

Examination of the North Hertfordshire Local Plan (2011-2031)

Examination hearing sessions

Statement of North Hertfordshire District Council

Matter 15 – Countryside and Green Belt: the policy approach to the Green Belt, Rural Areas beyond the Green Belt and Urban Open Land (Policies SP5, CGB1, CGB2, CGB3, CGB4 and CGB5)

15.1 Policy SP5 says that “We will only permit development proposals in the Green Belt where they would not result in inappropriate development”. Paragraph 87 of the National Planning Policy Framework introduces the concept of ‘very special circumstances’. Paragraph 88 makes it clear that ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm (for example, to the openness of the Green Belt) is clearly outweighed by other considerations. Should this be more clearly reflected in Policy SP5?

1. The Council agrees there is an inconsistency with national policy in Policy SP5 as currently drafted. A modification is suggested to criterion c to read:

"[We] Will only permit development proposals where they would not result in inappropriate development **or where very special circumstances exist**".

15.2 Policy SP5 says that “We will operate a general policy of restraint in Rural Areas beyond the Green Belt”.

a) What policy is this referring to?

b) What does this mean? Is this strand of Policy SP5 sufficiently clear so as to be effective?

2. These questions are answered together.
3. A number of the strategic policies in Section 2 of the Plan, specifically policies SP3 to SP13 inclusive, provide the framework within which more detailed policies and allocations of the plan operate. These policies generally set out the key aims of the Council for that topic. They are contained under a series of sub-headings in Chapter 4 that correspond to chapter headings of the same name in Section 3 of the Plan where the detailed development management policies are set out.
4. The Countryside and Green Belt section of Chapter 4, including Policy SP5, therefore corresponds with the detailed policies in Chapter 6 of the plan.

5. In identifying a 'general policy of restraint...' Policy SP5(d) is referring to the application of the policies in Chapter 6 and Policy CGB1 in particular.
6. This relationship is identified in paragraph 4.59 of the supporting text (LP1, p.42): "...it remains appropriate to have a policy of restraint. Our detailed policies set out the approach that will apply in this area."
7. The strategic policies of the plan generally take a consistent approach and do not directly reference individual policies or chapters within Section 3 of the Plan. It is not considered necessary to single out Policy SP5 for a different approach.

15.3 Is Policy CGB1 justified and consistent with national policy?

8. Yes.
9. The supporting text to Policy SP5 identifies, at paragraph 4.59, that "[i]n terms of intrinsic character and beauty, [the rural] area [beyond the Green Belt] contains some of the highest quality countryside in the District"¹.
10. On this basis, a policy that seeks to generally preserve the openness, quality and character of the rural area is justified.
11. Notwithstanding this point, CGB1 is not entirely restrictive, allowing for modest development to occur within Category B and Category C settlements (see the Council's Matter 5 Statement) and also adjoining Category A settlements. It provides for the needs of agriculture and forestry and the other forms of development specified.
12. To ensure other policies of this chapter and the plan as a whole can be consistently applied it is proposed to delete the word "infill" from criterion a of this policy.
13. On first reading, there may appear to be some conflict between the approach taken to 'rural areas beyond the Green Belt' in the plan when compared to national policy. The list of permissible development in Policy CGB1 is less generous when compared to the treatment of rural areas in the National Planning Policy Framework (NPPF).
14. However, read as a whole, it is clear that references to "rural areas" within the NPPF take a broader definition which also includes villages. This is evident, for example, in Paragraph 55 which considers the matter of housing within villages to be within its scope. In the context of the NHDC plan, the NPPF definition of "rural areas" would therefore additionally encompass the Category A villages of the plan where a far more permissive approach to development is taken (see the Council's Matter 2 statement).
15. Reading across the spectrum of policies in the Plan to which the NPPF definition of "rural areas" might apply², it can be seen there is a general consistency with national

¹ The Council's Landscape Study (CG16) identifies areas around Barley, Wallington and to the south of Royston as being among the more sensitive landscapes of the district.

