

Tamworth Local Plan Examination

**MATTER 7: The Green Belt and  
other physical constraints on  
new housing**

*Lichfield*  
district council  
[www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk)

**June 2015**

## **INSPECTORS ISSUE 7: The Green Belt and other physical constraints on new housing**

### **7.1 Should the Green Belt, as indicated in Policy EN2, continue to be a permanent constraint on the development of new housing throughout the plan period.**

Lichfield District Council (LDC) considers that Tamworth Borough Council (TBC) needs to apply a more flexible approach to the consideration of its Green Belt sites, particularly given the fact that it is reliant upon its neighbouring authorities to accommodate its overspill.

Lichfield District Council will shortly be developing its evidence base to inform the next stage of the Local Plan (following the adoption of the Local Plan Strategy in February 2015) i.e. the Allocations document. This will include a full Green Belt review.

Given that LDC is required to accommodate a portion of Tamworth's overspill and is working with North Warwickshire and the wider GBSLEP authorities in exploring options (as set out under Matter 2, Duty to Co-operate), it is considered that TBC should not be concluding that its Green Belt sites should be a permanent constraint until this issue has been looked at more comprehensively in terms of the other appraisal work which is currently being commissioned or ongoing in the wider area, and in terms of its own sustainability and delivery credentials as set out below under 7.2. Lichfield District Council appreciates that TBC have reasons for concluding now that these sites could not be brought forward in any case, and LDC sets out its comments in relation to this in the next section.

### **7.2 Are there any likely development scenarios which would amount to the very special circumstances required to justify the development of new housing in the Green Belt?**

Yes. Paragraph 83 of the National Planning Policy Framework (NPPF) states that 'Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence so that they should be capable of enduring beyond the plan period'.

Paragraph 84 of the NPPF then says: 'when drawing up or reviewing Green Belt boundaries, local planning authorities should take account of the need to promote sustainable patterns of development...'

Paragraph 85 states 'when defining boundaries, local planning authorities should...ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development....define boundaries clearly using physical features that area readily recognisable and likely to be permanent'.

'Very Special Circumstances' (Paras 87 – 89 of the NPPF) relates to decision-taking rather than plan making.

It can therefore be concluded that sustainability credentials could potentially provide the Exceptional Circumstances required to justify changing Green Belt boundaries.

LDC does not necessarily accept TBC's argument that such circumstances do not exist and would wish to see this issue explored further before coming to any

conclusions, particularly as TBC is reliant upon neighbouring authorities to deliver a proportion of its growth which will require assessment of Green Belt options as one potential alternative which will need to be explored given the environmental and policy constraints affecting both Tamworth and adjacent areas.

The Sustainability Appraisal (SA) does not progress SHLAA sites referenced 352 (Land South of Hockley Road) and 354 (Land west of A51 Dosthill) (see SA Appendix G). It codes them 'red' in terms of their Green Belt status, whereas LDC would argue that this a policy constraint rather than an absolute constraint in sustainability terms.

In terms of the Hockley Road site, other key constraints relate to the need to provide a new primary school and the need for landscape regeneration, the loss of grade 2 agricultural land, the proximity of landfill and issues with local sewage works requiring further investigation.

In terms of Land west of Dosthill, constraints again relate to the need to provide a school, landscape restoration issues, biodiversity issues and potential flooding in parts of the site.

However, these do not appear to be absolute constraints but no potential mitigation has been provided therefore it appears they have not been progressed to the next stage of SA as being more sustainable options and, without this mitigation therefore they continue to score poorly, with Green Belt status also being used to provide this overall negative score. LDC would argue, however, that mitigation measures should be more thoroughly explored before TBC sets requirements and figures for its neighbouring districts to deliver growth on its behalf – particularly as neighbouring areas are also in the Green Belt and similar constraints are likely to be experienced in these areas.

There does not, on the face of it, appear to be any indication that these sites are not developable. The 2012 SHLAA (B2 page 108-109) shows that the agents have indicated the sites could be available in the next 5 years and the proforma states 'the main constraint relates to policy designation as Green Belt, whilst this is in place it is not considered the site could be developed'. It is also advised that other constraints such as biodiversity and flooding could be mitigated for / only relate to parts of the site.

Furthermore, in terms of viability, whilst TBC's viability assessment of the Plan has not tested these sites, other greenfield sites could be assumed to present similar issues and there appear to be no viability concerns in relation to these.

It could therefore be argued that, with mitigation, these sites could become more sustainable and exceptional circumstances could possibly be justified. These sites could provide a large amount of development (902 homes for Hockley Road and 529 homes for land West of A51). It is accepted this is unlikely, but even partial development would reduce the pressure on surrounding areas, and development could be of sufficient scale to provide the new primary school indicated. Furthermore, open space and school playing fields would still be uses compatible with Green Belt function so not all of the land would need to be removed from the Green Belt.

