space to provide a mix of parkland and informal open space, and landscape enhancement. Further guidance is provided in the ‘green space principles’ section, as well as the ‘landscape principles’ section in the LA5 draft master plan (see paragraphs 5.33-5.51 in document LA47).

Traveller site

- 2.18 Policy LA5 proposes a traveller site of 5 pitches in the western fields, Key Development Principle 12 of the policy requires the site to be screened by landscaping. Objections at the Pre-Submission stage contended that the traveller site should be located within the main development area, not the AONB.

2.19 As with the cemetery extension and children's play area, the Council responded in the Report of Representations (Examination Document SUB12) by stating its view that the proposal will not significantly harm the special qualities of the AONB. The response on the traveller site also stated that:

"...a location in the western fields is proposed for the reasons stated in paragraph 5.12 in the LA5 Draft Master Plan. Paragraph 5.13 in the Draft Master Plan explains why the site will have a very limited impact on the special qualities of the AONB. It is proposed to amend the Draft Master Plan to add further detail about the screening/landscaping of the Gypsy and Traveller site. Furthermore, the site will be fairly small (about 0.4 hectares)."

2.20 Paragraphs 5.12 and 5.13 in the revised draft master plan (Examination Document LA47) read as follows:

"5.12 However, it is considered to be the most suitable location, because it:

- is separated from, but close to the existing and proposed new housing;*
- occupies a sustainable location, where the residents will have easy access to local services and facilities in Tring; and*
- will have a very limited impact on the special qualities of the AONB or the visual amenity of the Green Belt.*

5.13 With regard to bullet point 3 above, it is important to note that the proposed Gypsy site is on relatively low land at the bottom of the slope. Views of this part of LA5 from the Chilterns escarpment are already well screened by the tree belt on the south side of Aylesbury Road. Further landscaping should be provided to ensure that the Gypsy site is well contained in the landscape. In particular, the site should be screened from views along Aylesbury Road and well landscaped along its northern and western boundaries, adjoining the western fields open space. This will help to create a new long term defensible Green Belt boundary at LA5."

3. Is the employment allocation of sufficient size?

3.1 Policy LA5 of the submitted plan (Examination Document SUB1) proposes:

"An extension in the eastern fields development area of around 0.75 hectares to the Icknield Way Industrial Estate for B-class uses"

3.2 Representations were submitted to the Pre-Submission Site Allocations document (Examination Document SUB17) regarding the employment allocation. The nature of these representations varied. It was considered by some that the employment area extension was not justified, whilst others considered that the proposed extension should be enlarged to more fully meet the need for employment land, including firms relocating.

3.3 For the Council's response to the representors who contended that the employment area extension was not justified, see the Report of Representations Part 2 (Examination Document SUB12). The response included the following:

"No Change. *The justification for extending the employment area is contained in the SW Hertfordshire Employment Land Update (Roger Tym & Partners, June 2010)³. Paragraph 4.51 in this report advised the Council that:*

"Icknield Way should be protected and may be expanded to cater for businesses relocating from the other sites in the town and inward investors. We have not reviewed the quantum of space required but there is a natural extension of approximately 2.6 hectares by extending the rear boundary in a straight line up to the boundary with the AONB and to the Icknield Way frontage.

The principle of extending the employment area has already been established through the Core Strategy. The proposals for LA5 on page 166 of the Core Strategy include "Extension to the employment area in Icknield Way Industrial Estate". Also, paragraph 22.8 refers to replacement employment provision (for land lost elsewhere) being made through an extension to the Icknield Way general employment area."

3.4 The Council's response regarding whether the proposed employment area extension is too small is set out in the Report of Representations (Examination Document SUB12) and reproduced below:

"No change. *Paragraph 4.51 in the SW Hertfordshire Employment Land Update (Roger Tym & Partners, June 2010) advised the Council that:*

"Icknield Way should be protected and may be expanded to cater for businesses relocating from the other sites in the town and inward investors. We have not reviewed the quantum of space required but there is a natural extension of approximately 2.6 hectares by extending the rear boundary in a straight line up to the boundary with the AONB and to the Icknield Way frontage."

Whilst there is a need for some land to meet future needs for B-class employment floorspace in Tring, there is also a clear need to provide more housing land. It is considered that the size of the proposed employment area extension (0.75 hectares) represents an appropriate balance between housing and employment development on LA5."

