

**Borough of Barrow-in-Furness Local Plan Review 1996-2006 - Proposed Housing Chapter Alteration  
Responses to Post-Inquiry Modifications**

**Statement of Reasons and Decisions - May 2006**

Ref	Commenter	Policy/ Paragraph	Comments	Officer Assessment and Decision
1	NAI Fuller Peiser on behalf of BAE Systems plc	Para 3.1.17	<p>“As detailed in previous representations to the Housing Issues Paper, BAES are in the process of reviewing its landholdings in Barrow, and at this stage it is likely that there will be land surplus to requirements. It is envisaged that this will result in sites becoming available which could accommodate a significant amount of housing in the future.</p> <p>Pursuant to this, BAES welcome the recognition in paragraph 3.1.17 that there may be suitable brownfield land at BAES’ Barrow site that would be suitable for windfall housing development. BAES also recognise the importance of the Urban Capacity Study (UCS) in identifying brownfield windfall housing sites and would like to actively participate in the UCS process.</p> <p>BAES do, however, request that paragraph 3.1.17 of the Post-Inquiry Modifications document is amended slightly, to re-instate part of the text deleted at the Post- Inquiry Modifications stage. BAES therefore object</p>	<p>Following the Public Inquiry in April 2005 the Inspector recommended that paragraph 3.1.17 be altered from the following proposed wording as set out in the second deposit:</p> <p>‘The policy approach has been strengthened by an indication from Bae Systems that they may have land within the inner areas of the Borough that could become surplus to their requirements in the medium to long term. The exact location, amount of land and when it is likely to come forward is not known at the present time and it is therefore not included in the Urban Capacity Study for the Borough however should this circumstance arise the authority would wish to utilise the extra capacity to bring forward redundant brownfield sites as windfall opportunities to regenerate the inner areas.’</p> <p>To:</p> <p>‘The policy approach has been strengthened by indications that there may be suitable land at Bae Systems and at other brownfield sites within the inner areas of the Borough that could come become surplus to their requirements in the</p>

		<p>to the proposed changes to paragraph 3.1.17 and request the following amendments are made (see bold typeface).</p> <p><i>... This policy has been strengthened by indications that there may be suitable land at Bae Systems and at other brownfield sites within the inner areas of the Borough that could become surplus to their requirements in the medium to long term. The exact location, amount of such land and when it is likely to come forward is not known in all cases at the present time but it is anticipated that such details will be identified in a UCS which will be carried out in 2006, and will assist in the preparation of the LDF. <b>Subject to the outcome of the UCS, the Council would wish to utilise this extra capacity to bring forward redundant brownfield sites as windfall opportunities to regenerate the inner areas.</b></i></p> <p>The proposed amendment to paragraph 3.1.17 will ensure the Council's commitment to developing redundant brownfield sites, particularly in the inner areas of the Borough, to assist the regeneration of these areas.</p> <p>Although at this stage it is difficult to be site-specific about any surplus land, we anticipate that the land will be in a sustainable location for housing development. Pursuant to this, BAES would</p>	<p>medium to long term. The exact location, amount of such land and when it is likely to come forward is not known in all cases at the present time but it is anticipated that such details will be identified in a UCS which will be carried out in *2005, and will assist in the preparation of the forthcoming LDF.'</p> <p>The objector has requested the reinstatement of the last sentence of the paragraph as set out in the second deposit in a slightly amended form.</p> <p>The Inspector, however, recommended that this last sentence should be deleted, as it referred to an out of date UCS (1998), would give rise to an unbalanced approach towards other windfall sites that had previously been identified in the 1998 UCS and would unfairly pre-empt the findings of the forthcoming UCS and therefore detract from the robustness of the alteration. She recommended it should be replaced with a new sentence that referred to the new UCS currently being prepared.</p> <p>*The proposed post-inquiry modifications proposed to accept the Inspector's recommended wording with further minor changes to bring it up to date to read as follows ".... 2006, and will assist in the preparation of the LDF."</p> <p>It is considered that the proposed wording of this supporting text is appropriate in explaining the Council's policy approach. The proposed text does refer to the potential that surplus brownfield BAE land may offer, but quite properly does not</p>
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			<p>like to work with the Council in the preparation of the Urban Capacity Study (UCS), particularly in identifying land surplus to the company's requirements, which would be suitable for brownfield windfall housing development. BAES therefore request that Barrow Borough Council continue to take account of the potential for land to come forward within the urban area, as a result of BAES' asset consolidation, and involve BAES in the preparation of the UCS.</p> <p>We trust the above is clear and that you will take these representations into account. We look forward to receiving notification that our representations have been received. We reserve the right to amend these representations or withdraw them if necessary."</p>	<p>prejudge the outcome of the UCS. The proposed Alteration makes clear the Council's commitment to developing suitable brownfield sites in the inner wards.</p> <p>The objector has been contacted with regard to the UCS being currently prepared with an invitation to participate in its preparation by indicating any specific sites they would wish to be considered.</p> <p><b>No modification.</b></p>
