

Home Builders Federation

Matter 3

TONBRIDGE AND MALLING LOCAL PLAN EXAMINATION

Matter 3: The Metropolitan Green Belt (Policy LP3)

Questions

1. What is the basis of the Green Belt Review and how have the conclusions informed the Local Plan? What methodology has been applied and is it soundly based?

Our concerns regarding the approach taken to the Green Belt relate to the proposed extension to the west of West Malling and whether there are exceptional circumstances supporting this proposal. How these concerns relate to the methodology used in assessing the Green Belt are addressed in our response to other questions in this statement.

2. Does it reflect the fundamental aim of Green Belts, being to prevent urban sprawl by keeping land permanently open?

No comment

3. Does it reflect the essential characteristics of Green Belts, being their openness and their permanence?

No comment

4. Does it reflect the five purposes that Green Belts serve, set out in paragraph 80 of the NPPF?

No comment

5. Paragraph 83 of the NPPF is clear that Green Belt boundaries should only be altered in exceptional circumstances. Is the Council's approach to the Green Belt set out in its Green Belt Exceptional Circumstances Topic Paper (ED10) robust and in line with national guidance?

We have not raised any concerns regarding the approach taken to amending Green Belt boundaries to remove land from the Green Belt in order to facilitate development. However, we do not consider the approach taken to extending the outer Green Belt boundary as set out in ED10 to be robust. In considering exceptional circumstances relating to either the removal or extension of existing Green Belt it is important to recognise that these are not defined by the NPPF. Whilst the Calverton judgment provides a helpful indication as to those circumstances this case is less relevant to a decision to extend the Green Belt but it does give an indication as to the breadth of consideration needed and the Council cannot just rely on the degree to which an alteration would weaken or strengthen the purposes of Green Belt. There must be broader considerations as to the circumstances supporting any extensions. It is also important to recognise that the exceptional circumstances test is a stringent one and as is noted in paragraph 132 of the judgement on Gallagher Estates Ltd & Anor v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) (30 April 2014)

“For the reasons set out in Carpets of Worth (at page 346 per Purchas LJ) it is important that a proposal to extend a Green Belt is subject to the same, stringent regime as a proposal to diminish it, because whichever way the boundary is altered “there must be serious prejudice one way or the other to the parties involved”.”

As such, when considering what the exceptional circumstances are with regard to extending the Green Belt, we would have expected the Council not to have dismissed paragraph 82 of the NPPF so readily as they did. Whilst we would agree with the Council’s assessment in ED10 that the primary purposes of this paragraph is in relation to new Green Belts it provides helpful guidance as to how a Council might consider the exceptional circumstances relating to the extensions of the Green Belt given that these are not defined in the NPPF. In particular we would argue that in its deliberations as to whether exceptional circumstances necessitate any proposed extensions to the Green Belt, the Council should have reflected as to whether normal planning and development policies would have been adequate.

The importance of considering whether amendments are necessary is helpfully set out in paragraph 125ii)b) of the judgement on Gallagher Estates Ltd & Anor v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) (30 April 2014). This paragraph outlines that the exceptional circumstances facing the Council must necessitate a revision to the existing boundary. This same paragraph also notes that if the circumstances do not require the Green Belt to be amended then they cannot be considered to be exceptional. With regard to the Council’s proposed extension to the Green Belt boundary it was therefore vital that they considered whether or not that alteration was necessary and part of this consideration must be whether other normal planning and development management policies would not be adequate. If the Council could use such policies in managing development where the Green Belt was proposed to be extended, then the logical consequence is that there cannot be the exceptional circumstances present to extend the Green Belt as it is not necessary.

To conclude, the Council's approach as set out in ED10 has ignored any consideration as to whether the proposed extension to the Green Belt is necessary to prevent urban sprawl. Such a consideration should have included an assessment as to why normal development management policies would not be adequate. This is a fundamental failing in the Council's approach and as such it cannot be considered robust or in line with national policy.

6. Do the exceptional circumstances necessary exist to warrant the proposed alterations to Green Belt boundaries, in terms of both removing land from and adding land to the Green Belt?