LDC feels strongly that this is an option which should be explored further, as it has just been through the same process itself and released two Green Belt sites to accommodate 900 homes and this is explained in the paragraphs below.

Lichfield District Council's Local Plan Strategy was adopted in February 2015. Its evidence base initially included a strategic Green Belt Review, and then a Supplementary Green Belt Review to inform work on Main Modifications whereby the Inspector required the Council to accommodate a further 900 homes to meet its OAN. The supplementary review focused on the Green Belt around the key settlements of the district, as the Inspector had already found the spatial strategy sound in terms of apportioning growth to the District's towns and key rural villages. The work on the Main Modifications included appraising options for the additional growth in the context of their 'fit' with the NPPF, their strategic fit with the spatial strategy, their sustainability credentials via the Modifications SA, the opportunities and constraints of the additional sites, and their scorings in terms of the Supplementary Green Belt Review.

After assessing the appraisal work, the Council selected two Green Belt sites to the south of Lichfield City as being the most sustainable options. One of these sites, Deanslade farm, scored highly in terms of all of the Green Belt functions set out in the NPPF para 80 but because of its topography could be 'split' to encompass built development in the lower part of the site closest to the urban area, retaining the rising contours of the site to the south to provide a country park and setting new permanent Green Belt boundaries.

The Inspector accepted in his final report that exceptional circumstances existed, stating (para 207) 'in my judgement the lack of more sustainable sites outside the Green Belt to meet the identified need for housing in a way that is consistent with the Plan's urban and key centre strategy amounts, in this instance, to the exceptional circumstances that justify the release of Green Belt land at Deanslade Farm and Cricket Lane and their allocation for development' (relevant extracts of the Inspectors report at **Appendix 1**).

It should be noted at this point that IM properties submitted a legal challenge to the adoption of Lichfield's Local Plan strategy and one of the issues relates to the demonstration of exceptional circumstances. This is listed for 10<sup>th</sup> and 11<sup>th</sup> June 2015 in the High Court.

**7.3 Is the Plan relying on the release of any housing sites which are located within other areas of physical constraint such as areas of high flood risk, or best and most versatile agricultural land and if so is this realistic?**

Lichfield District Council does not wish to add any further comment beyond that already stated above: except to reiterate that Tamworth is a highly constrained area and should be considering an OAN towards the lower end of the range, as has been suggested by LDC under Matter 4.

# MATTER 7: APPENDIX

- Appendix 1 – Extract from Lichfield District Local Plan Strategy Inspectors Report

## Appendix 1 – Extract from Lichfield District Local Plan Strategy Inspectors Report

that Birmingham City Council cannot accommodate its housing needs within its own area. This is something that would be likely to take place through a review of the Plan. However, there is no clear evidence at this time which suggests that the strategy of concentrating development at Brookhay Villages would be more appropriate than the strategy proposed by the Council in the Plan.

185. Moreover, Brookhay Villages is quite correctly being promoted as a single proposal that would be planned comprehensively. However, as has already been noted, the scheme would involve land in both Lichfield District and East Staffordshire Borough and if it were to progress would need to be included in the Local Plan for each area. The evidence at the initial hearings was that the scheme does not feature as a proposal in the emerging plan for East Staffordshire.

186. There would be little merit, therefore, in me recommending that, in effect, the Plan should unilaterally propose this scheme, a scheme which requires comprehensive and cross boundary planning, without clear evidence that it was supported by the neighbouring council. There is no evidence at this time that such support would be forthcoming.

187. This comment is not intended as a criticism of either council as this scheme only emerged relatively late in the day. Rather it is intended to point out the procedural difficulties of promoting this scheme without clear evidence of cross boundary agreement.

#### *Conclusions on Identified Sites*

188. I am satisfied on the available evidence that the proposed Strategic Development Allocations and the Broad Development Location identified in the Plan are either deliverable or developable, they are viable and they are sustainable. I am also satisfied that these sites are the most appropriate having considered reasonable alternatives.

#### ***Additional Sites***

##### *Preamble*

189. It has been established earlier in this report (paragraph 64) that in its search for the additional sites necessary to remedy the housing shortfall the Council considered a number of alternative sites and strategic options. The outcome of this process, which included an updated Green Belt Review<sup>90</sup>, was the selection of two sites, Deanslade Farm and Cricket Lane, sites which involved taking land out of Green Belt<sup>91</sup>.

190. There was relatively little in the way of suggestion at the resumed hearings that these sites were not in suitable locations, that they were not deliverable or developable or that they were not viable. Indeed the evidence points to the contrary - the sites are on the edge of and well related to Lichfield City which is by far the most sustainable settlement in

---

<sup>90</sup> CD2-44a. Green Belt Review Supplementary Report.