2	How Planning on behalf of National Grid (formerly Secondsite Property)	<p>Policy B1 (now B5)</p> <p>Para 3.2.8 (now 3.2.10)</p>	<p>"National Grid maintains their objection to the de-allocation of the Dalton Gas Holder site Dalton-in-Furness for residential development from policy B1 of the adopted Local Plan, the Council's reasons for de-allocation are flawed as previously stated the site complies with the site selection criteria for residential sites.</p> <p>Support is given to the general emphasis of this paragraph in its regeneration of the Dalton Gas Holder sites suitability for residential development. However,</p>	<p>The Council's argument for the de-allocation of the Dalton Gas Holder Site within the Housing Chapter Alteration process was not that it was unsuitable for residential development, but that it would be more suitably dealt with as a windfall site due to its small size. The Inspector did not agree with this view and recommended that the site remained allocated, providing that a Flood Risk Assessment did not indicate that the site would be unsuitable for residential development. The objector agrees with the Inspector's view that the site should remain allocated.</p>

		<p>objection is raised to the final sentence which states:</p> <p>'The Dalton Gas Holder Site has not been carried forward as an allocation primarily due to its small scale.'</p> <p>The Council do not justify this statement.</p> <p>Notwithstanding this, for development control purposes the government define (for statistical revenues under PS2 returns) there are three types of development. The first being major developments of 10 dwellings or more, 1,000sq.m or more.</p> <p>Based on a site area of 0.24ha the site could conceivably achieve 10 dwellings or more, a major detailed application could be brought forward on the land.</p> <p>The Council's reason for the sites de-allocation is considered invalid.</p> <p>The Council in their 'Statement of Reasons' report highlighted an additional point for the sites de-allocation was due to Structure Plan Policy ST3, the Council do not consider the site complies with the sequential approach of this policy.</p> <p>However, the Inspector in her report of September 2005 agrees that the Council's previous reasons for de-allocation were also flawed (paragraph 144). The Inspector in</p>	<p>At the time of the Public Inquiry, an outline planning application (2004/0584) for residential development of approximately two thirds of the site was under consideration. The Public Inquiry closed on the 22<sup>nd</sup> April 2005 and the outline planning application was refused at the Planning Committee meeting of the 26<sup>th</sup> April 2005.</p> <p>The Flood Risk Assessment submitted as part of the planning application did not indicate that the site was unsuitable for residential development. In addition to this the Environment Agency stated, as part of the planning application consultation process, that they believed, subject to suitable works, that the site could be developed satisfactorily.</p> <p>The Council's decision to refuse consent was policy based and the reason for refusal is reproduced below.</p> <p>"By virtue of the sites location within an area of high flood risk (Zone 3 Fluvial). Approval of the proposal would conflict with planning policy including policy ST3 of the emerging Cumbria and Lake District Joint Structure Plan 2001-2016.</p> <p><i>Policy ST3</i>  <i>"All proposals for development including alterations to existing buildings and land use change will be required to:</i></p> <p><i>1. seek locations consistent with policy ST5 and ST6 and then in the following order of priority:</i></p>
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		<p>her consideration of the site was aware of the Council's recent refusal of residential planning permission on the site and at paragraph 143 states:</p> <p>'I note from its reason for refusal of a recent planning application for residential development of the site some Council Members have concerns that the site may be at risk of being flooded, but this view is not supported by evidence submitted to this Inquiry.'</p> <p>The Inspector goes on to state at paragraph 146:</p> <p>'I consider that the particular circumstances pertaining to the Dalton Gas Holder Site justify the retention of its current housing allocation. Consequently, I support the objections to its de-allocation and I recommend that the housing site designation of this site be carried forward into the alteration and listed as an allocation in Policy B1, unless a Flood Risk Assessment indicates otherwise.'</p> <p>The Inspector goes on to acknowledge taking account of the plan, monitoring and manage approach the site should come forward in Phase 2 2006-2011. At Paragraph 184 the Inspectors formal recommendation states:</p> <p>'(a) I RECOMMEND that unless a Flood Risk</p>	<p><i>a) the appropriate reuse of existing buildings worthy of retention, followed by</i></p> <p><i>b) the reuse of previously developed land and only then</i></p> <p><i>c) the use of previously undeveloped land,</i></p> <p><i>2. seek sites that are or will be made accessible by public transport, walking or cycling,</i></p> <p><i>3. reduce the risk of flooding within the development and elsewhere by a choice of location in the following order of priority:</i></p> <p><i>a) sites with little or no flood risk, followed by</i></p> <p><i>b) sites with low or medium flood risk, and only then</i></p> <p><i>c) sites in areas of high flood risk subject to a design which minimises or mitigates any risk, and through the provision of sustainable drainage systems.</i></p> <p><i>4. ensure agricultural land of poorer quality is used for development in preference to the best and most versatile agricultural land.</i></p> <p><i>5. avoid the loss of, or damage to, and where possible enhance, important or distinctive conservation features, including nature conservation interests, landscapes, buildings, archaeological sites, historic parks and gardens and visually important public and private open spaces.</i></p> <p><i>6. ensure high standards of design including</i></p>