² Including (but not necessarily limited to) Policies SP2, ETC2, ETC7, ETC8, HS1, HS2 and HC1

policy in terms of supporting sustainable development, promoting appropriate housing development within villages and facilitating economic development and diversification.

16. It is proposed to add a short footnote to the end of paragraph 6.1 of the Plan (LP1, p.84) to clarify this relationship:

“The Council’s definition of “Rural Areas beyond the Green Belt” is not intended to replicate the NPPF definition of “rural areas” which also includes development within villages, as covered by other policies of this Plan.”

15.4 Is Policy CGB2 justified? Is it effective? :

17. The overall justification for Policy CGB2 is set out in the supporting text of the Plan (LP1, paragraphs 6.4 to 6.6, p.85). The policy will be effective in allowing for specifically identified local development needs to be met as an exception to the normal policy requirements of the Plan.

In particular

a) Is allowing community facilities and services or affordable housing in Category C Settlements intended to be an exception to policy (Policy SP2)?

18. No. Policy SP2 states that limited affordable housing and facilities for local community needs will be allowed in Category C settlements (LP1, p.33). Development complying with Policy CGB2 within Category C settlements would therefore be in conformity with Policy SP2, not an exception to it.

b) Is it intended that this policy will apply to exception sites in the Green Belt? If so, will it be necessary to demonstrate that ‘very special circumstances’ exist before the development can be allowed?

19. Yes, it is intended that this policy will apply in the Green Belt. However, in many cases it will not be necessary for very special circumstances to exist before development can be allowed.
20. Paragraph 89 of the NPPF identifies "limited affordable housing for local community needs under policies set out in the Local Plan" as development which is not inappropriate. Similarly the caveated "provision of appropriate facilities for outdoor sport [and] outdoor recreation". This latter definition might reasonably encompass a community sports pavilion or similar.
21. Paragraph 90 identifies that any development brought forward under a Community Right to Build Order is not inappropriate provided that it preserves the openness of the

Green Belt and does not conflict with the purposes of including land within it. This is referenced in Paragraph 6.13 and footnote 79 of the Plan (LP1, pp.85-86).

22. In cases where the exceptions of the NPPF did not apply, then development would by definition be inappropriate in the Green Belt and the very special circumstances test would apply. In this instance the provisions of SP5(c) would apply (as proposed to be amended in response to Issue 15.1).
23. In such a scenario, the aims and aspirations of CGB2 might be used to support a case of very special circumstances and its criteria used to assess any such case, but it is not considered necessary to make reference to very special circumstances within CGB2 itself. A modification is proposed to add a sentence to the end of Paragraph 6.12:

“...Where proposals are for development that would be inappropriate in the Green Belt, Policy CGB2 will not override the provisions of national policy or Policy SP5(c). In such instances, the criteria of this policy will be used to help consider and assess any case of very special circumstances.”

c) Criterion e. refers to the public benefit outweighing any harm. But for ‘very special circumstances’ to exist, harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Noting this, and that market housing is allowed for the purpose of cross-subsidy, is the policy consistent with national policy in this regard? If not, what is the justification for the approach taken?

24. In many cases development under Policy CGB2 would be capable of being not inappropriate. This is for the reasons set out above.
25. It is considered that any market housing included for cross-subsidy in an otherwise affordable housing scheme would fall within the umbrella of "...under policies set out in the Local Plan" in NPPF paragraph 89. The approach taken in CGB2 is also consistent with advice in NPPF paragraph 54 in this regard. A similar policy was found sound following Main Modification in the examination of the Cheshire West and Chester Local Plan³.
26. As above, the Council would determine any proposals which were considered inappropriate development in line with national guidance using the criteria of Policy CGB2 to help consider and assess any case of very special circumstances.

³ Cheshire West and Chester Local Plan (Part One) Strategic Policies, adopted January 2015, Policy SOC2 and associated supporting text (pp.69-70)

15.5 Is Policy CGB3 justified and effective? In particular:

a) What is the justification for the approach taken to support new homes for rural workers, particularly the specific periods of time referred to in criterion b.?

