

## Home Builders Federation

### Matter 4

## ST ALBANS LOCAL PLAN EXAMINATION

### Matter 4: The Metropolitan Green Belt

#### *Main Issue*

***Whether the Plan has been positively prepared and whether it is justified, effective and consistent with national planning policy in relation to the overall approach to the Green Belt.***

#### Questions

1. What is the basis of the Green Belt Review? What methodology has been applied and is it soundly based? Is the Council's approach to the Green Belt set out in its response to the Inspector's Initial Question 16 and letter of the 2 July 2019 (Green Belt topic paper) robust and in line with national guidance?

We are concerned that the Councils overarching approach to Green Belt as set out in various documents is not robust or in line with national policy and guidance. In particular we are concerned that the Council's staged approach has ruled out smaller-scale sub areas in a manner that is inconsistent with national policy. Our concerns are set out below.

#### *Basis for a Green Belt Review*

The basis of any Green Belt review should be the fundamental aims of the Green Belt and its five purposes as set out in paragraph 133 of 134 of the NPPF and the degree to which the amendment of Green Belt boundaries would impact on these aims and purposes. Therefore, the Councils' decision to include the 'local' purpose to maintain the existing settlement pattern within the Borough is concerning. Whilst this may be local aspiration the purpose of Green Belt in the NPPF is to prevent neighbouring towns merging and as such any consideration of the merging of smaller settlements should not form a part of any Green Belt Review.



### *Failure to assess small-scale sub areas*

As set out by the Council in their response to the initial and additional questions posed to them the methodology used by the Council in the Green Belt Review is a two staged approach and considers the strength to which different parcels of land contribute to achieving the purposes of the Green Belt. The first stage assesses the purposes against large parcels of land which were defined on the basis of well-defined physical features with some sub-division of these large parcels taking place following on site examination of each parcel. However, whilst this assessment considered these small-scale sub areas, and indeed identified the minimal contributions of some of these sites to the Green Belt, it was clear that this was not an exhaustive assessment of such sub areas with paragraph 8.1.15 of the 2013 Green Belt Review (GB004) stating that:

*“Given the non-strategic nature of the small-scale sub areas identified may not be exhaustive ... It is therefore possible that additional small-scale boundary changes that would also not compromise the overall function of the Green Belt might be identified through a more detailed survey”*

This suggests that there was a need for an additional stage of the Green Belt Review that would consider the impact of much small-scale sub areas within the Green Belt that could be released without compromising the purposes this designation. Such sites could have formed part of development strategy that supported both strategic and smaller scale development to meet the needs of SACDC and neighbouring areas such as Watford. However, the second part of the assessment failed to consider further sub areas and indeed seemingly ignores those small-scale areas that were identified in the part 1 assessment. The decision to ignore small-scale sub areas is seemingly conformed in the introduction of the 2014 study (GB001) which states that the aim of the study was to undertake a detailed and robust assessment of each of the eight strategic sub areas identified for further investigation and that the small-scale sub areas “do not fall within the scope of this study”. So whilst the Council state in paragraph 1.9 of the response to the Inspectors letter from 2 July 2019 (ED25C) that the stage 2 work involved a more detail consideration of potential boundaries and sites in fact this second study was only in relation to the eight sub-areas and disregarded the smaller-scale sub areas identified in part 1 of the Green Belt Study.

What was not clear to us prior to the Council’s statements in ED25C were the reasons why the Council had decided not to take forward any of the small-scale sub areas identified in GB004. However, it is now clear that the Council’s decision was an evaluative choice made on the basis that such sites would not offer infrastructure or community benefits in the same way as the broad locations (paragraph 1.24 of ED25C). Whilst we appreciate that the Council are required to make choices as to where to locate development these choices must be based on evidence and be consistent with national policy. In particular we would draw the Inspector’s attention to paragraph 56

of the NPPF and Regulation 122 of the CIL regulations which state that planning obligations must only be sought where necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonable related in scale and kind to that development. As such the development at the broad locations whilst providing new infrastructure that infrastructure should only be what is required to make that development acceptable and related to the scale of that development. Therefore, to dismiss small scale Green Belt releases before even considering the potential of smaller sites to deliver homes in sustainable locations on the basis that they will not offer any additional infrastructure benefits is not consistent with national policy.