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		<p>Policy B4</p>	<p>Assessment indicates that the Dalton Gas Holder site is unsuitable for residential development the Alteration be modified by carrying forward the allocation of this site as a housing site listed in Policy B1. I further recommend that the alteration be modified by appropriate consequential amendments to paragraph 3.2.8 of the alteration, to Table 8 and its accompanying site notes to the Table attached to the new Policy: Phasing, where the site should be included in phase 2; 2006-2011.'</p> <p>The Local Plan Inspector recognises the site value as a residential allocation and its contribution to the Boroughs housing land supply. The Inspector recommends a Flood Risk Assessment is undertaken which must demonstrate the sites suitability for residential development.</p> <p>A Second Revision Flood Risk Assessment was prepared in accordance with PPG25 guidelines and through discussions with the Environment Agency. As a result the EA are satisfied that development can take place subject to 3 conditions being attached to planning permission to mitigate against any flood risk. Consequently this is a material consideration in the allocation of the site which has been over looked by the Council.</p> <p>Support is given to this policy for its productive approach to urban regeneration."</p>	<p><i>siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape.</i></p> <p><i>7. promote a safe and secure environment that designs out crime and makes proper provision for people with restricted mobility and people with special needs,</i></p> <p><i>8. promote energy efficient design and the use of recycled materials and renewable energy technology,</i></p> <p><i>9. avoid reductions in air quality and the quality and quantity of groundwater and surface waters,</i></p> <p><i>10. ensure development makes efficient use of and is within infrastructure community and service constraints, or that these can be satisfactorily overcome through planned improvements or at the developers expense without an adverse effect on the environment".</i></p> <p>The applicant appealed against the refusal and the appeal was allowed on 17 March 2006.</p> <p>The Inspector dealing with the appeal stated in paragraph 16 of his decision that;</p> <p>" .. the Council considers that the proposed development would conflict with policy ST3 of the emerging SP. I understand that adoption of this Plan is imminent, and so I attach much weight to it. The only respect in which conflict</p>
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				<p>would depend on the density achieved. The objection the Inspector considered at the Inquiry was to the deallocation of the whole site, 'around 0.4ha'. (The original objection at 1<sup>st</sup> Deposit stage was to the deallocation of the whole site) The current objection refers only to the part of the site amounting to 0.24 ha (presumed to be the site subject of the recent successful appeal against the refusal of outline planning permission that was objected to at the Inquiry stage. The application included an illustrative plan showing a cul-de-sac of 9 dwellings.)</p> <p>The Council has consistently argued that the Dalton Gas Holders site is most suitably dealt with as a windfall site due to its small size. This point, whilst recognised to be a matter of judgement, is not felt to need further explanation and there is not considered to be any new evidence on this issue to justify changing the Council's position. The supporting text of the Proposed Alteration states that the site "in principle [is] still considered suitable for residential use".</p> <p>The site to which the current objection relates now benefits from outline planning consent and the suitability of the site for residential development has therefore been confirmed.</p> <p>The support for Policy B4 (now B5) is noted, but this does not relate to a proposed modification.</p> <p><b>No modification.</b></p>
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3	Stephens Associates on behalf of Neil Price Limited	Policy B1	<p>“The Planning Inspector who held the inquiry into the proposed alterations to the housing chapter of the Local Plan states in her report of 7 July 2005 that <i>I am not totally convinced that the whole of the Beach Street/ Sharp Street (site H3) is brownfield.... Whilst the land is not cultivated and includes some urban features such as fencing and miscellaneous storage, it nevertheless appears to me, that in the Barrow context, the authorised use of part of the site beyond the existing/ former garages is allotments: consequently that it is not brownfield/ previously developed land. She recommended that the Council critically re-assesses the brownfield/ greenfield nature of H3.</i></p> <p>The Statement of Reasons and Decisions of the Council that gives their response to the Inspector’s recommendations indicates that their contention that the site is brownfield is based on an inspection of the site carried out in 1986. Since then the appearance of the site has improved with the removal of many of the caravans, greenhouses, sheds and garages and the judgment should be based on the condition of the site as it is now.