



**WELWYN  
HATFIELD**

**Joint Examination of the  
Welwyn Hatfield Local Plan 2013-2032  
and the  
East Herts District Plan 2011-2033**

**Birchall Garden Suburb/East of Welwyn Garden**

**Examination Hearing Statements**

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**Matters and Issues**

**Matter 1 - Green Belt**

## Joint Examination of the Welwyn Hatfield Local Plan - 2013-32 (WHLP)

and the

## East Herts District Plan - 2011-33 (EHDP)

## Birchall Garden Suburb/East of Welwyn Garden City

### INSPECTORS' MATTER AND ISSUES

#### Matter 1 Green Belt

The National Planning Policy Framework stresses that the government attaches great importance to Green Belts and that their fundamental aim is to prevent urban sprawl by keeping land permanently open. Additionally, it also says that Green Belt boundaries should only be altered in exceptional circumstances.

#### Issues

- 1) In that context, is the extent of the allocation justified, effective and consistent with national planning policy and do exceptional circumstances exist to release every part of the allocation from the Green Belt?

#### ***Response***

- a) **National Planning Policy:** In preparing a local plan, Section 19(2) of the Act<sup>1</sup> requires planning authorities to have regard to national policies and the advice contained in guidance issued by the Secretary of State. Section 39(2) imposes an obligation to achieve sustainable development.
- b) At the heart of the National Planning Policy Framework (NPPF) is the presumption in favour of sustainable development (paragraph 14). For plan making, this means that planning authorities should positively seek opportunities to meet development needs of their areas and meet objectively assessed needs. That is, unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the Framework as a whole; or, specific policy of the Framework indicate development should be restricted (e.g. land designated as Green Belt – footnote 9).
- c) Paragraph 47 provides that in order to boost significantly the supply of housing, planning authorities should use their evidence base to meet the objectively assessed need for housing in the housing market area, consistent with the policies in the Framework, including *identifying key sites, which are critical to the delivery of the housing strategy* over the plan period.
- d) Paragraph 83 of the NPPF confirms that once established, Green Belt boundaries should only be altered in exceptional circumstances through the preparation or review of a Local Plan. At that time, regard should be had to the permanence of

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<sup>1</sup> Planning and Compulsory Purchase Act 2004

boundaries in the long term. Paragraph 84 further advises that when reviewing Green Belt boundaries, account should be taken of the need to promote sustainable patterns of development and consider the consequences for sustainable development of channelling development towards urban areas.

- e) ***Exceptional Circumstances***: There is no definition of what constitutes exceptional circumstances either in the NPPF or in national Planning Practice Guidance. The courts have considered the steps that might lead a planning authority to conclude that exceptional circumstances exist. The case of *Calverton Parish Council v Nottingham City Council (and others)* 2015 EWHC 1078 (Admin)<sup>2</sup> is relevant.
- f) This case confirms that decision makers are entrusted with the obligation of reaching sound planning judgements on whether exceptional circumstances exist in the circumstances of the individual case (paragraph 20), and in doing so *regard must be had to the whole picture, including the consequences for sustainable development*.
- g) The fact that Green Belt reasons may continue to exist cannot preclude the existence of countervailing exceptional circumstances, otherwise it would be almost impossible to revise a boundary. Exceptional circumstances must be logically capable of trumping the purposes of the Green Belt, subject to the correct identification of the exceptional circumstances and the strength of the Green Belt purposes. Having first assessed the OAN, the planning judgements involved in the ascertainment of exceptional circumstances, in the context of both national policy and the positive obligation in S39(2), should address the following:
- The acuteness of the Objectively Assessed Need,
  - The constraints on supply and availability of land for sustainable development,
  - The consequent difficulties in achieving sustainable development without imposing on the Green Belt,
  - The nature and extent of the harm to the Green Belt if boundaries are reviewed; and
  - The extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonable extent
- h) In another case, the Bath and North East Somerset Inspector concluded<sup>3</sup> that housing need may justify the *exceptional circumstances* for reviewing Green Belt boundaries, taking into account harm to the Green Belt and any other harm, the benefits of securing the scale of additional housing and the sustainability merits of the proposal.
- i) Both Councils have already presented evidence to their relevant Local Plan examination hearing sessions on the exceptional circumstances for the release of