3.5 Furthermore, the Council also considers that the proposed LA5 employment area extension:

- Is sufficient in size to replace space expected to be lost on other older employment sites in Tring, including through the proposed reallocation of part of the Akeman Street General Employment Area (GEA) for housing (housing proposal site H/17).

³ Examination Document ED7

- Is of a size commensurate to the existing Icknield Way GEA and the size of units likely to be in demand.
- Forms a logical extension to the Icknield Way GEA and has minimal impact on existing houses.
- Allows sufficient land on the remainder of site to meet the housing requirements of LA5.

3.6 It should also be noted that the Council has discussed the size of the employment area extension with CALA Homes (the LA5 developers) and Adrian Cole (a local commercial agent who represents two of the LA5 landowners) and concluded that the size currently proposed in the submitted plan is appropriate.

3.7 The issue of whether any additional employment land, above and beyond that already proposed, is needed in Tring is a matter for the single Local Plan (incorporating the early partial review of the Core Strategy), rather than the current Site Allocations DPD. The Council has appointed consultants to undertake the Dacorum Employment Land Availability Assessment as part of the evidence base for the single Local Plan (see response to Matter 2, Question 3).

3.8 In the light of the above the Council concludes that the employment allocation at LA5 is of sufficient size.

4. Is the site viable with the inclusion of a traveller site?

4.1 The NPPF states that the cumulative impact of local planning authority standards and policies '*should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle*'. The Council recognises the importance of viability in terms assessing the impact of a range of requirements and contributions in bringing forward schemes. It is satisfied that it has given full consideration of these matters and that all allocations, including LA5, are viable.

4.2 The Council initially tested the viability of the Local Allocations and other strategic sites in 2013 (Examination Document ID4). At the request of the Inspector (Procedural Correspondence PC3c) the Council has undertaken further work on the three larger Local Allocations (LA1, LA3 and LA5) to explicitly test the impact of the proposed traveller sites, as well as other policy requirements, on their viability (Examination Document HG19). Both studies were undertaken by BNP Paribas Real Estate:

4.3 The results of these viability studies demonstrate that all strategic sites and more specifically Local Allocation LA5, can viably deliver the proposed development in line with wider policy requirements.

4.4 The appraisals in Examination Document HG19 indicate that the inclusion of a limited number of Gypsy and Travellers' pitches on the Local Allocations do not significantly impact on the viability of the sites so as to make them undeliverable. The delivery of such uses on the site equates to no more than 1.5% of the schemes' overall development costs. This level of costs is unlikely to be a determining factor in whether a developer brings forward this site or not.

Furthermore, the consultants highlighted that their appraisal adopts a cautious approach by not allowing for any income from the Gypsy and Travellers pitches, however it is likely that they will generate revenue which would improve the viability of the schemes (depending on management arrangements).

- 4.5 Where appropriate, the Council takes a flexible approach to applying its policy requirements, will ensure an appropriate balance between delivering the required growth to meet the needs of the local population, affordable housing, sustainability objectives, necessary infrastructure and the need for landowners and developers to achieve competitive returns, as required by the NPPF. This will ensure that sites can come forward and deliver the maximum reasonable quantum of affordable housing. In particular the consultants identified that given the surpluses generated by the sites, were they to come forward with Starter Homes they could also deliver a larger quantum of traditional affordable housing (i.e. affordable rent and shared ownership) over and above the potential 20% Starter Homes requirement.
- 4.6 Maintaining this flexible approach will ensure the 'scale of obligations and policy burdens' (paragraph 174 of the NPPF) are appropriate in all instances to ensure that sites are able to be developed viably and thus facilitate the growth envisaged by the Council's plans over the economic cycle, without jeopardising the delivery of the aspirations of the adopted Core Strategy and submitted Site Allocations DPD.
- 4.7 In general terms, all three of the larger Local Allocations, including LA5, have proven to be more viable in 2016 than shown in the 2013 study. This is illustrated in the graphs in Appendix 2.
- 4.8 The issue of viability was raised by the Inspector as part of early pre-hearing questions (Procedural Correspondence PC3). The Council has responded to this matter under Procedural Correspondence PC3a. This matter is discussed in detail under Question 2 to Matter 6. Key points stemming from the response include:
- The plan is underpinned by appropriate and proportionate viability work and a full understanding of scheme viability;
 - Given the inter-relationship with the Core Strategy, viability testing has been part of an existing and ongoing process;
 - Detailed viability testing has been carried out on key components that are integral to delivering the approach set out in the Core Strategy as part of the CIL process (e.g. CIL Strategic Sites Testing (Examination Document ID4)) and other technical studies (e.g. Three Dragons affordable housing viability study (Examination Document HG17));
 - The cost of on-site infrastructure has been reflected in the viability assessments of larger site allocations (notably highway and utilities infrastructure) and for the purposes of CIL viability testing;
 - The Council's Affordable Housing SPD (September 2013) (Examination Document HG2) has helped provided a degree of flexibility over viability;
 - Housing sites have been subject to high level viability testing through the Council's 2008 (Examination Document HG13) and/or 2016 Strategic Housing Land Availability Assessments;

