

St Albans Council's Draft Local Plan Examination

Additional Documents – Technical Consultation

Previously Developed Land in the Green Belt - Ref: SADC/ED78

Submitted on behalf of Smug Oak Lane Limited

Ref: LPE/PDL/SOL/825

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Introduction

1. I have a BA (Hons) in Geography and an MSc in Urban and Rural Planning and I am a Chartered Member of the Royal Town Planning Institute. The information and evidence in this document have been prepared and are given in accordance with the guidance of the RTPI and the views expressed are my genuine professional opinions.
2. This submission relates to the Council's Additional Document on Previously Developed Land (PDL) in the Green Belt (Ref: SADC/ED78), July 2025. It is made on behalf of Smug Oak Lane Limited, owners of a PDL Site in the District which comprised a sludge tanker filling station with office, store and mess room, and extensive hardstanding: the **Moor Mill Tanker Depot**, Smug Oak Lane, Bricket Wood, St Albans AL2 3TZ.
3. In this document, references from SADC/ED78 will be in square brackets and in bold. Paragraph numbers from the National Planning Policy Framework (the NPPF), refer to the December 2023 version.

Summary

4. In Q.9 of their 'Initial Questions for Examination' (Ref: SADC/ED28), in Q.1 of Paragraph 24 of their 'Matters, Issues and Questions for Stage 1' (Ref: SADC/ED69) and at the Stage 1 Hearing itself, the Inspectors' raised questions about the Council's approach to PDL sites in the Green Belt. They were right to do so. Because in the context of "brownfield first", for a Council to allocate only 3 out of over 100 PDL Sites should have set alarm bells ringing.
5. This review of the Council's explanation for its approach and its reasons for allocating 3 sites and not allocating the rest, demonstrates how the Council has failed to apply the concept of "brownfield first" and the requirements of Paragraph 146 of the NPPF properly. As set out below, the Council has:
 - misunderstood the difference between plan-making and decision-taking;
 - made it harder to allocate small PDL sites than large greenfield sites; and
 - misapplied relevant paragraphs of the NPPF.
6. As a result, the Council has most likely under-allocated brownfield land and over-allocated greenfield sites. If the assessment of Green Belt PDL sites had been carried out properly, many more of them will have been allocated and, conversely, one or more of the Broad Locations, such as North St Albans, and/or many smaller greenfield sub-areas may not have been required.
7. **In short, the Council's approach is so flawed it has rendered the Local Plan unsound and nothing less than a complete review of all PDL sites in the Green Belt is required.**

National Policy

8. Paragraph 123 of the NPPF explains that:

“Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land”.

9. Paragraph 146 of the NPPF states, in part:

“Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:

a) makes as much use as possible of suitable brownfield sites and underutilised land ...”

10. The Glossary of the NPPF defines Previously Developed Land as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

Misunderstanding the difference between plan-making and decision-taking

11. At [3.1], the Council explains:

“The primary reason that these sites were allocated was that they were on those Green Belt HELAA sites which contained built development that was considered likely to meet the (Dec 2023) NPPF Annex 2 definition of ‘Previously Developed Land’; sufficient to yield 5 or more homes (net) if applying the NPPF 2023 paragraph 154 g) PDL exception to inappropriate development in the Green Belt:

12. At [3.3], the Council added:

“... consideration of the NPPF paragraph 154 g) PDL exception to inappropriate development in the Green Belt represented a reasonable approach, in the Council’s view. This approach reflects the high priority given to utilising PDL when considering releasing Green Belt land for development and takes account of the quantum of development that would be likely to be approved in a planning application on the basis of meeting the NPPF PDL exception.”