</p> <p>Most of the site is amenity open space very similar in character to the remainder of the land between Beach Street and Sharp Street that is protected from development by Policy D26. It contains three small areas</p>	<p>Following the Public Inquiry in April 2005 the Inspector recommended that Housing Site H3 (Beach Street/Sharp Street, Askam) be critically re-assessed in respect of its brownfield/greenfield nature.</p> <p>The Inspector’s views and her recommendation are reproduced in full below:</p> <p><i>“..., from the evidence before me, and from my inspections of the site from public vantage points, I am not totally convinced that the whole of the Beach Street/Sharp Street (site H3) is brownfield. I accept that part of the site was, or is, occupied by garages and would fall within the definition of previously-developed land as set out in Annex C of PPG3. But from my external inspection of the site, I do not consider that the whole of the allocated site H3 forms the curtilage of the garage court. It is my opinion that part of it is allotment/communal land, of the somewhat untidy type that is found in several other parts of the Borough. Whilst this land is not cultivated and includes some urban features, such as fencing and miscellaneous storage, it nevertheless appears to me, that in the Barrow context, the authorised use of part of the site beyond the existing/former garages is allotments: consequently that it is not brownfield, previously-developed land.</i></p> <p><i>I have insufficient evidence to recommend that housing site H3 should be de-allocated for this reason, but at paragraph 104 I recommend that the Council re-assesses the sequential status of site H3 and makes any necessary modification to</i></p>
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			<p>of allotments but these are specifically excluded from the definition of brownfield land given in PPG3 <i>even though those areas may contain certain urban features such as paths, pavilions and other buildings</i>. There are only three single vehicle garages outside the allotment areas within the allocated site area of some 1.1 hectares and it cannot be described as 'previously developed'. The 'critical re-assessment' of the site that was recommended by the Planning Inspector has, therefore, not been undertaken properly and the outcome appears to have been influenced by the fact that it is Council owned.</p> <p>The possibility of developing the site for housing was identified in the 1991 Local Plan but there is still some doubt if various development constraints such as poor ground conditions and means of access can be removed. Indeed, Table 7 [now Table 3] of the proposed alteration states that <i>the site is currently occupied by a number of unauthorised users. Legal action is being taken to gain possession of the site</i>. It is therefore premature to allocate this site for housing when there are alternatives that are immediately available in Askam-in-Furness and it would be more appropriate for the site to be re-considered during the preparation of the Local Development Framework that will replace the Local Plan within the next three years."</p>	<p><i>the appropriate part of Table 8."</i> [now Table 4]</p> <p>Her recommendation was that:  <i>"...the Council critically re-assesses the brownfield/greenfield nature of site H3. If as a result, it considers that part of the site is greenfield, this should be clarified by a modification to the reason given for the selection of this site in Table 8."</i> [now Table 4]</p> <p>Planning Policy Guidance Note 3: Housing, states <i>'Previously-developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously-developed land may occur in both built-up and rural settings. The definition includes defence buildings and land used for mineral extraction and waste disposal where provision for restoration has not been made through development control procedures.</i></p> <p><i>The definition excludes land and buildings that are currently in use for agricultural or forestry purposes, and land in built-up areas which has not been developed previously (e.g. parks, recreation grounds, and allotments - even though these areas may contain certain urban features such as paths, pavilions and other buildings). Also excluded is land that was previously developed but where the remains of any structure or activity have blended into the</i></p>
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				<p><i>landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings), and where there is a clear reason that could outweigh the re-use of the site - such as its contribution to nature conservation - or it has subsequently been put to an amenity use and cannot be regarded as requiring redevelopment.'</i></p> <p>The Council is the freehold owner of the land at Beach Street/Sharp Street, which was purchased in 1986. At the time of the purchase, various parts of the land were in occupation by local residents. An inspection of the site was carried out in 1986 concerning the physical appearance of the land. It identified an electricity sub-station, 10 garages in various conditions, 3 caravans, a greenhouse, 2 or more derelict sheds, at least 7 allotments and a number of clothes posts and washing lines. The Council also received a schedule from the then owners and this identified 57 different occupiers. It is on the basis of this historical information that the Council considered it to be a brownfield site.</p> <p>The reason the Council purchased the land was to develop it for housing. However intrusive ground investigations resulted in the identification of a layer of peat under the site which rendered it unsuitable for building houses on at that time. For this reason the site wasn't developed and some of the previous occupiers remain on the site today. Notwithstanding the issue of ground conditions, the site was brought</p>