27. North Hertfordshire is a high value housing area. House prices in the rural areas reflect the demand for countryside homes and lifestyles in close proximity to London.

28. In this context it is important to ensure, firstly, that genuine needs for a residence linked to traditional rural activities can be insulated from market forces that could otherwise render such accommodation unaffordable to those who require it. Secondly, that policies of this nature do not lead to the creation of additional general market homes either inadvertently or through the back door. This provides justification for a policy of this nature.

29. This is consistent with the general advice in the National Planning Policy Framework to support agriculture and land-based business (paragraph 28) and to avoid isolated new homes in the countryside unless (as one of several exception criteria) there is an essential need for a rural worker to live permanently at or near their place of work in the countryside (paragraph 55).

30. The time periods identified in criterion b are a balanced judgement as to a reasonable length of time for a rural business to demonstrate it is established, viable, and likely to remain so over a period such as to justify the creation of a dwelling in an area where this would normally be precluded.

31. The criteria in Policy CGB3, including criterion b, are based upon advice formerly contained in Annex A of Planning Policy Statement 7⁴. This was revoked upon adoption of the NPPF in 2012 with no direct replacement in that document. This advice has subsequently been translated into adopted or emerging policy by a number of authorities⁵.

b) Should the policy include provisions for temporary dwellings for rural workers?

32. The provisions in the policy would apply to temporary dwellings. Paragraph 6.17 of the supporting text (LP1, pp.86-87) states that temporary accommodation or time-limited permission should normally be granted with permanent dwellings following in the event of persistent need.

⁴ Planning Policy Statement 7: Sustainable Development in Rural Areas (ODPM, 2004)

⁵ Including (but not limited to) adopted plans of Chichester (2015) and Three Rivers (2013) and the draft plans of Cheshire West and Chester (2016), Peterborough (2016), Salford (2016) and Waveney (2017).

15.6 Is Policy CGB4 consistent with national policy? In particular:

a) In criterion a., is the term 'major extension' consistent with the term 'disproportionate additions over and above the size of the original building'?

33. Yes. It is considered that these terms are consistent with one another. In the event of a proposal in the Green Belt it would be necessary to read the requirements of the NPPF alongside this policy.

b) Does criterion a. seek to prevent the 'major reconstruction' of buildings? If so, is this consistent with national policy, which allows the replacement of buildings in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces?

34. Read in full, Criterion a seeks only to prevent 'major reconstruction' of buildings where existing building(s) are being converted for re-use (i.e. the existing building is to be substantively retained and subject to a change of use). A small modification is proposed to clarify this for effectiveness:

"Any existing building to be converted **for re-use** does not require major extension or reconstruction"

35. The NPPF guidance in Paragraph 89 identified in the Inspector's question relates to the complete replacement of buildings in the Green Belt where the new building is to be in the same use (such as a replacement dwelling). In this scenario, criterion b. of Policy CGB4 would be engaged. This is consistent with the advice in national policy as set out in answer to 15.6(d) below.

36. The advice in the fourth bullet of NPPF Paragraph 90 is the more direct comparator to Policy CGB4(a) and it can be seen that the two are consistent.

c) Noting that criterion a. applies to Rural Areas beyond the Green Belt – i.e. in the countryside – is it more stringent than national policy in relation to development in the countryside that is not Green Belt? If so, what is the justification for this?

37. Paragraph 28 of the NPPF supports the re-use and conversion of existing buildings to support the sustainable growth and expansion of rural business and enterprise, without caveat on the extent of works required. However, as set out in answer to Issue 15.3 above, read as a whole it is clear that the NPPF's definition of "rural areas" also encompasses villages. Under the policies of this plan, such development would be capable of being supported within Category A villages and the built core of Category B villages through the application of Policies SP2, ETC2, ETC7 and / or ETC8

38. In relation to residential uses, the exception in the third bullet of NPPF Paragraph 55 is narrowed to redundant or disused buildings. Criterion a refers to the conversion of any building, regardless of its state.

