

Rooster
Ullswater Road
Penrith
Cumbria
CA11 7EH

16th April 2015

Ms Angela Harper,
Planning Officer (Policy),
Economic Development,
Carlisle City Council,
Civic Centre,
Carlisle CA3 8QG

Consultee Ref 095
Agent Ref A020
Rep Ref 0377 - 0379

Dear Ms Harper,

DRAFT LOCAL PLAN SUBMISSION 2015-2030-LANDS AT ETTERBY REF: CA47

I refer to the above and to the recent correspondence that has passed between us.

First of all. I just want to say thank you for the very helpful assistance you and your department have afforded me as it has made my navigation of the draft local plan so much easier than it would have been.

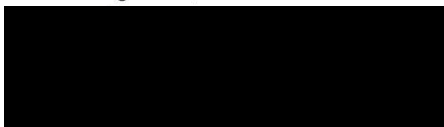
Secondly, in relation to the Response Form I have managed to refer to "Housing policy" but unfortunately I have been unable to orientate any paragraphs or sections.

Thirdly, I have attached a "paper apart" in order to give my more formal representations more meaning.

Finally, I would welcome the opportunity, if possible, to attend the oral evidence examination stage of the process and can be contacted on my mobile number or email address.

Please acknowledge receipt.

Best regards,

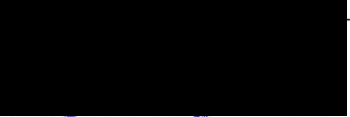


James Kelly, LLB, Dip. L.P.
Agent for landowner of site CA47

PART ONE- YOUR DETAILS

It is important that you fill in your contact details below; **we cannot register your representation without your details**. Please note that we will not be able to keep your representation or personal details confidential. We may also wish to contact you to clarify your representation.

In circumstances where there are individuals/ groups/ organisations who share a similar view on the plan, it would be helpful if individuals/ groups/ organisations make a single representation. It would also be useful if the group/organisation state how many people the submission is representing and how the representation was authorised.

Your Details	Your Agent's Details (If applicable)
Title: Mr	Title: Mr
Surname: Jackson	Surname: Kelly
Forename: Frank	Forename: James
Organisation/Company:	Organisation/Company:
Address: c/o The Rooster Ullswater Road, Penrith Cumbria	Address: Thorneyhall Farm. By Blairhall Fife Scotland
Postcode: CA11 7EH	Postcode: KY12 9PY
Contact No:	Contact No: 07825 516160
Email: 	Email: lawpro@icloud.com
Signature: 	
Date: 16/04/2014	

PART TWO - YOUR REPRESENTATION

Please use a separate form for each part of the Proposed Submission Draft Local Plan that you wish to comment on.

Q1. To which part of the document does this representation relate?			
Policy	Paragraph	Chapter	Figure
Please specify which Policy, Paragraph, Chapter or Figure you are referring to:			
HOUSING			

Q2. Do you consider that the Local Plan is:	
Legally Compliant?	
Yes ☒	No
Sound?	
Yes	Yes, with minor changes ☒ No

Q3. If you consider the Local Plan is <u>unsound</u>, is it because it is <u>not</u>:
Positively Prepared? X
Justified? X
Effective? X
Consistent with National Policy? ☒

Q4. Please give details of why you consider the Local Plan is not legally compliant or is unsound. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan, please also use this box to set out your representation.

Please note that your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation. After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

The Local Plan is not sound because it is not positively prepared in that it relies on erroneous contentions to underpin the main contentions relative to site ref: CA47

In addition, the Local Plan cannot be justified by reference as a direct result of not being the most appropriate strategy when considered against the impartial, independent fact-based evidence.

Furthermore, there is a totally spurious comparison with reasonable alternatives which is not based on proportionate evidence.

In support of the foregoing contentions I also rely on more detailed written submissions (please see paper apart).

