



**Welwyn Hatfield
Friends of
the Earth**

Welwyn Hatfield Local Plan Examination

Stage 5 Hearings: Green Belt Study Stage 3

Comments on behalf of Welwyn Hatfield Friends of the Earth (903594)

1 Introduction

1.1 Welwyn Hatfield Friends of the Earth is a licensed local group of Friends of the Earth England, Wales and Northern Ireland. The local group was formed nearly 30 years ago by residents of North Mymms.

1.2 We note that the purpose of the Stage 5 Hearings in November is to examine the soundness of the methodology employed in the Green Belt Study Stage 3. Our comments are therefore specific to the approach taken in the Study. The assessments of Parcels 55, 56 and 60 are used as examples.

2 Policy Context

2.1 Chapter 2 of the Study provides a comprehensive description of the policy context relevant to the Green Belt including, at paragraph 2.61, Case Law. Paragraph 2.62 states that Case Law has directly informed the methodology used in the Study.

2.2 In Turner¹ in the Court of Appeal, Sales LJ adopted Sullivan J's opinion as set out in Heath and Hampstead Society². On the importance of spatial intrusion, Sullivan J said,

“While it may not be possible to demonstrate harm by reason of visual intrusion as a result of an individual – possibly very modest – proposal, the cumulative effect of a number of such proposals, each very modest in itself, could be very damaging to the essential quality of openness of the Green Belt and Metropolitan Open Land.”

Sullivan J described the cumulative harm that would arise in such a situation as *“the death of a thousand cuts”*.

¹ Paragraph 24, Turner v Secretary of State for Communities and Local Government & East Dorset District Council [2016] EWCA Civ 466, accessed from <http://www.bailii.org/ew/cases/EWCA/Civ/2016/466.html>

² Heath and Hampstead Society, Regina (on the Application of) v Camden [2007] EWHC 977 (Admin), accessed from <http://www.bailii.org/ew/cases/EWHC/Admin/2007/977.html>

2.3 Paragraphs 3.10-3.15 of the Study discuss the concept of openness, recognising that *“while vegetation or landform can provide visual enclosure to development that lessens its visual impact, this does not diminish the spatial openness of the Green Belt”*³.

2.4 The Study does not appear to engage with the principle established by Sullivan J. For example, the assessment for P56a comments that, *“harm would be lessened slightly by confining development to lower ground on the northern edge of the parcel where it would have less impact on settlement separation”*.

2.5 Since this example is a site specific issue, it will be addressed at Stage 6 of the Hearings.

3 Methodology

Identification of absolute environmental constraints to development

3.1 On 7th December 2017, Hertfordshire County Council registered land to the south of Hatfield as a Village Green under Section 15(1) of the Commons Act 2006. The land lies in the north-east corner of parcel 56, and is included in P56b; it is known as Bunchleys⁴, and covers just over 6 acres. The extent of the land registered was clarified by the QC who examined the Application. In his Report⁵ he stated,

“On the ground, the extent of the Land may be defined as follows. To the north, east and south, the Land is bounded by fencing. To the west, the boundary comprises the edge of the treeline as it fronts onto grazing pasture. In the south western corner, to the west of the pond the boundary is intended to be a line which runs 3m from the edge of the treeline, and/or the bank which descends down to the pond edge”.

3.2 Upon registration the land became subject to (a) Section 12 of the Inclosure Act 1857⁶, and (b) Section 29 of the Commons Act 1876⁷. Under both Acts development is prevented⁸, so there would be no reason to release this small area from the Green Belt.

3.3 We request that Bunchleys Village Green is recognised as a constraint and taken into account when land in the Green Belt within Parcel 56 is being considered.

Green Belt Role

Purpose 1

3.4 Footnote 11, at paragraph 3.24 of the Study refers to Case Law⁹ stating that *“appropriate development in the Green Belt cannot be contrary to either the first or third Green Belt purpose”*. In fact, at paragraph 24 of the Judgment, Lindblom LJ indicated that ‘appropriate development’ was not contrary to *“the five purposes served by the Green Belt”*.