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				<p>forward as a possible future housing site in the 1991 Local Plan and then carried forward into the 2001 Local Plan Review. Modern building methods mean that the site could be developed today.</p> <p>Following receipt of the Inspector's report and in line with her recommendation, the site was revisited by two Planning Officers for the purposes of critical re-assessment. Neither of these Officers had been involved with the original assessment of the land. The objector's contention that the Council's conclusion that the site is brownfield is based on an inspection of the site carried out in 1986 is disputed. The Statement for Reasons and Decisions referred to, although describing the background to the allocation, including the 1986 assessment, clearly states that a re-inspection and re-assessment has taken place and describes this and the conclusion reached as follows:</p> <p>"Little had changed in respect of the use of the land. The site is still occupied by a number of buildings, enclosures and hardstanding areas. There are two main areas of development, although there are buildings, enclosures and hardstandings scattered across the whole site. Sections of the site have been filled and there are two fairly large mounds to the rear of Beach Street. Some areas have been mowed and treated as garden extensions, with other areas used for washing lines. The remaining area of the site is in a semi-natural state that is predominantly used for informal recreation and</p>
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				<p>exercising dogs.</p> <p>In the absence of significant change, when viewed as a whole, the conclusion that the site is predominantly previously-developed remained unchanged.</p> <p>Whilst some parts of the site would, according to the definition in PPG3 constitute greenfield land, others are clearly previously-developed. To restrict the allocation to only the previously developed parts would result in a wholly unsatisfactory form of development. It is therefore considered appropriate to view the site as a whole or in two or four parts, none of which are fully greenfield."</p> <p>As can be clearly seen, this reassessment recognises that parts of the site are greenfield and parts brownfield, as did the Inspector in her report. Whilst formal allotments are clearly not previously-developed land according to the PPG3 definition and residential curtilages are, the Inspector concluded that part of the land is allotments in the "Barrow context". However, the land she describes is clearly not allotments within the normal meaning of "a small piece of ground in or just outside a town that a person rents for growing vegetables, fruit or flowers" (Cambridge) or "a small piece of usually public land rented by an individual for cultivation (Collins)".</p> <p>It is appropriate only to assess the authorised (in planning terms) uses on the site.</p>
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				<p>Assessments as to the brownfield/greenfield status of mixed sites such as this is a balance and judgement, ultimately to be determined in the Courts. It is considered, however, that a critical reassessment has been carried out as recommended by the Inspector. The Inspector did not propose a modification to remove the allocation and nor do the Council. The current objection does not therefore strictly speaking relate to a proposed modification. However, in view of the Inspector's recommendation, the objection to the reassessment and its conclusion has been duly considered.</p> <p>However, the findings remain as previously stated.</p> <p><b>No modification.</b></p>
4	Ian Walker, The Environment Agency	Policy B12 (Now B13)	<p>"I understand from our telephone conversation on 9th March 2006, and our interpretation of the document, that the Agency's objections have been resolved.</p> <p>In the conversation you mentioned that one of the remaining issues at this stage is the updating of the proposals map and that this will include the re-defining of the development cordon for North Scale, thus excluding the proposed expansion into a flood risk area."</p>	<p>The Environment Agency objected to the expansion of the North Scale Residential Development Cordon to the north east shown in the First Deposit of the Alteration, as this would have included an area of tidal floodplain and would therefore be contrary to advice contained within PPG25 – Development and Flood Risk.</p> <p>The proposed expansion of the cordon to the north east was deleted prior to the second deposit in response to the objection and the Environment Agency withdrew their objection on this basis.</p> <p><b>No modification necessary.</b></p>

5	Alan Hubbard, The National Trust.		<p>“Having carefully considered the Inspector’s report, the Council’s responses to the Inspector’s recommendations and the Further Modifications now proposed, I can advise you that the National Trust does not wish to make any additional submissions. It is our view that the Alteration can now move to Adoption in the latest proposed form.”</p>	<p><b>No modification necessary.</b></p>
6	Health and Safety Executive.		<p>“Whilst HSE would not wish to raise any objections and representations in respect of the proposed modifications, we would point out that the Council need to be aware of the notifiable hazardous installations within their Borough and the development control constraints around the sites.” (A list of the installations was included)</p>	<p>The Council are aware of these sites and the development control constraints around them.</p> <p><b>No modification necessary.</b></p>