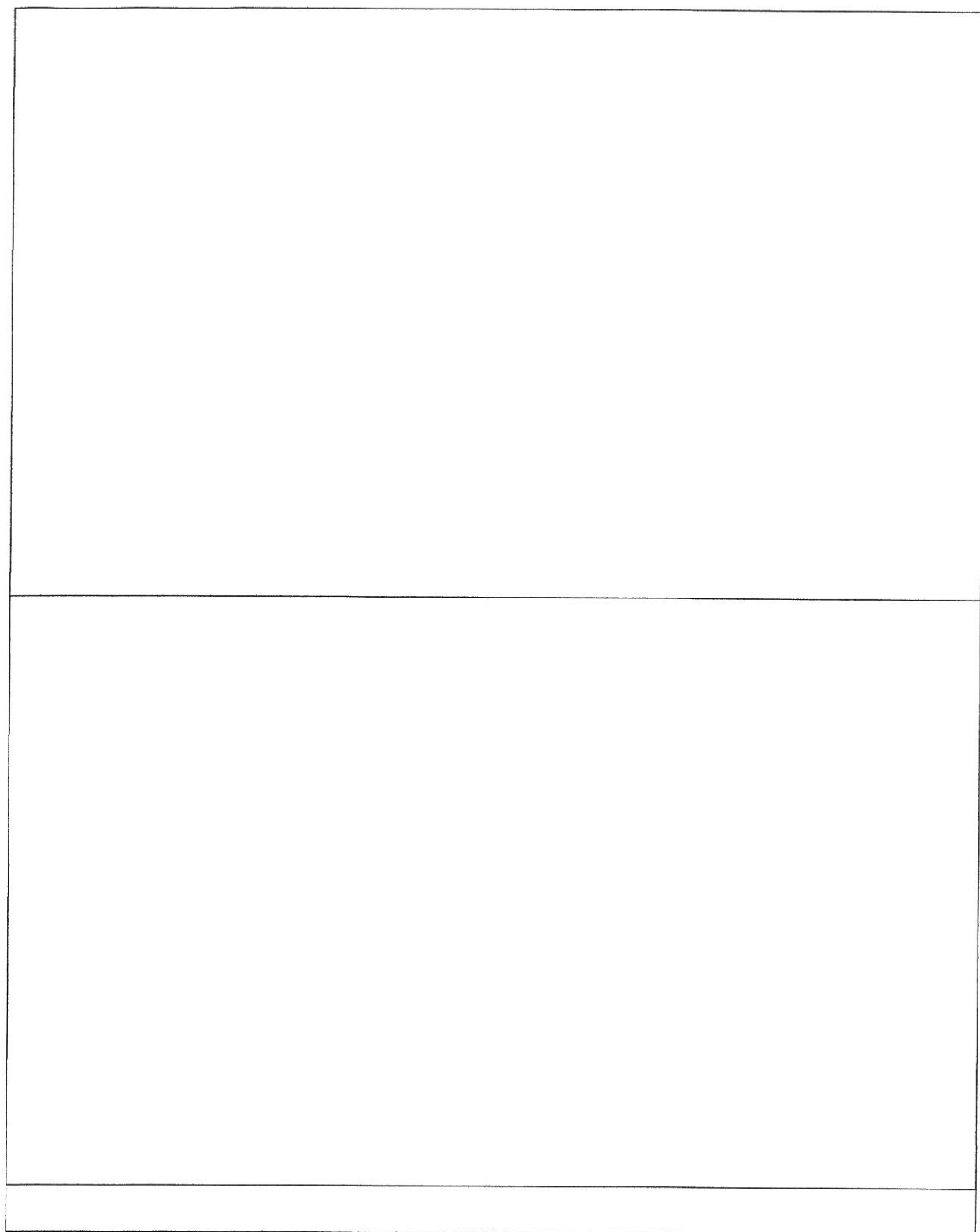
Question 5

I consider that the least that can be done in terms of changes is as follows:

- 1) To alter the reference to "Etterby has seen little development over time" and to replace it with the more accurate description of "Etterby has very recently benefitted from development (on an adjacent site) by the construction of some 30 affordable houses". This would more accurately reflect the factual position on the ground which has seen a 150% increase in the size of the settlement footprint which the writer describes as being semi-rural with a village feel. It has also been highlighted that the proposed development would substantially increase the existing settlement when in fact the previous development led to a 150% increase in the size of the settlement.
- 2) To specifically note that those features complained about such as caravan storage etc. were in fact visible from the recent development and indeed are all still visible to this day. It would be better if the remark was removed in its

entirety as it adds nothing to the factual position as it pertains to the adjacent development.

- 3) To expunge the statement "the site suffers from extensive flooding risk" and the two other references to potential flooding risk and to replace them with the more accurate " in accordance with the Environment Agency's flood mapping data the site is in flood zone 2 which has a low to medium risk of flooding"
- 4) Remove in its entirety the statement "*notwithstanding the site being in a flood zone area there are arguably alternative sites in the locality at less risk of flooding thus leading to a conclusion that the site is not suitable for housing*". There is no actual or even anecdotal evidence that this site, or any part of it, is susceptible to flooding far less excessive flooding.
- 5) I would add the following general comments: "the site is wholly contiguous to a recent successful development which shares the same visual outlook, topography and ground levels which makes it eminently suitable for development. The site is flat, relatively clear and adjacent to very good transport links. The site is sufficiently large as to be capable of supporting say a primary school or privately operated nursery together with associated amenity areas. If permitted, development could neatly join with that part of the settlement to the south of Stainton Road thereby giving an impression of neatness to this semi-rural area whilst dealing with the fact of the existing settlement jutting out incongruously on the northwest boundary of the settlement". This would allow for a more symmetrical footprint to the settlement as a whole.
- 6) If actioned, the foregoing suggestions would render the draft Local Plan "sound", more effective and free from any charge that it has not been positively prepared. In addition, these suggestions would render the Local Plan much more justified in that these amendments at least benefit from being based on independent fact based and proportionate evidence.