39. The supporting text to CGB4 recognises the need to ensure that proposals for the re-use of buildings (as well as the other forms of development covered by this policy) do not cause harm to the rural area (LP1, p.87). Criterion a is therefore consistent with national policy, particularly when viewed in the context of the rural area policies of the plan as a whole, and does not seek to apply a more stringent test for which justification would be required.
40. In the event of any individual scheme suggesting a conflict between the Plan and the NPPF on this matter, the decision maker would be able to consider whether the material considerations of the NPPF supported a decision otherwise than in accordance with the Development Plan.

d) Is criterion b. consistent with national policy in respect of the Green Belt and countryside?

41. Yes.
42. In terms of the Green Belt, Policy CGB4 might be engaged in relation to proposals which are considered not inappropriate under the third, fourth and sixth bullet points of NPPF paragraph 89 and also the fourth bullet point of paragraph 90.
43. In relation to the scale of proposals, these bullet points do not use consistent language, although the broad intent across all three is similar:
- In relation to extensions or alterations, additions must not be “disproportionate”;
 - In relation to replacement buildings, these must not be “materially larger”; whilst
 - The partial or complete redevelopment of previously developed sites and the re-use of buildings of permanent and substantial construction must “not have a greater impact on” and “preserve” openness respectively.
44. There are no specific equivalent provisions in the NPPF for the general countryside beyond the Green Belt or outside of other specific designations. However, the design policies of the NPPF more broadly require development to respond to local character and history⁶.
45. In seeking to preserve the general integrity of the countryside, Criterion b is considered consistent with these aims without unnecessarily replicating the various interpretations. As with previous answers, the advice in the NPPF would be read alongside the policies of the plan in relevant cases.

⁶ NPPF Paragraph 58, fourth bullet

15.7 Policy CGB5 introduces Urban Open Land. This is not a designation recognised in national policy.

a) What is the justification for this approach?

b) What is the purpose/function of Urban Open Land?

46. These questions are answered together.

47. The justification for and purpose of Urban Open Land is set out in the supporting text to Policy CGB5 (LP1, p.88). Urban Open Land is land which:

- Lies *inside* a clear defensible boundary of the town or village (paragraph 6.25);
- Requires protection from speculative applications that could arise from leaving it as undesignated 'white land' (paragraph 6.27) within the settlement boundary where development would otherwise be supported under the general principles of Policy SP2; and
- Due to its relationship with the adjoining town or village, is not considered suitable for some of the uses or development types that could be permissible if allocated as Green Belt or Rural Area Beyond the Green Belt. (paragraph 6.29)

48. There is no specific designation suggested within the NPPF which squarely addresses these particular characteristics. These sites would not, for example, qualify for consideration as Local Green Spaces. A bespoke, local policy designation is therefore justified.

c) What methodology has been used to identify the Urban Open Land shown on the Policies Map?

49. Urban Open Land has been identified by recognising a small number of instances where dual carriageway bypasses provide clear defensible boundaries for the Green Belt or Rural Area Beyond the Green Belt, but where it is not proposed to allocate all land within that bypass for development.

50. Three specific instances have been identified at Baldock, Little Wymondley and Royston (LP1, paragraph 6.26, p.88).

d) Have all parcels of land considered for this designation been subject to sustainability appraisal?

51. Yes. Urban open land sites have been considered through the SA site assessment process previously described (see, in particular, the Council's response to Matter 1). Assessment of the Urban Open Land policy is contained in Appendix 11 (LP4,

Appendix 11, pp.1095-1096⁷). Although the assessment is of the policy as a whole, this was conducted with reference to the three specific parcels of land identified above.

e) Have these areas been considered for development? Is this reflected in the sustainability appraisal?