³ The sentence could have been made clearer, e.g., ‘this does not diminish the harm to spatial openness’.

⁴ Appendix 1: Plan of Bunchleys Village Green

⁵ <https://democracy.hertfordshire.gov.uk/Data/Development%20Control%20Committee/201707201000/Agenda/DtIH2lqCo2c2bqpJ2mM8eSRdQbTDD.pdf>

⁶ <http://www.legislation.gov.uk/ukpga/Vict/20-21/31/section/12>

⁷ <http://www.legislation.gov.uk/ukpga/Vict/39-40/56/section/29>

⁸ Unless it is *“with a view to the better enjoyment of such town or village green”*, Section 29 of the Commons Act

⁹ R (Lee Valley Regional Park Authority) v Epping Forest DC [2016] EWCA Civ 404, accessed from <http://www.bailii.org/ew/cases/EWCA/Civ/2016/404.html>

3.5 Avoiding the outward spread of ‘large built-up areas’ at a strategic level is achieved not simply by constraining growth at their margins but equally by constraining settlements, which are not in the Green Belt, themselves growing outward so that they progressively erode the countryside around the built up areas. We submit that assessing Purpose 1 at a more local level was necessary given the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. (NPPF, paragraph 133)

3.6 With regards to a number of the parcels, including P55 which abuts the A1(M) on its western boundary, release would increase the already substantial development along the A1(M) corridor south from Stevenage and, as such, harm the strategic purpose of the Green Belt¹⁰.

Purpose 2

3.7 We note the Inspector’s comment¹¹ that “... *the fundamental consideration is whether the development would individually or cumulatively fundamentally compromise the gap*”.

3.8 The assessment of P60 for Purpose 2 states that land within the parcel plays a partial role in preventing coalescence of the towns as existing development between Hatfield and Welham Green has already taken place to the north. The cumulative impact of the existing development and the release of P60 has not been assessed.

3.9 We are concerned that the cumulative impact of releasing the parcels between Hatfield and Welham Green has not been assessed. Parcels 55, 56 and 60 occupy all of the intervening, non-constrained, Green Belt land between the settlements. Moreover, the assessment for P55 states that release of this parcel alone would result in the gap between the settlements being significantly reduced.

3.10 If all three parcels were to be released this would leave a gap, reduced by one-third to less than 3kms, between Hatfield and Potters Bar. The remaining gap, i.e., Welham Green to Potters Bar, has been identified as ‘most essential’ land to retain¹². Given that the gap between Welham Green and Hatfield is recognised as being fragile¹³, the land is equally ‘most essential’ to retain.

Purpose 3

3.11 We concur that P60 makes a significant contribution to safeguarding the countryside from encroachment. However, we submit that P55 and P56 make a particularly significant contribution to Green Belt Purpose 3.

3.12 The fact that land at Bunchleys has been registered as a Village Green and the countryside in the Green Belt between the settlements is interspersed with Rights of Way, permissive and informal paths illustrates the value and importance of P55 and P56 to local inhabitants.

Purpose 4

3.13 Paragraph 3.41 of the Study quotes Planning Advisory Service guidance which states, “*This purpose is generally accepted as relating to very few settlements in practice*”. The PAS

¹⁰ Table 9.1, page 61, Comments re parcels P2 and P3, “*Gaps between settlements in the north-south chain between Stevenage and Potters Bar are narrow ...*”

¹¹ EX88D, Appendix 1.1, page 3, last paragraph

¹² EX88B, Table 9.1, page 62

¹³ EX88C, Figure 4.1: Strategic Role of Welwyn Hatfield Green Belt

guidance¹⁴ continues, *“In most towns there already are more recent developments between the historic core, and the countryside between the edge of the town”*. Such is the case with respect to the historic core of the 1920s Garden City. Therefore Purpose 4 could have been omitted.