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<sup>2</sup> <http://www.bailii.org/ew/cases/EWHC/Admin/2015/1078.html>

<sup>3</sup> [http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs\\_pins\\_final\\_report.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Planning-and-Building-Control/Planning-Policy/Core-Strategy/cs_pins_final_report.pdf)

land from the Green Belt - East Herts in its Green Belt Topic Paper (**TPA/003**) and in its Hearing Statement for Matter 5 – The Development Strategy – The Green Belt in response to Question 4<sup>4</sup>. Welwyn Hatfield has presented similar evidence in its Green Belt Topic Paper (**TPA/2**) and in its Hearing Statement for Matter 2 in response to Question 5<sup>5</sup>. In the circumstances of this proposal, and in light of the cases referred to above:

- j) **Acuteness of the OAN:** Both East Herts and Welwyn Hatfield Councils have already presented evidence to their respective Local Plan examination hearing sessions on their OAN for housing. The latest OAN<sup>6</sup> for Welwyn Hatfield includes a 19% uplift on the demographic starting point. In East Herts, an uplift of 14% has been applied in light of market signals. These OANs highlight the acute need for housing in both areas, the need to respond to market signals of worsening affordability and a recognition of the need to counter the implications of an historic imbalance between the supply and demand for housing.
- k) **Constraints on supply and land availability:** Both Councils have prepared a proportionate evidence base and have reviewed the opportunities for maximising development potential within urban areas. Without Green Belt release, Welwyn Hatfield currently estimates a housing land supply position representing around 46% of the latest OAN<sup>7</sup>.
- l) East Herts does have land within rural areas beyond the Green Belt. However, given the lack of access to services and facilities and the lack of access to sustainable modes of transport in these locations, it has concluded that this would not be a sustainable development strategy consistent with policies in the NPPF. Land availability in East Herts means that the site allocations on land that is currently Green Belt represents 43% of the total supply of the proposed delivery strategy.
- m) Clearly, there is an acute shortfall in the supply and availability of land to meet the need for housing in both authority areas without imposing on the Green Belt.
- n) **The consequent difficulties in achieving sustainable development without imposing on the Green Belt:** As already noted, the presumption in favour of sustainable development lies at the heart of the National Planning Policy Framework. There are three dimensions to sustainable development and planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development.
- o) As the Calverton case notes, the *consequences* for sustainable development may require Green Belt revision. In such circumstances, significant adverse impacts on the three dimensions of sustainable development should be avoided and where this cannot be avoided, must be ameliorated to the extent possible.

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<sup>4</sup> <https://www.eastherts.gov.uk/article/36040/Hearing-Sessions-Weeks-1-and-2>

<sup>5</sup> <http://www.welhat.gov.uk/CHttpHandler.ashx?id=12713&p=0>

<sup>6</sup> HOU/21: SHMA Update 2017: <http://www.welhat.gov.uk/CHttpHandler.ashx?id=12279&p=0>

<sup>7</sup> Based on an OAN of 15,200 and a HLS of 6,993 from completions, permissions, capacity within urban areas, the release of an ASR, permissions awaiting determination, windfalls and a non-implementation allowance.