It is evident that the approach to Green Belt used in the preparation of this local plan failed to give adequate consideration to small-scale sub areas in the Green Belt. Such sites were seemingly dismissed in 2014 without consideration as to the contribution these sites might make to a more balanced strategy, or the contribution they may make to meeting housing needs in other areas. As such when taken together, we would not agree with the Council's statement in paragraph 1.9 of ED25C that "*together these provide a robust baseline for understanding the nature and the extent of the harm to the Green Belt and effect on Green Belt objectives*".

*2. How have the conclusions of the Green Belt Review informed the Local Plan? Do decisions on Green Belt releases reflect the need to promote sustainable patterns of development, and prioritise sites which are previously developed and/or well served by public transport? Where is this evident?*

The conclusions of the Green Belt Review have clearly been taken into account by the Council in their decision to allocate the nine broad locations for development. However, as we set out above, the conclusions of the review regarding small-scale sub areas has not been taken forward in any meaningful way. The areas were dismissed early in the process without a proper consideration as to whether these may offer the potential to promote sustainable patterns of development alongside the allocation of the larger strategic broad locations.

*3. Has a comprehensive assessment of capacity within built up areas been undertaken? Have all potential options on non-Green Belt land in the countryside been assessed?*

This is for the Council to answer.

*4. Have opportunities to maximise capacity on non-Green Belt sites been taken (including increasing densities)?*

This is for the Council to answer.

5. Have discussions taken place with neighbouring authorities about whether they could accommodate some of the identified housing need?

This is for the Council to answer.

6. Does the Plan seek compensatory improvements to the environmental quality and accessibility of the Green Belt?

This is for the Council to answer.

7. Do the exceptional circumstances, as required by paragraph 136 of the Framework, exist to justify the plan's proposed removal of land from the Green Belt?

Yes. Whilst the NPPF does not state what circumstances are considered to be exceptional there are a number of cases where this matter has been considered in detail. The case most often cited with regard to exceptional circumstances is the Calverton Parish Council judgement<sup>1</sup>. At paragraph 51 of Justice Jay's decision he set out five issues that should be grappled with when considering exceptional circumstances as being:

1. the acuteness/intensity of the objectively assessed need (matters of degree may be important);
2. the inherent constraints on supply/availability of land prima facie suitable for sustainable development;
3. the consequent difficulties in achieving sustainable development without impinging on the Green Belt;
4. the nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and
5. the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.

The Council's evidence in the Green Belt Topic paper produced at the request of the Inspector's indicates that the Council consider these issues to be the key issues to be assessed with regard to the exceptional circumstances. However, in addition to these the Council also set out in paragraphs 1.24 and 2.36 of ED25C that infrastructure contributions were also a key factor in its consideration of exceptional circumstances.

With regard to the issues highlighted by Justice Jay we would suggest that the evidence indicates that there are the exceptional circumstances required to amend Green Belt boundaries. For example:

- The acuteness and intensity of housing needs can be seen not only in the scale of the need for both market and affordable housing but also in the poor affordability of housing within SADC. The ratio of lower quartile house price to

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<sup>1</sup>Calverton Parish Council v Greater Nottingham Councils [2015] EWHC 10784

income ratio was 17.68<sup>2</sup> in 2018, a ratio that increased from 11.87 in 2008. Over this period lower quartile house price increases from £235,000 to £390,000 – a 66% increase.