- Most of the housing allocations have the support of landowners (or have developer options) and progress is being made through the planning application stage; (see Table 1 in Appendix 1); and
- Sites have been, or will be, subject to further testing at the planning application stage.

4.9 With regard to the consideration of site viability of LA5 with the inclusion of a traveller site, it is also pertinent to note that the traveller site at LA5 is separated from the proposed new housing by the proposed cemetery extension. This means that the closest new homes will be 100 metres away from the traveller site. In addition, the landscaping proposed in the LA5 Draft Master Plan (Examination Document LA47) means that the Traveller site is unlikely to be visible from the new housing. Paragraphs 5.13, 5.44, 5.45 and 5.56 in document LA47 are particularly relevant in this respect.

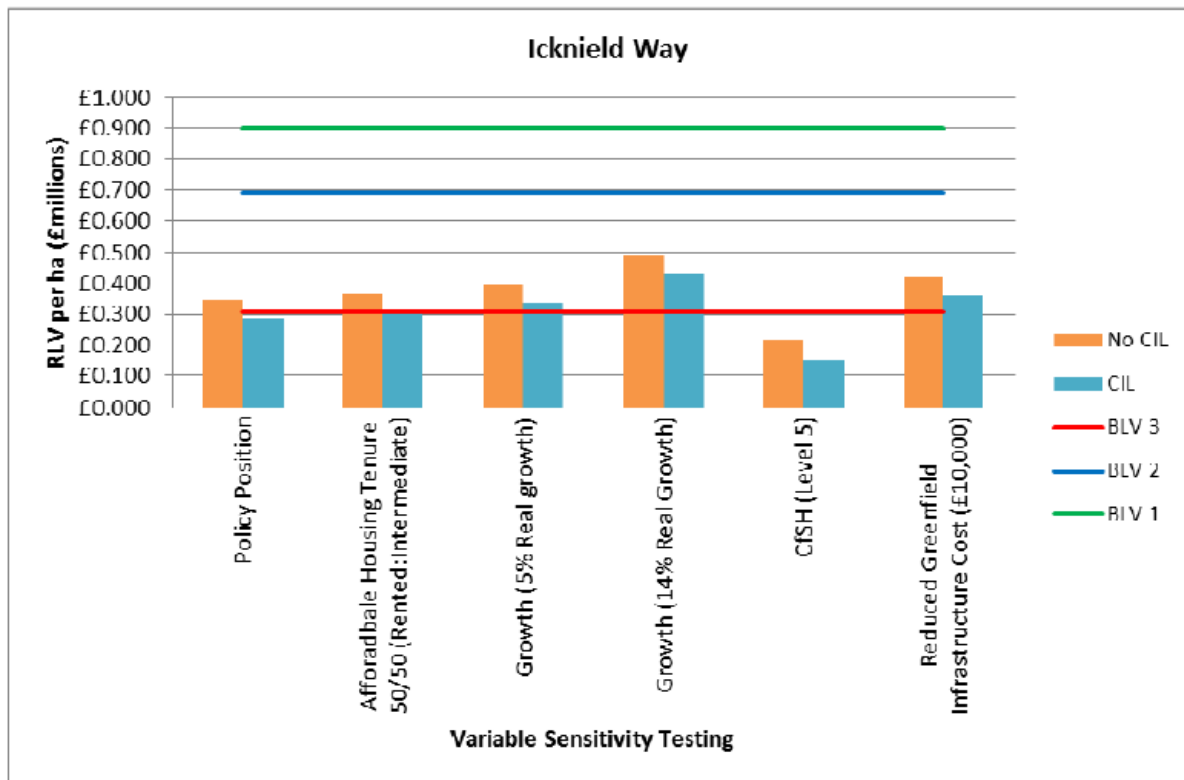
4.10 The site at LA5 will also have its own access from Aylesbury Road, so those travelling to the site will not have to go through the proposed housing development.