- p) As noted above, having had regard to housing requirements and the limited availability and supply of alternative suitable sites, both authorities have concluded that it will not be possible to achieve sustainable development without imposing on the Green Belt. Not imposing on the Green Belt would mean that respective Local Plans would fail to boost significantly the supply of housing for existing and future generations; fail to plan for a resilient local economy and fail to co-ordinate the provision of infrastructure alongside growth.
- q) At Birchall Garden Suburb (BGS), the opportunity exists to create a new sustainable community incorporating Garden City principles. Around 2,550 new homes (market and affordable, and a new Gypsy and Traveller site) will be delivered alongside two neighbourhood centres to meet the day to day need of residents, an employment area, community facilities, new primary and secondary school provision, sustainable transport measures and open space.
- r) BGS comprises a key site, which is critical to the delivery of the housing strategy of both local planning authorities. It is identified in respective Local Plans consistent with paragraph 47 of the NPPF, with a shared policy approach to ensure comprehensive planning and delivery.
- s) ***The nature and extent of the harm to the Green Belt if boundaries are reviewed:*** Both authorities have considered the nature and extent of the harm to the Green Belt. For East Herts, the relevant assessment is set out within its Green Belt Review (**GRB/001**). For Welwyn Hatfield, assessments are contained in Examination Library Documents **GB/1**, **GB/2** and **GB/3**.
- t) The Green Belt assessments of each authority conclude that land in this location makes an important contribution to one or more national Green Belt purpose. However, the review of the Green Belt comprises one aspect of the overall evidence base and consistent with Calverton, regard must be had to the whole picture.
- u) East Herts explains in its Green Belt Topic Paper that by its very nature, Green Belt land immediately adjoining existing urban areas clearly plays a significant role in safeguarding the countryside from encroachment. However, very few parcels of the Green Belt were considered to have 'high' suitability for development within the Green Belt Review. When considered as a whole, the Council is of the view that these locations do represent sustainable locations for development. Its conclusion is supported by its Sustainability Appraisal, which assessed the proposed strategy against a range of reasonable alternatives.
- v) Welwyn Hatfield, considered the range of evidence in its Housing Sites Selection Paper 2016 (**HOU/20** and **HOU/20a** – Appendix A, Site ref. WGC5). It concluded that on balance, the benefits of the site being allocated for development outweighed the adverse impact on the purposes of the Green Belt. Those benefits include:
- Delivery within 5 years of plan adoption and ongoing delivery throughout much of the plan period (helping to maintain a supply of land);

- New Green Belt boundaries can be defined using physical features, which are readily recognisable and likely to be permanent.
  - The Sustainability Appraisal indicated that there were notably more significant positive effects associated with the development of this site than significant negative effects;
  - The site passed the sequential test for flood risk (98.1% of the site falls within Flood Zone 1. A layout that restricts development to this zone is feasible); and
  - The strategic advantage of being able to deliver infrastructure to support growth, including the provision of a primary and secondary school.
- w) Taken as a whole, and in light of the acuteness of the OAN, the availability and supply of land and the consequences for sustainable development without imposing on the Green Belt, it is considered by both authorities that exceptional circumstances exist to allocate this site. The allocation is justified and the joint policy approach to delivering growth at this location using a master-planned approach will ensure effective delivery.
- x) **Do Exceptional Circumstances exist to release every part of the allocation from the Green Belt?** Yes. As already discussed, both authorities have identified an acute need for housing. The Councils' collective view is that the availability and supply of land situation and the consequences for sustainable development means that exceptional circumstances do exist to release every part of the site from the Green Belt.
- y) Releasing the entire site is considered to present the most effective opportunity to deliver a comprehensive development, through a master-planned approach consistent with the joint policy in both Local Plans. The proposed scale of development facilitates the delivery of new homes and jobs supported by the infrastructure necessary to create a sustainable new community. This includes the provision of new neighbourhood centres, community facilities (including healthcare and leisure), education facilities (including a secondary school, primary schools and early years provision), sustainable transport measures (including passenger and community transport initiatives) and open space provision (including sports fields and community orchards). These facilities will serve not only the new community, but will benefit existing residents beyond the site.
- z) As previously discussed in this response, the Green Belt assessments of each authority concluded that land in this location makes an important contribution to one or more national Green Belt purpose. However, consistent with Calverton, regard must be had to the whole picture. There a number of sites that have been proposed for allocation in the Plans of both authorities on land that currently fulfils a Green Belt role of some significance. Failing to take this course of action would have significant consequences for achieving sustainable development.
- aa) The proposed Green Belt boundaries can be defined using physical features, which are readily recognisable and likely to be permanent. Should the site be subdivided,

e.g. into areas of housing, education, open space etc., it is unlikely that such strong boundaries could be defined.