<sup>91</sup> The Council's decision to allocate further land for housing at Fradley East was not seriously challenged.

the District and they are in the hands of developers who have done the work necessary to demonstrate that they are deliverable or developable and that they are viable. The focus of concern at the resumed hearings was not with these matters but with the fact that the allocation of these sites involves taking land out of Green Belt.

191. It was common ground at the resumed hearings that an essential characteristic of Green Belt is its openness and its permanence and that once established Green Belt boundaries should be altered only in exceptional circumstances through the preparation or review of a local plan. It was also agreed that when reviewing Green Belt boundaries account should be taken of the need to promote sustainable patterns of development or, to put it another way, that the revised boundaries should be consistent with the Local Plan strategy for meeting the requirements for sustainable development<sup>92</sup>.
192. The government has recently published updated guidance on housing needs<sup>93</sup> but this does not alter the points made above, it simply re-states the point that in considering whether to meet its assessed need for housing the Council should take account of constraints such as Green Belt which indicate that development should be restricted. When considering the relevance of this point it is important to bear two facts in mind. Firstly, the Council has never sought to argue that Green Belt is a factor which, in its particular area, restrains its ability to meet its need for development. Secondly, this is not a situation in which the option of taking land out of Green Belt is being imposed on the Council. In my interim findings I concluded that there was a need to identify more housing sites. I did not conclude that this amounted to the exceptional circumstances that would warrant the release of Green Belt land nor did I conclude that this could not amount to such exceptional circumstances. I left this judgement to the Council.
193. Following on from these points it was agreed at the resumed hearings that the question of whether or not exceptional circumstances exist is a matter of planning judgement taking into account the objective of contributing to the achievement of sustainable development. The Council considers that exceptional circumstances exist: others disagree. I will deal now with the various points of disagreement.

*Exceptional Circumstances Ignored*

194. The Council was clearly aware that the sites it had selected were in Green Belt. Before selecting them it produced its Supplementary Green Belt Review<sup>94</sup> the purpose of which was to establish which parts of the Green Belt it should continue to protect and which parts it would be best to release if such release were required. In its Sustainability Appraisal<sup>95</sup> the

---

<sup>92</sup> National Planning Policy Framework paragraphs 79, 83, 84 and 85.

<sup>93</sup> Planning Guidance. Housing and Economic Land Availability. Paragraphs 44 and 45.

<sup>94</sup> CD2-44a. Supplementary Green Belt Review.

<sup>95</sup> CD1-8a. Paragraphs 86 and 87.

Council also, in effect, took account of the fact that these sites were in Green Belt. So, although the exceptional circumstances test is not specifically referred to in the Supplementary Green Belt Review, the Sustainability Appraisal or the Plan, I am satisfied that the Council had it in mind when it made its decision to remove two sites from Green Belt.

*Too Much Credence Given to Strategy*

195. It was argued that the Council gave too much credence to an urban/key centre focussed strategy in the submitted Plan. The point being made was that the Council should have looked afresh at where the increased number of houses, in total, should be located. It could, for example, have looked again at the merits of a new settlement as a way of accommodating some or all of the total number of houses needed rather than take the approach that it did of appraising new settlements only as a way of accommodating the additional houses.

196. While such an approach was open to the Council I do not consider that the Council was bound to take it. It is entirely legitimate for the Council to seek to find additional sites that are consistent with the strategy of the submitted Plan, particularly as I had already endorsed that strategy in my Interim Findings.

*Too Little Credence Given to Strategy*

197. It was argued that by taking land out of Green Belt the Council gave too little credence to the Plan's strategy as this sought to minimise Green Belt releases. When assessing ways of accommodating the additional housing land required the Council should have adopted a sequential approach and looked first at alternatives which conformed with all aspects of the strategy.

198. However, while the strategy seeks to minimise Green Belt releases it has never ruled them out in the longer term. The submitted version of Core Policy 1 made clear that changes to Green Belt boundaries around the edge of Lichfield city to meet longer term needs would be considered. The need to find additional housing sites has simply brought the process forward. I see no reason, therefore, why the Council should have adopted the sequential approach suggested.

*Green Belt as a Last Resort*

199. The fact that land is in Green Belt should not be taken lightly, it should be released only in exceptional circumstances. So, for example, it would be legitimate for the Council, as it has done elsewhere, to select a site although it was somewhat less sustainable in other respects than alternative sites but which avoided developing in Green Belt.