4.11 In the light of these additional site-specific considerations, it is likely that any impact that the traveller site might have on viability of the LA5 development will be substantially less than if the traveller site was proposed to be located within or immediately adjacent to the new housing.

Extracts from 2013 and 2016 BNP Paribas Estates viability studies

(a) 2013 Viability Result:

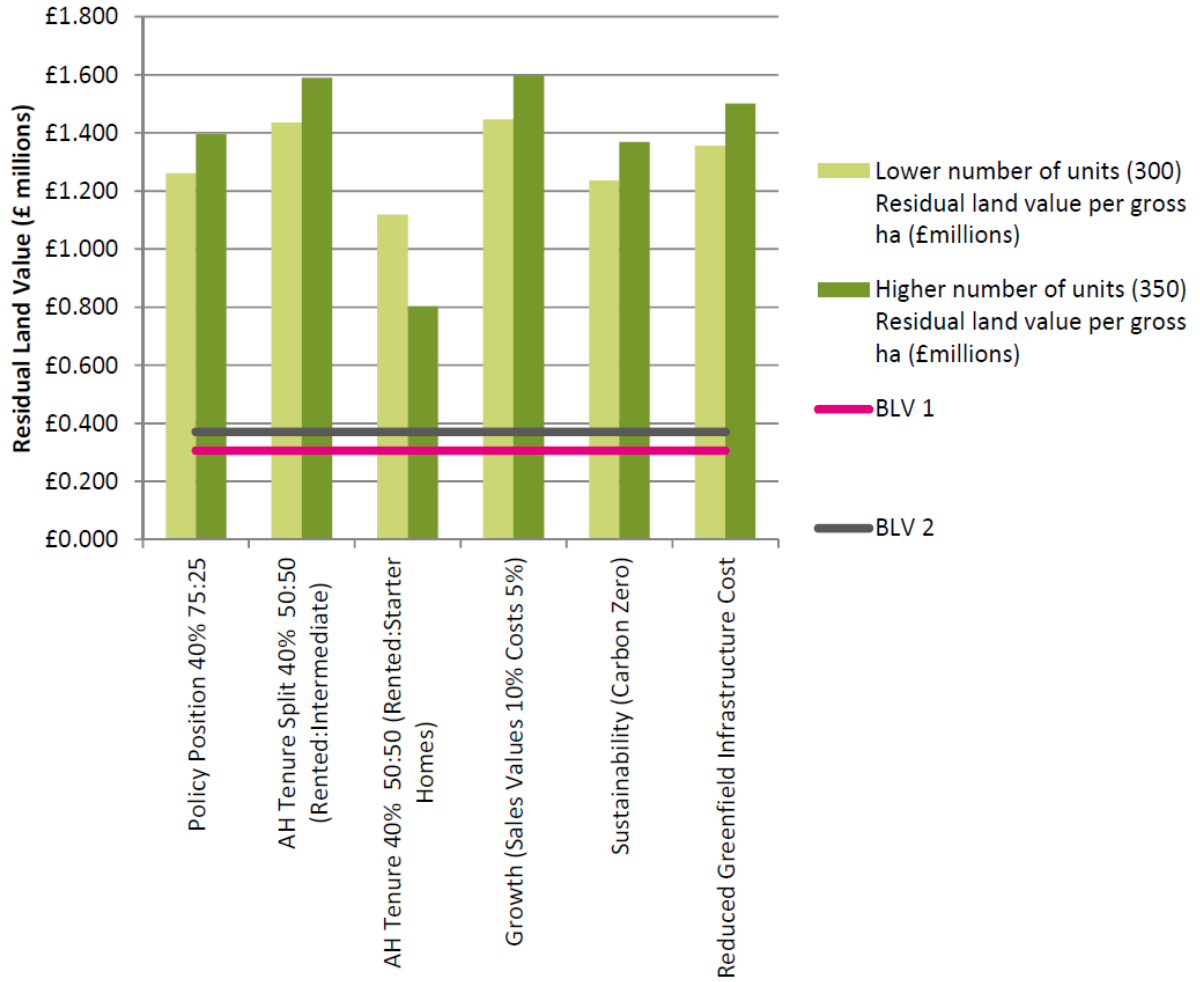
Figure 4.1.5: Residual land values per hectare compared to benchmark land values (Icknield Way – LA5)



Source: Examination Document ID4

(b) 2016 Viability Result:

Figure 4.2.3: LA5 Icknield Way Residual land values per hectare compared to benchmark land values – Sensitivity testing scenarios



Source: Examination Document HG19