- bb) The Welwyn Hatfield Local Plan Consultation in 2015 (**LPD/5 – Policy intention CS4**) set out the Councils' intention to work together to produce a masterplan. The matter of whether large areas of open space within strategic sites should be allocated as Green Belt or Urban Open Land was also considered. Responses:
- Welcomed joint working and the masterplan approach, which may involve the provision of significant areas of open space;
  - Indicated split views on whether large areas of open land should be retained in the Green Belt, or designated as Urban Open Land (and removed from the Green Belt) and such decisions should be taken on a site-by-site basis.
  - In favour of the UOL approach, responses noted that open space within strategic sites would be expected to include outdoor sports facilities. Retaining land in the Green Belt could reduce flexibility (development could be deemed inappropriate) and a comprehensive master-planned approach should be taken.
- cc) Both authorities agree that the proposed boundaries are appropriately drawn and taken as a whole, the comprehensive approach to delivering a sustainable new community guided by a masterplan, justifies every part of the allocation.

**2) How and why was the allocated site chosen ahead of other potential options? How did the Councils work together when selecting the site in terms of alterations to the Green Belt?**

***Response***

- a) Before allocating sites for development in the Green Belt, both authorities explored potential options within urban areas, including any opportunities offered through regeneration proposals and by optimising the density of development, with higher densities in appropriate locations.
- b) East Herts also explored the option of allocating land within the borough beyond the Green Belt but concluded that the lack of access to services and facilities and sustainable modes of transport in these locations would not be a sustainable development strategy consistent with policies in the NPPF.
- c) The key strategy underpinning the chosen level of development is the desire to ensure that new infrastructure of benefit to the towns of Welwyn Garden City and Hertford and their rural hinterland is delivered through development. The provision of a new secondary school would serve Welwyn Garden City residents primarily, as well as residents of nearby villages that currently travel in to Welwyn Garden City or Hertford for secondary level education.
- d) Having reached the decision that exceptional circumstances exist to review Green Belt boundaries, both authorities considered the reasonable alternatives, which are set out in the respective Sustainability Appraisal Reports of both authorities.
- e) Birchall Garden Suburb (BGS) was selected, *alongside* other Green Belt sites, having considered reasonable alternatives – and given that non-Green Belt options had first been explored.
- f) The reasons for selecting, or not selecting, sites are set out in the evidence base of each authority. In the case of Welwyn Hatfield, the relevant evidence is contained within the HELAA 2016 (**HOU/19**) and the Housing Sites Selection Background Paper 2016 (**HOU/20** and **HOU/21a**). For East Herts, the relevant evidence is set out in its SHLAA 2016 (**HOP/004**) and the East of Welwyn Garden City Settlement Appraisal 2016 (**SSS/009**).
- g) Throughout the plan-making process, the options for housing delivery, including the BGS proposal, have been subject to consultation as follows:
  - *Welwyn Hatfield Core Strategy Issues and Options Paper 2009 (LPD/1)* – potential broad locations for growth – including PG34 – SE of WGC – alongside other potential locations around towns and villages;
  - *East Herts Issues and Options Core Strategy 2010 (PDP/002)* – including the potential for growth at a large sustainable urban extension to the east of Welwyn Garden City;
  - *Welwyn Hatfield – Land for Housing Outside Urban Areas 2012 (LPD/3)* – potential broad locations around WGC and Hatfield, including site WGC5 (part of the BGS proposal). Reference also made to the potential for the expansion of Welwyn Garden City on land within East Herts.