13. In fact, rather than reasonable, the Council’s approach is deeply flawed.

14. The test the Council set itself for a PDL site to be allocated was that it must be appropriate development in the Green Belt i.e. *“likely to be approved in a planning application on the basis of meeting the NPPF PDL exception”* [3.3]. Ironically, this is a wholly inappropriate test which, as set out in more detail in the next section, was not applied to greenfield Green Belt sites. Such an approach confuses plan-making with decision-taking and helps explain why only 3 of over 100 PDL sites have been allocated.
15. Furthermore, the Council does not even apply NPPF decision-taking properly. If a proposal on a Green Belt PDL Site is inappropriate, it can still be allowed if “very special circumstances” apply. There is no evidence in SADC/78 that the Council has considered whether the “other considerations” of redeveloping these sites may have outweighed the harm by way of inappropriateness and any other harm, before eliminating them from the Site Selection Process. Such “other considerations” could have included, for instance, the fact that the sites are “brownfield” and, thus, their development would have reduced the need to allocate greenfield Green Belt land under the “exceptional circumstances” test.
16. A fresh assessment of all Green Belt PDL sites, including **Moor Mill Tanker Depot** is required. This exercise should not assess whether their development would be appropriate under 154g, but whether the allocation of PDL sites (even inappropriate ones or imperfect ones or car-based ones or very small ones or visually-prominent ones) would be justified by the subsequent reduction in the amount of greenfield Green Belt sites needed, i.e. precisely what is required by Paragraph 146 of the NPPF ... “brownfield first”.

Making it harder to allocate PDL sites in the Green Belt than greenfield sites

17. To eliminate any Green Belt site from the Site Selection Process on the basis that it may be found to be inappropriate development in a planning application, would have devastating consequences for plan-making. Which is why the Council did not eliminate the 12 large greenfield Green Belt sites that were subsequently allocated as Broad Locations. None of those would have qualified as appropriate development but instead of being eliminated on that basis, the Council applied plan-making properly and considered whether “exceptional circumstances” existed.
18. However, by relying on Paragraph 154g of the NPPF for its assessment of PDL sites, the Council made the test for their allocation much harder than for large (even vast) greenfield sites. In the context of “brownfield first” and Paragraph 146’s requirement that PDL sites are used before it is concluded that “exceptional circumstances” exist, that is clearly wrong and, again, helps explain why only 3 of over 100 PDL sites were allocated.

The misapplication of Paragraph 154g

19. Not only was the Council wrong to rely on Paragraph 154g, when it did so it applied it incorrectly.
20. [Appendices A and B] include the Summary Reasons for why over 100 Green Belt PDL sites were not allocated. The same explanation is given for virtually every site listed, i.e. (my underlining):

“Limited existing permanent built form”.

21. However, there is nothing in the NPPF definition which states there must be a certain amount of existing development for a site to qualify as PDL. In fact, quite the opposite: the definition expressly states that PDL includes (my underlining):

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”

22. Consequently, a site on which permanent structures used to stand and which contains hardstanding (fixed surface infrastructure), such as **Moor Mill Tanker Depot**, qualifies as PDL.

23. So ...

Q: In what circumstances is the amount of “existing” built development relevant?

A: When applying the first of the two tests in the December 2023 version of Paragraph 154g.

24. Paragraph 154g states (my underlining):

“154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are: ...

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

25. The only logical conclusion is that the Council chose not to allocate over 100 PDL sites after assessing them, solely, against the first test of Paragraph 154g.

26. However, for many of the PDL sites, the second test of Paragraph 154g should have been applied. This is because criterion (a) of Emerging Local Plan Policy HOU2 ‘Affordable Housing’ states, in part:

“The Council will seek to meet the District’s affordable housing needs by:

a) Requiring residential development proposals (Use Class C3) with a gain of 10 or more homes, or where the site has an area of 0.5 hectares or more, to provide:

i. 40% of homes as on-site affordable housing ...”

27. Consequently, all PDL sites of at least 0.5 hectares, such as **Moor Mill Tanker Depot**, should have been assessed against the second element of Paragraph 154 g, which expressly refers to affordable housing but makes no reference to the amount of existing development.
28. In short, the Council's flawed decision to assess PDL sites against Paragraph 154g was compounded by assessing many of them against the wrong test. When a detailed review of Green Belt PDL sites is carried out, properly, the potential delivery of Affordable Housing must be taken into account on sites of 0.5 hectares or more.