We do not consider there to be exceptional circumstances to warrant the proposed extension to the Green Belt. As outlined above the exceptional circumstances test is a stringent one and the Council must show that proposed alterations are necessary. However, the Council have only set out in ED10 and the Stage Report 2 of the Green Belt Study (LG8) the reasons as to why the extension to the outer Green Belt boundary maybe desirable with regard to the purposes of Green Belt but they have not set out why it is necessary. In our opinion there are other development management policies that could be used, and indeed are set out in the local plan in policy LP5, that would enable the effective management of development in open land not designated as Green Belt. If development can be managed appropriately using these policies it is not necessary for this land to be designated as Green Belt. As such, and as outlined earlier in this statement, the circumstances presented by the Council cannot be considered to be exceptional and the extension to the outer boundary of the Green Belt must be unsound.

7. What relationship, if any, is there between the exceptional circumstances leading to the alterations proposed to the Green Belt and the proposed spatial strategy/distribution of new housing?

No comment

8. Do the decisions taken 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?

No comment

9. Has a comprehensive assessment of capacity within built up areas been undertaken? Where is this evident?

No comment

10. Have all potential options on non-Green Belt land in the countryside been thoroughly assessed, including some of the land being proposed to be included in the Green Belt? Where is this evident?

No comment

11. Have opportunities to maximise capacity on non-Green Belt sites been taken (including increasing densities)? Where is the evidence of this?

No comment

12. Have discussions taken place with neighbouring authorities about whether they could accommodate some of the identified housing need? If so, where is the evidence of this?

No comment

13. Are all the sites and their boundaries clearly and accurately shown on the proposals map?

No comment

14. Is the approach to new infrastructure in the Green Belt justified?

No comment

15. What land is safeguarded through this Local Plan and what land was safeguarded through the previous adopted Local Plan? Does the Local Plan make clear that safeguarded land is not allocated for development at the present time? Is all land previously safeguarded allocated for development in this Plan?

No comment

16. Is it necessary to identify safeguarded land more widely in order to meet longer term development needs stretching well beyond the plan period? Without the identification of further safeguarded land, what reassurance is there that longer-term development needs can be met without further review of the Green Belt?

Yes. Our primary concern is that the Council identifies sufficient land to meet its needs for this plan period. However, the Council is likely to have to review its plan in the near future to meet a higher level of need. future and potentially identify further amendments to the Green Belt then it should identify where possible safeguarded land to meet future needs. It is by no means certain that the Council will not need to increase supply in future given the inability of London to meet its development needs. Increased migration from the capital will mean continuing demand for housing which will inevitably increase prices if more housing is not provided. As such the identification of safeguarded land would provide certainty for both residents and developers as to where development would take place and increase confidence that current Green Belt boundaries would endure.

17. Have the altered Green Belt boundaries been considered having regard to their intended permanence in the long term? Are they capable of enduring beyond the plan period?

In relation to the proposed extension of the Green Belt we could not find any consideration as to whether it would endure beyond the plan period within ED10 or LG8. The Council state in paragraph 3.2.16 of ED10 that the extension would not prejudice the “*short, medium, and long-term Local Plan development strategy ...*” but does not then consider whether it would prejudice development beyond the strategy established in this Local Plan. As we have mentioned earlier there is an acute shortage of housing in London that will place pressure on housing markets across the south east, especially those with good transport links into the capital. Increasing the extent of the Green Belt will therefore further limit opportunities for development in future local plans and inevitably weaken the capability for the Green Belt boundary to endure beyond the plan period.

18. In terms of the land being included in the Green Belt through proposed boundary changes, what other options were considered and rejected, as a way of preventing harmful development in this area? Where is this evident?

This is for the Council to answer. We could find no evidence as to whether the Council considered the efficacy of using normal planning and development management policies prior to considering the need to include additional land within the Green Belt. Both the loss and extension of Green Belt should be considered as a last resort after all other options have been considered and evidence provided that they would be ineffective. We would consider LP5: Settlement Hierarchy in particular to provide the necessary policies that would enable decision makers prevent urban sprawl whilst also providing the necessary flexibility to ensure that some development in these areas is permitted.

19. Has consideration been given to leaving this land outside of the Green Belt boundary in order to allow for some future development without the need to review the Green Belt boundaries again?

This is primarily for the Council to answer. As we set out above the act of extending the Green Belt will inevitably reduce the Council’s ability to meet development needs in future without amending Green Belt boundaries. This limits the capability of the Green Belt boundary to endure beyond the plan period as required by paragraph 83 of the NPPF and as such it cannot be considered to sound.

Mark Behrendt MRTPI
Planning Manager – Local Plans SE and E