Q6. Do you wish to make any comments on the supporting documents, such as the Sustainability Appraisal, Habitats Regulations Assessment, Infrastructure Delivery Plan or evidence base?

It is clear that the evidence base used to construct the recommendations in relation to site CA47 was not sufficiently robust given the almost hysterical reference to “excessive risk of flooding” and the totally inaccurate reference to there being “little development over time” to give but two examples.

As far as any Habitats Regulations Assessment is concerned it is clear the site will be in the exact same position as the adjacent development was in that it is sufficiently upstream from any SSSI's or SAC's that there is no need for an HRA in this case.

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Q7. If your representation is seeking a change; do you consider it necessary to participate in the hearing sessions of the examination?

No, I do not wish to participate at the hearing sessions of the examination

Yes, I wish to participate at the hearing sessions of the examination ✓

Q8. If you wish to participate, please outline why you consider this to be necessary:

Please note it will be at the discretion of the Inspector to determine the content of the hearing sessions and who will be heard.

I consider it necessary to participate as the comments to date in respect of two contiguous (one developed and one recommended for no development) are so incongruous, so inconsistent, so factually inaccurate and therefore so unfair that the situation warrants personal oral representations and indeed a site visit if so advised. I stress that in terms of development of such sites you are dealing with practically identical twins and that the decision to refuse development is wholly disproportionate in terms of the *Wednesbury Principles* and therefore an opportunity should be provided to set the record straight in any effort to have separate, but almost identical, areas of land treated in a fair, open, transparent and consistent manner.

**Thank you for your time to complete and return this Representation form.
Please keep a copy for future reference.**

Question 5

I consider that the least that can be done in terms of changes is as follows:

- 1) To alter the reference to "Etterby has seen little development over time " and to replace it with the more accurate description of "Etterby has very recently benefitted from development (on an adjacent site) by the construction of some 30 affordable houses ". This would more accurately reflect the factual position on the ground which has seen a 150% increase in the size of the settlement footprint which the writer describes as being semi-rural with a village feel. It has also been highlighted that the proposed development would substantially increase the existing settlement when in fact the previous development led to a 150% increased in the size of the settlement.
- 2) To specifically note that those features complained about such as caravan storage etc were in fact also visible from the recent development and indeed are all still visible to this day. It would be better if the remark was removed in its entirety as it adds nothing to the factual position as it pertains to the adjacent development.
- 3) To expunge the refer to "the site suffers from extensive flooding risk" and the other 2 references to potential flooding risk and to replace them with the more accurate " in accordance with the Environment Agency's flood mapping data the site is in flood zone 2 which has a low to medium risk of flooding".
- 4) Remove in its entirety the reference to " notwithstanding the site being in a flood zone 2 area there are arguably alternative sites in the locality at less risk of flooding thus leading to the conclusion that the site is not suitable for housing". There is no actual or even anecdotal evidence that this site, or any part of it, is susceptible to flooding far less excessive flooding.
- 5) I would add the following general comments: "the site is wholly contiguous to a recent successful development which shares the same visual outlook, topography and ground levels which makes it eminently suitable for development. The site is flat, relatively clear and adjacent to very good transport links . The site is sufficiently large as to be capable of supporting say a primary school or privately operated children's nursery together with associated amenity areas. If permitted, development could neatly join with that part of the settlement to the south of Stainton Road thereby giving an impression of neatness to this semi-rural area whilst dealing with the fact of the existing settlement jutting out incongruously on the north west boundary of the settlement ". This would allow for a more symmetrical footprint to the settlement as a whole.

6) If actioned, the foregoing suggestions would render the draft Local Plan "sound" , more effective and free from any charge that it has not been positively prepared . In addition, these suggestions would render the Local Plan much more justified in that these a amendments at least benefit from being based on independent fact based and proportionate evidence.

Q6. It is clear that the evidence base used to construct the recommendations in relation to site CA47 was not sufficiently robust given the almost hysterical reference to "excessive risk of flooding" and the totally inaccurate reference to there being "little development over time" to give but two examples.

As far as ant Habitats Regulations Assessment is concerned it is clear the site will be I the exact same position as the adjacent development was in that ITBIS sufficiently upstream from any SSSI's or SAC's that there is no need for an HRA in this case.

Q7. Yes I wish to participate in the hearing sessions of the examination.

Q8. I consider it necessary to so participate as the comments to date in respect of 2 contiguous sites (one developed and one recommended for no development) are so incongruous, so inconsistent, so factually inaccurate and therefore so unfair that the situation warrants personal oral representations and indeed a site visit if so advised . I stress, that in terms of development of such sites you are dealing with practically identical twins and that the decision

to refuse development is wholly disproportionate in terms of the *Wednesbury principles* and therefore an opportunity should be provided to set the record straight in any effort to have separate, but almost identical, areas of land treated in a fair, open, transparent and consistent manner.