52. The land to the south of Wymondley has been considered for development. This is identified in the Strategic Housing Land Availability Assessment as (part of) site 122. The detailed assessment of this site can be seen in Appendix 4 to the SHLAA (HOU9, p.49) with the boundary shown on the maps in Appendix 5 (HOU9a, p.27). The detailed assessment in the SHLAA effectively allows for what is now shown as Urban Open Land to remain undeveloped:

“...Scheme being promoted envisages playing fields and school being located in this area. Dwelling assumption halved to allow for this and appropriate buffer to bypass.”

53. The land which is proposed to be allocated as site WY1 is considered in the sustainability appraisal in Appendix 6 (LP4, pp.528, 658-660). The land proposed as Urban Open Land is included in the sustainability appraisal within consideration of the non-preferred sites in Appendix 7 (LP4, pp.677, 839-842).

54. The land at Royston was promoted for potential commercial development in response to the Preferred Options consultation. However, development of this site would be reliant upon the proposed employment site RY10 (which adjoins the existing industrial estate) being brought forward first. As set out in the Council’s response to Matter 13, the allocation of RY10 is considered sufficient. The provision of further employment land in this location would result in an imbalanced strategy. This site was therefore not specifically subject to SA for commercial uses.

55. The land at Baldock has not been actively promoted or considered for development.

f) For each parcel of Urban Open Land, what is the justification for its designation?

Land south-east of Baldock

56. This land is identified to ensure a coherent Green Belt boundary along the route of the A505 bypass. At the Preferred Options stage of the Plan (OLP5) the proposed Green Belt boundary was drawn around the south-western edge of BA3 and along Wallington Road as shown in the collection of maps in Appendix 1.

57. It is desirable to keep this area predominantly open to ensure continuation of the ‘green lung’ which runs in a generally south-eastern direction from the playing fields of Hartfield School to the bypass.

⁷ Page references within LP4 correspond to the “NHDC Page Number” printed at the top left of each page.

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58. These points may be revisited and / or expanded upon in the Council's Matter 10 statement in relation to the settlement boundary of Baldock.

Land south of Little Wymondley

59. This land is identified to ensure a coherent Green Belt boundary can be drawn along the recognisable and permanent route of the A602 bypass (CG1, p.123). At the Preferred Options stage of the Plan (OLP5) the proposed Green Belt boundary was drawn across the rear of the then proposed land allocation. This is shown in the collection of maps in Appendix 1.
60. There are no readily recognisable and permanent features that might be used to draw an alternate Green Belt boundary either across the southern boundary of site WY1 as proposed or any alternate alignment between the proposed allocation and the bypass.
61. Similarly, this lack of clear points of reference means it is not considered appropriate to allocate the whole of the site for residential development and then use site-specific criteria to identify those areas which should remain undeveloped (as is the case at, for example, the North of Baldock site).
62. However, this land might be suitable for use as playing fields or other low-intensity ancillary uses.
63. The justification for the identification of (the allocation boundary for) site WY1 and the settlement boundary of Little Wymondley will be revisited and / or expanded upon in the Council's Matter 11 statement.