200. However, I can find no justification in the Framework, in Planning Guidance or indeed in the case of I M Properties<sup>96</sup> for the proposition that Green Belt land should be released only as a last resort. This would be to accept that sustainability is the servant of Green Belt designation - which

---

<sup>96</sup> CD 5-26. I M Properties v Lichfield District Council. Paragraph 96.

it is not. On the contrary, as has already been established, the duty in determining Green Belt boundaries is to take account of the need to promote sustainable patterns of development.

*Suitability of Deanslade Farm and Cricket Lane for Green Belt Release*

201. The Council, on the basis of information contained in its Supplementary Green Belt Review and Sustainability Appraisal, has concluded that the release of the sites at Cricket Lane and Deanslade Farm would not cause unacceptable harm to the purposes of including land in Green Belt. Both sites obviously have a role to play in safeguarding the countryside from encroachment and the higher portions of Deanslade Farm form part of the landscape around the city of Lichfield which in its undeveloped state helps preserve the historic character and setting of that city.
202. However it is proposed that the upper part of Deanslade Farm would remain in Green Belt and be incorporated into a District Park. The lower part of the site could be developed without having a major impact on the open aspect of views towards the city. The provision of the Country Park would help provide a strong defensible boundary to the Green Belt at Deanslade Farm. Cricket Lane already has such boundaries, being contained within the A38, London Road and Cricket Lane.
203. Having visited these sites and examined the evidence I agree with the Council's conclusion that their deletion from Green Belt would not cause unacceptable harm to the purposes of including land in Green Belt.

*Conclusions on Additional Sites*

204. The focus of concern at the resumed hearings was not so much that Cricket Lane and Deanslade Farm were unsuitable, undeliverable, undevelopable or unviable but rather that there were better sites which should have been selected. This argument was put forward in favour of Brookhay Villages, of sites at Burntwood, of various sites in the rural area including sites at Fazeley, Armitage and Stonnall, of the site at Watery Lane and of the site at Fradley West. These arguments are not, however borne out by the findings of the Sustainability Appraisal which I have examined at length and have concluded are reliable. These findings indicate that the additional sites selected by the Council are the most suitable.
205. I have already considered a number of these alternative sites earlier in this report and concluded that they were not more suitable than the sites allocated in the submitted version of the Plan. A number of the comments which I made about Brookhay Villages (Paragraphs 178-187), about sites at Burntwood (paragraph 131) and about sites in the rural area (paragraph 164) hold good when comparing these sites to the additional sites selected by the Council.
206. New information was submitted in support of the site at Watery Lane but as I have concluded earlier in this report (paragraph 99) I see no reason to dispute the judgement that this site is less sustainable than the

additional sites selected by the Council. As to the site at Fradley West, it is common ground that Fradley is a sustainable location for growth as evidenced by the proposal to allocate other sites there. The fact remains, however, that it is not as sustainable a location as sites on the edge of Lichfield and it has not been seriously argued that it is.

207. Nonetheless, the additional sites selected by the Council are in Green Belt and land should be released from Green Belt only in exceptional circumstances. In my judgement the lack of more sustainable sites outside the Green Belt to meet the identified need for housing in a way that is consistent with the Plan's urban and key centre strategy amounts, in this instance, to the exceptional circumstances that justify the release of Green Belt land at Deanslade Farm and Cricket Lane and their allocation for development (together with additional housing land at Fradley East) as proposed in **MM12 – MM24**. I am also satisfied that the additional sites selected by the Council are the most suitable having considered reasonable alternatives.

#### **Issue 4: Housing Supply**

208. Discussion on housing supply at the resumed hearings focussed on the ability of the Strategic Development Allocations in the Plan, particularly those around Lichfield city, to deliver a five year supply of housing land.

209. Broadly speaking the Council's evidence at the resumed hearings was that if the Strategic Development Allocations in the Plan, including the sites at Deanslade Farm and Cricket Lane, were taken into account it could demonstrate a 5 year supply of land if the 'Liverpool' approach were adopted and the shortfall in housing completions since the start of the plan period were spread over the remaining plan period. On the other hand it could not demonstrate a 5 year supply if the 'Sedgefield' approach were adopted and the shortfall in housing completions were spread over the next 5 years. This calculation gave rise to a number of questions.

#### *Sedgefield and Liverpool approaches*

210. The question of whether the Liverpool or Sedgefield approach is adopted has a critical impact on housing land supply calculations. The advice<sup>97</sup> is that the Sedgefield approach should be taken where possible. This is understandable as seeking to remedy any past undersupply within the first five years of the Plan is consistent with the aspiration of boosting significantly the supply of housing land.

211. However the use of the words 'where possible' clearly anticipates that there will be circumstances in which it will not be possible to apply the Sedgefield approach.

212. Applying the Sedgefield approach would mean that between 754 and 825 houses would need to be built per annum over the first five years of the

---

<sup>97</sup> Planning Practice Guidance: Housing and Economic Land Availability: Paragraph 35