- *Welwyn Hatfield - Emerging Core Strategy 2012 (LPD/4)* – Emerging Policy CS4 – the Council supports the principle of development on land to the east of WHC but within East Herts.
  - *East Herts – Preferred Options District Plan 2014 (PDP/001)* – including provision for growth to the east of Welwyn Garden City as part of the overall Development Strategy DPS2 and Housing Supply DPS3, with a specific chapter (11) and draft policy EWEL1 for this location;
  - *Welwyn Hatfield – Local Plan Consultation 2015 (LPD/5)* – included the site WGC5 (part of the BGS proposal). Reference also to Policy EWEL1 of the *East Herts Preferred Options 2014*.
  - *East Herts – District Plan 2016 (SUB/001)* – Policy EWEL1 proposes the allocation and delivery of BGS within Welwyn Hatfield and East Herts. Shared policy approach. Commitment to joint working with Welwyn Hatfield; and
  - *Welwyn Hatfield Draft Local Plan Proposed Submission 2016 (SUB/6)* – Policy SP 19 proposes the allocation and delivery of BGS within Welwyn Hatfield and East Herts, a shared policy approach and a commitment to joint working with East Herts.
- h) Each authority considered the views received at each stage of the plan-making process, and a summary of the main issues raised were reported in relevant Statements of Consultation (EH ref: **SUB/009**, Welwyn Hatfield refs: **SUB/1**, and **SUB/1a-1g**).
- i) The two authorities have worked together through the Duty to Co-operate to ensure that the BGS proposal is planned, and delivered, in a comprehensive manner. The proposed policy approach for BGS is positively prepared, justified, effective and consistent with national policy. It will enable new infrastructure, of benefit to the towns of Welwyn Garden City and Hertford and their rural hinterland to be delivered alongside development in the right place and at the right time.
- j) The two authorities have carried out Green Belt Reviews and have agreed the approach to defining Green Belt boundaries, using readily recognisable features, which are likely to be permanent.
- k) The joint policy approach (East Herts ref: EWEL1; Welwyn Hatfield ref: SP 19) demonstrates a key output of joint working between the two local planning authorities.
- l) In addition, the two planning authorities and Hertfordshire County Council as Minerals and Waste Authority entered into a memorandum of understanding in March 2017 (EH ref: **ED107**; Welwyn Hatfield ref: **DTC/1**). This sets out the allocations in both Local Plans, the Waste and Minerals planning context, a statement of intent to deliver the stated objectives, apply a set of shared principles, establish the preferred policy approach, manage the project, make decisions in accordance with a determination framework, commission external support jointly and resolve any disputes that may arise.

- m) An additional MoU was entered into between the two local planning authorities (EH ref: **ED106**; WH ref: **DTC/5**) in May 2017 setting out the strategic priorities of a cross-boundary nature and a commitment to future co-operation.

**3) Is the proposed new boundary to urban development as robust, in the context of visually preventing urban sprawl and maintaining openness, as the current one?**

***Response***

- a) The current edge to the built environment is defined by the back gardens of residential properties, narrow woodlands or tree/scrub belts. Footpaths or narrow tracks cut through these belts, but are not defining features themselves. The proposed outer boundary of the allocation is the A414 and Panshanger Lane. Both these features are permanent, robust and easily identifiable in Green Belt terms. It is considered that these main roads, one of which is an arterial route provide a more robust Green Belt boundary than the current features.

**4) The southern part of Welwyn Garden City is largely hidden from the view of travelers along the A414 by topography and woodland. The journey from Hertford to Hatfield is one through pleasant open countryside where the Green Belt aims of visually preventing urban sprawl by keeping some land permanently open is clearly demonstrated, despite the proximity of urban development. The proposal involves development adjacent to or in close proximity to the A414 for much of the distance to the west of the B195.**

**5) How will this maintain the absence of a sense of visual urban sprawl outwards from Welwyn Garden City and impacting upon the experience of travellers along the A414?**

***Response***

- a) While views either side of the A414 are in some locations, of open fields, there are other parts of this route that are enclosed by either a bund or dense tree/scrub landscaping, particularly on the northern side of the road. All views south of the A414 would retain the open, agricultural landscape. The A414 itself is a dual carriageway with laybys, signs and safety features, as such is clearly an urban feature in this environment. Moving westward on the A414, the traveller is well aware of the proximity of the surrounding urban environment, with features such as the Cole Green Household Waste Recycling Centre, farm buildings, Burnside Concrete and Plant Hire site, a golf course, sewage plant, the rear entrance to Hatfield House and more highway features such as lighting and road markings.
- b) The proposal, while currently at early stages in the masterplanning process will ensure that a new landscaped bund will be created along this route to the north of the A414. This has been agreed between the two local planning authorities and Historic England who required such a feature to ensure the development is screened from long views as well as to maintain the rural approach towards Hatfield House and The Registered Park and Garden. Once more detailed proposals are determined through

the masterplan approach, appropriate mitigation will be secured to ensure that the experience of travellers along this route is not detrimentally harmed and that development is screened appropriately.

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