Land north-west of Royston

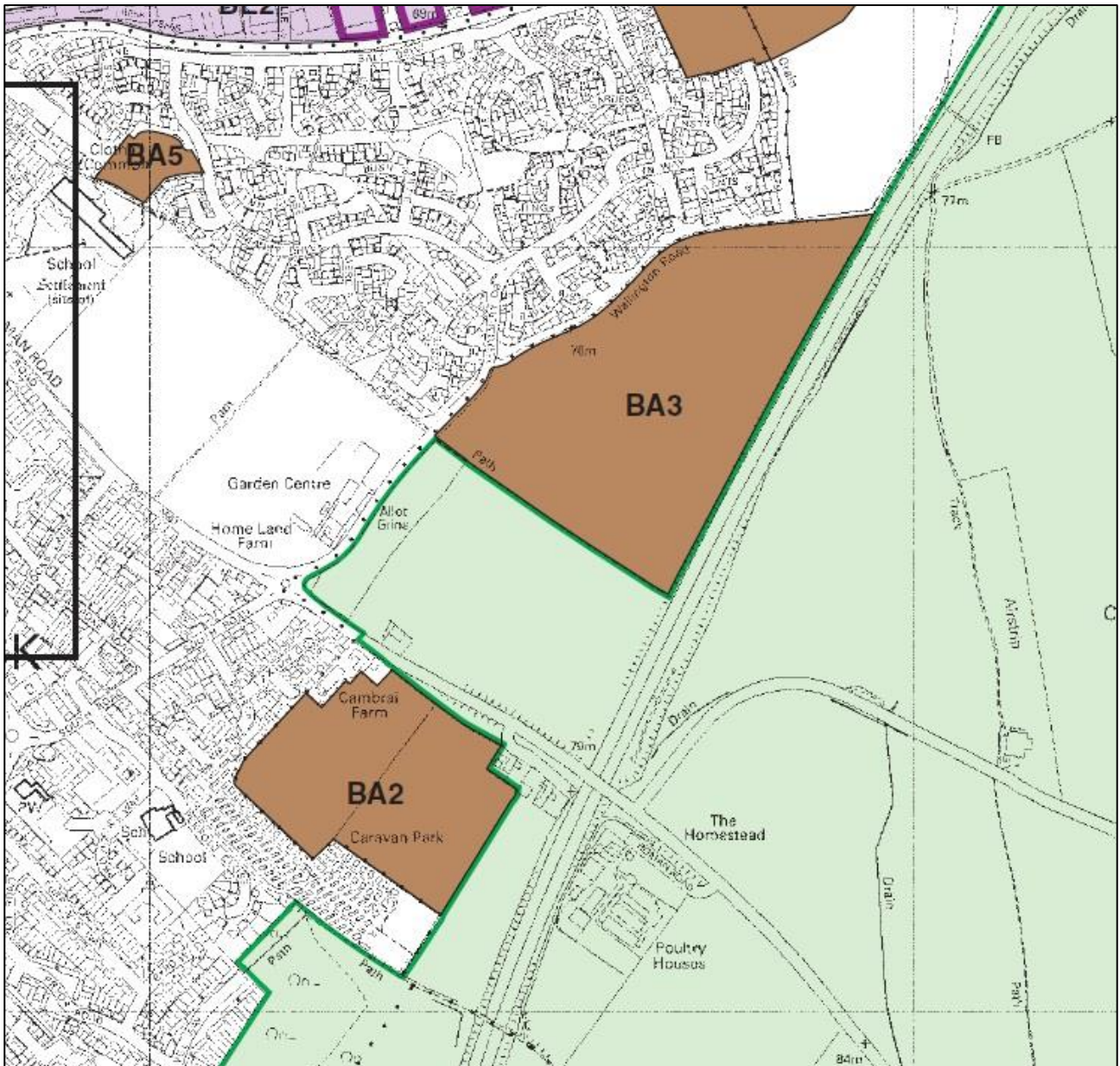
64. This land is identified to ensure a coherent boundary for the Rural Area Beyond the Green Belt can be drawn along the recognisable and permanent route of the A505 bypass (CG1, p.123). At the Preferred Options stage of the Plan (OLP3) the proposed Rural Area boundary was drawn so as to include this land within its scope. This is shown in the collection of maps in Appendix 1.
65. As set out in the Council's Matter 13 and 14 statements, sufficient land and sites have been identified for employment and retail uses over the plan period and there is no specific justification to use this land for those purposes. Leaving this area as undesignated 'white land' could result in speculative applications for development.
66. The justification for the identification of (the allocation boundaries for) adjoining sites and the settlement boundary of Royston are, and will be, revisited and / or expanded upon in the Council's Matter 10 and Matter 13 statements.