The misapplication of other paragraphs in the NPPF

29. The final bullet point in **[2.2]**, explains (my underlining):

"... then in order to achieve enough development capacity to meet the Standard Method for housing need figure in full, sites considered in the Green Belt Review (which were inherently in more sustainable locations than those not included in the Green Belt Review and would not cause 'holes' in the Green Belt) which offered significant Economic, Environmental and Social benefits."

30. It is not clear whether Green Belt PDL sites were subject to the two tests identified in immediately above, but for clarity it is helpful to explain why those tests should not be applied to any Green Belt site, PDL or otherwise.
31. **The first test**, *"Inherently in more sustainable locations"*. 'Inherently' refers to the essential character of something, which is unhelpful in this situation because "sustainable location" is a relative and changeable concept. Consequently, it is likely that the Council has misapplied Paragraph 109 of the NPPF which expressly states (my underlining):

"Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes."

32. Thus, sites in locations which are currently less sustainable but which can be made more sustainable, should not have been eliminated from the Site Selection Process. For instance, **Moor Mill Tanker Depot** is on a bus route but is currently (at night) an unappealing walk along an unlit pavement to the nearest stops. However, the location can be made sustainable through the installation of new bus stops and/or street lighting. The same principle is likely to apply to dozens of other PDL sites.
33. **The second test**, *"Would not cause 'holes' in the Green Belt"*, misapplies Paragraph 146 of the NPPF.
34. A reference to Green Belt 'holes' appears in the last paragraph on p.91 (section 8.1) of the Arup Green Belt Review, June 2023, which states:

"...Critically, the recommendations are underpinned by explicit consideration of the role and importance of smaller sub-areas in terms of the function of the wider Green Belt, taking into consideration the strategic land

parcel scores from the SKM Stage 1 GBR as well as wider considerations regarding the integrity of the Green Belt. For example, it considered whether the release of sub-areas might result in 'holes' in the Green Belt, which relate poorly to existing inset areas."

35. This approach misunderstands Paragraph 146 of the NPPF which explains that brownfield sites should be used before a Council looks to release sites and alter boundaries under "exceptional circumstances". So PDL sites can be allocated for housing without being released from (creating holes in) the Green Belt. However, there is also nothing to stop them from being released under "exceptional circumstances".
36. So, if allocated and retained in the Green Belt, **Moor Mill Tanker Depot**, which is currently a non-residential PDL site 'washed-over' by the Green Belt, would become a residential PDL site 'washed-over' by the Green Belt. However, if it was allocated and released from the Green Belt, amended Green Belt boundaries would be drawn around it and the Policies Map would be updated. If the latter took place: **Moor Mill Tanker Depot** would simply be a small hole in the Green Belt, Park Street would be a larger hole, Harpenden larger still and (as a resident since 1990 I never thought I'd ever write these words but ...) St Albans would be the biggest hole of all!
37. In short, the Green Belt is already full of holes – it's where most of us live. The Council's hand-wringing over "*the integrity of the Green Belt*" is misplaced and unhelpful.

Conclusion – the Consequence of the Council's Flawed Approach

38. The Council has clearly misunderstood how the Government's 'brownfield first' policy and key paragraphs in the NPPF are supposed to work. Consequently, it is likely that the Council has eliminated entirely suitable PDL sites from the Site Selection Process. If that proves to be the case, then it has under-allocated brownfield land and over-allocated greenfield sites: the polar opposite of what Government policy requires.
39. To be clear, if only some of the 100+ PDL sites in the Green Belt, such as **Moor Mill Tanker Depot**, had been allocated following an NPPF-compliant assessment of their suitability, they may have accommodated many hundreds and possibly thousands of dwellings. This could mean that the Council would not, for example, have had to allocate the North of St Albans Broad Location and/or numerous smaller sites.
40. As it stands the Council's strategy has not made as much use as possible of brownfield sites and, so, fails to accord with the requirements of Paragraphs 123 and 146 of the NPPF. **Consequently, the Draft Local Plan is unsound.** To make it sound, nothing less than a complete review of all PDL sites in the Green Belt is required to discover which brownfield sites should be allocated and, consequently, which greenfield Green Belt sites are no longer required.

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