- There is no possibility of meeting the level of housing need identified by the Council within the urban areas of SADC even with the focus on optimising delivery on urban sites. Given that there is also no land outside of the urban areas not designated as Green Belt it is clear that the constraints on supply require the amendment of Green Belt boundaries if needs are to be met. Without amendments to the Green Belt it is evident that the magnitude of the unmet needs would be substantial and must be a key factor in any consideration of exceptional circumstances.
- The difficulty in achieving sustainable development without impinging on the Green Belt is evident from the fact that there would be a substantial shortfall in housing delivery if Green Belt boundaries were not amended. This would have consequential negative impacts on housing affordability, the provision of affordable housing and the local economy.

We would consider these sufficient to support not only the proposed amendments to Green Belt boundaries in the Local Plan but further adjustments to improve flexibility or meet the needs of other areas. However, as mentioned above, the Council have also included additional circumstances relating to infrastructure delivery that would appear to have resulted in smaller sites being discounted from consideration early in plan preparation and the Council failure to consider the potential to release small sites from the Green Belt and contribution these could make not only to SADC's housing needs but also the needs of neighbouring areas. In particular the decision not to include smaller sites has meant that the Council will not meet any shortfall in housing delivery in neighbouring areas and that much needed homes will not be delivered until later in the plan period. As such we do not consider, as highlighted earlier, that these additional circumstances as being justified in excluding smaller sites from being considered for allocation.

Whilst provision of infrastructure assists with achieving sustainable development principles and the Council is correct to support proposed provision on relevant sites; including such required provisions as an exceptional circumstance solely in relation to those sites fails to recognise that smaller sites will provide financial contributions to support delivery of infrastructure on those sites as well as providing additional resource through the new homes bonus and council tax to ensure the long term sustainability of existing services. What the Council has failed to consider is the potential interaction of both small and large allocations with regard to infrastructure and housing supply – a point considered recently in *Compton Parish Council & Ors v Guildford Borough Council & Ors*. [Case Number: CO/2173/2019] which outlines at paragraph 101 and 136 the importance of considering allocations as a whole in relation to exceptional

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<sup>2</sup><https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/ratioofhousepricetoworkplacebasedearningslowerquartileandmedian>

circumstances. The Council's approach will mean that sustainable smaller sites where services are sufficient, or where any impacts can be mitigated, would be dismissed using the Council's approach to exceptional circumstances. Given that such sites are able, as set out in both legislation and planning policy, to provide the infrastructure necessary to make that development acceptable, including financial contributions to support infrastructure on larger strategic sites we would suggest that the Council's approach in this regard is not consistent with national policy.

To conclude, the scale of housing needs, the poor affordability of homes and paucity of development opportunities on previously developed land are clearly sufficient to justify the amendment of Green Belt boundaries on the basis of paragraph 136 of the NPPF. The higher bar that has been set by the Council with regard to infrastructure that has prevented smaller parcels from being considered for development however is not justified or consistent with national policy and should not have been used to limit the scope of the Green Belt Review when identifying potential locations for boundary amendments.

8. Are all the sites and their boundaries clearly shown on a map?

No comment

9. Is the approach to secondary school sites in the Green Belt justified?

No comment

10. Is the approach to transport infrastructure in the Green Belt justified?

No comment

11. Did the Council consider the designation of safeguarded land in the Plan, and should this be identified?

The primary consideration for the Council should be to identify and allocate sufficient development opportunities to meet not only their own needs but to contribute to meeting some of the unmet needs within the housing market area. To some extent the strategic allocations will deliver beyond the plan period and will support delivery of future plans. However, it is clearly evident that further development opportunities will be required beyond the plan period and the allocation of safeguarded land to meet these needs is clearly appropriate given the fact that there are likely to be limited development opportunities in SACDC without further amendments.

Therefore, the release of further land from the Green Belt within is the only credible option to meet future development needs. It is inevitable that if safeguarded land is not identified in SACDC that additional and substantial amounts of land will need to be

released from the Green Belt through the next review of the Local Plan. It is noted that the national expects Local Plans to be reviewed regularly, and an assessment as to whether a review is necessary to be undertaken every five years and identifying sites now offers the greater certainty to both residents and developers as to where future needs will be met.

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