Appendix A

Proposed Green Belt and Rural Area boundaries at preferred options stage for proposed urban open land designations

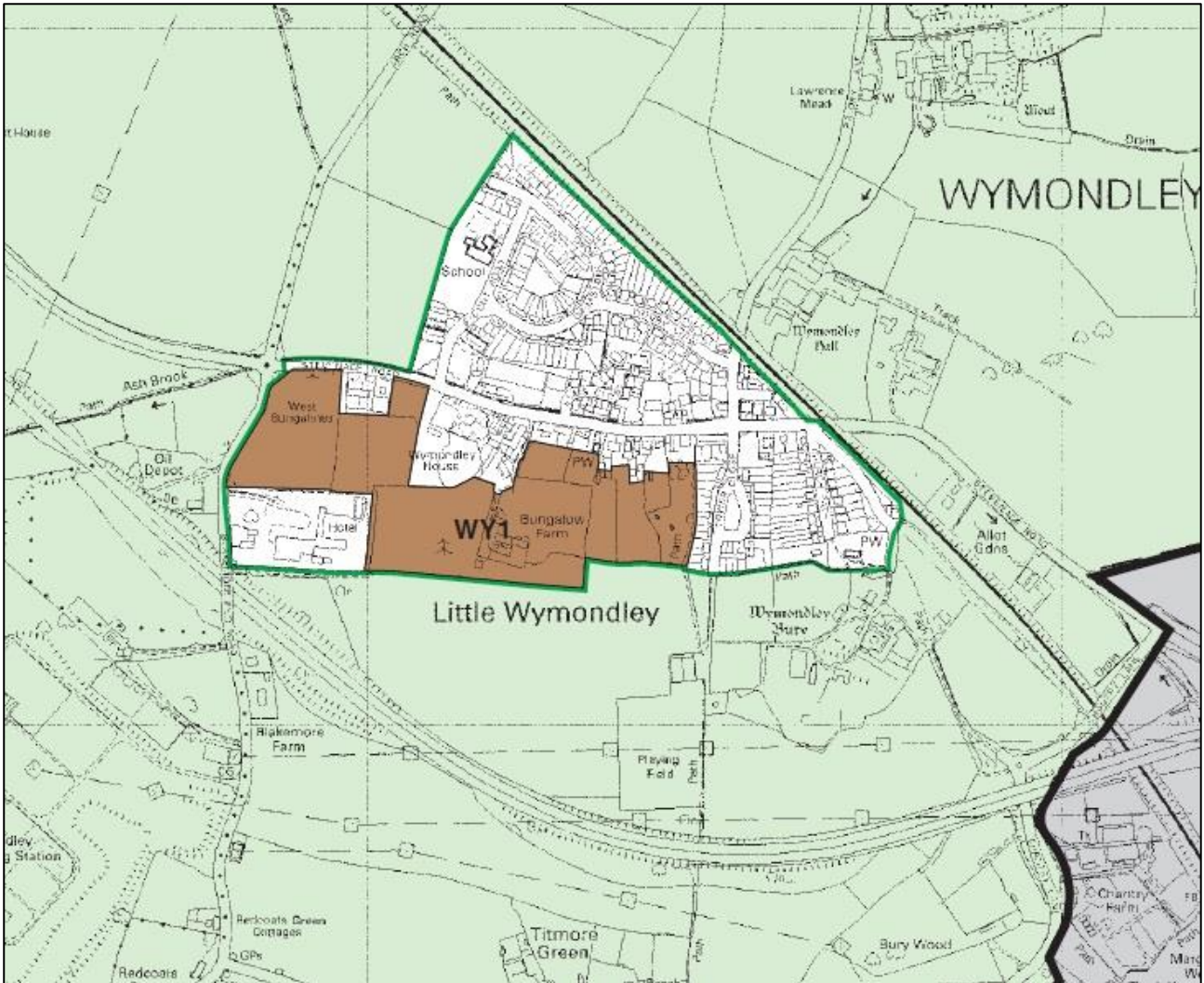
The notations on these map extracts are consistent with the shadings and key shown on the Proposed Submission Proposals Maps (LP2a to 2d)

Baldock



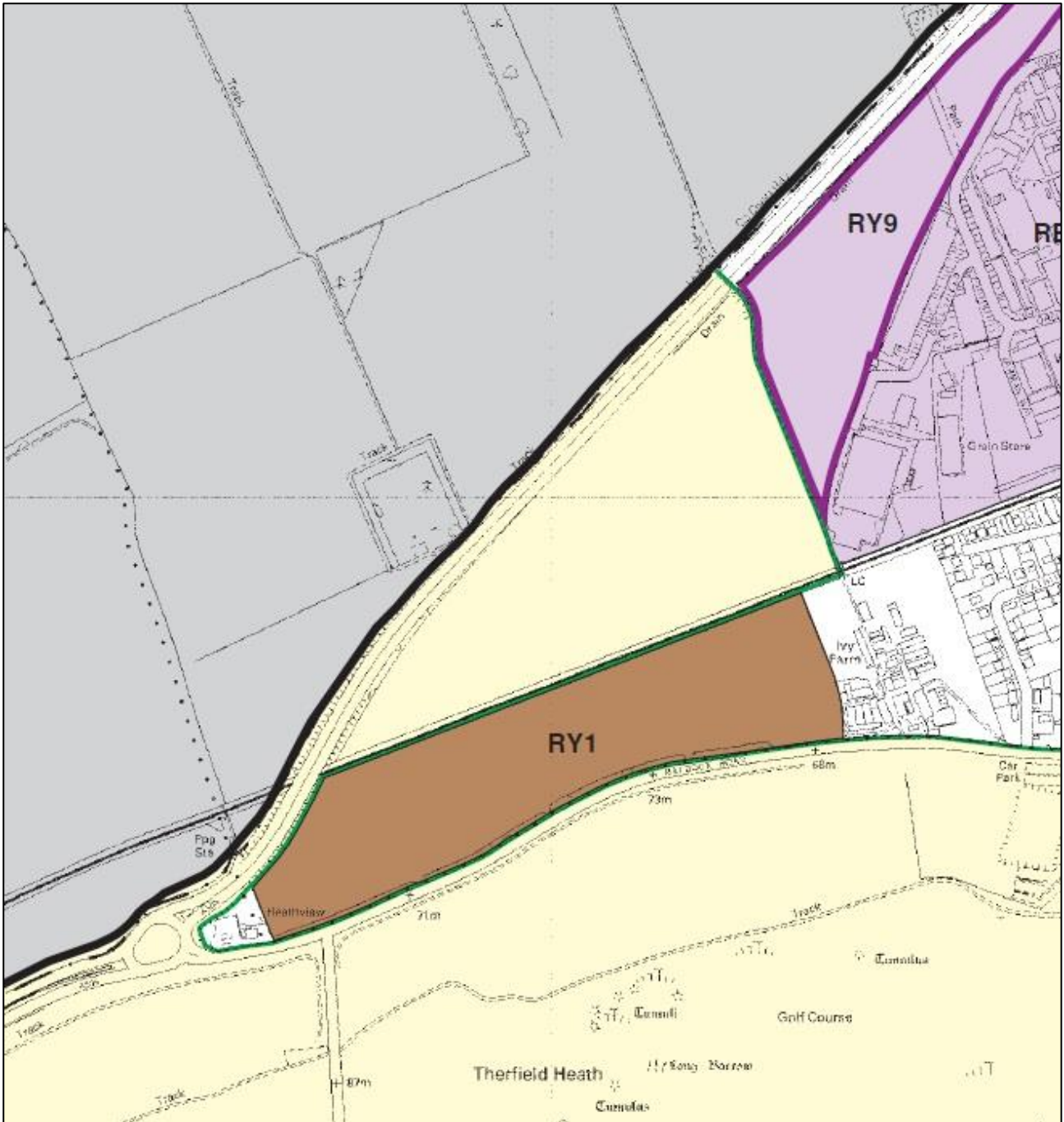
Source: Preferred Options consultation draft Proposals Maps

Little Wymondley



Source: Preferred Options consultation draft Proposals Maps

Royston



Source: Preferred Options consultation draft Proposals Maps