3.14 The original Masterplan for Welwyn Garden City is referred to in paragraphs 4.39 and 4.40 of the Study, and cited in a number of parcel assessments with reference to the Conservation Area’s setting. The New Town of Hatfield was also built according to a Masterplan¹⁵, and this is relevant to the Local Purpose.

Local Purpose

3.15 The Local Purpose receives policy support from Strategic Objective 1 of the Draft Local Plan Submission Document¹⁶.

3.16 It is not clear how the Inspector’s comment, quoted at paragraph 3.51 of the Study, has been taken into consideration in the methodology for assessing the Local Purpose. Paragraph 3.77 states that assessment of the Local Purpose was undertaken using the same assessment criteria as defined for Purpose 2. Why then was the Local Purpose not combined with Purpose 2?

3.17 Moreover, there are no criteria to assess why the gaps are *“a valued spatial feature in their own right”*¹⁷.

3.18 We note from paragraph 3.92 of the Study that *“a significant contribution to the local purpose was considered enough to bolster the contribution of land to Purpose 2 (the separation of towns) from ‘partial’ to ‘significant’, reflecting the overlap between these two purposes”*. This appears to have had unintended consequences.

3.19 For example, P56, which lies in the gap between Hatfield and Potters Bar, is given a ‘partial’ rating with the comment that separation is limited by the intervening settlements of Welham Green, Brookmans Park, Swanley Bar and Little Heath. However, for the Local Purpose, the gap between Welham Green and Potters Bar is considered ‘most essential’¹⁸. That gap constitutes the greater part of the gap between Hatfield and Potters Bar, but no account is taken of its ‘most essential’ Local Purpose in the Purpose 2 assessments for P55, P56 and P60.

3.20 We are supportive of the Local Purpose in principle. We request this purpose is given due weight since the Green Belt between some settlements also provides environmental and social benefits, and it would be existing residents who would be most impacted by its release. However, for the assessment to be meaningful the identification of why each settlement is distinctive is required.

3.21 Welham Green and Hatfield are very different in form, character and history, and are the epitome of *“distinct and diverse communities each capable of supporting an appropriate range of housing, employment, leisure and shopping facilities”*. The Green Belt thereby helps to preserve the separate identity of each settlement.

¹⁴ Page 7, PAS Guidance - ‘Planning on the Doorstep: The Big Issues – Green Belt’ Updated February 2015

¹⁵ Appendix 2: Diagrammatic Plan of Welwyn Garden City and Hatfield New Towns

¹⁶ SUB/6 *“To provide for the borough’s development needs over the plan period, in a form which maintains the existing settlement pattern ...”*

¹⁷ Paragraph 3.53

¹⁸ Table 9.1, page 62

3.22 Moreover, the existing settlement pattern was planned. The Development Corporation recognised that Welham Green lay outside the southern boundary of the designated area¹⁹ for the New Town and was not to be included in it. The Corporation “accepted the recommendation of Mr Brett²⁰ that there should be a green belt separating the Hatfield urban area from Welham Green”²¹.

3.23 The Masterplan²² for Hatfield shows the southern boundary of the built development of Hatfield along what is now the A1001, and the open setting that was planned for the south of the town. It can be seen that a school was considered to be suitable development in the open space to the south of the residential area.

3.24 Hatfield School was opened in 1971 on what is now the New Barnfield site. However, when the land was transferred to Hertfordshire County Council in 1973, a Restrictive Covenant was placed on it “For the benefit and protection of the whole of the said town of Hatfield”. The Covenant restricted use of the land to “a secondary school and a primary school or other educational establishment or horticulture or smallholdings or agriculture or open space ...”

3.25 We support future use of P56b for these purposes. Since P56b contains a protected Village Green and land subject to Policy SADM34²³, there are no exceptional reasons to remove it from the Green Belt. To do so would weaken the contribution of the adjacent Green Belt and breach strong boundaries to the north (A1001) and east (National Cycle Route 12). The eastern boundary has not been considered in the assessment of P56.

3.26 Parcels 55, 56 and 60 are all rated as making a ‘partial contribution’ to the Local Purpose. We contend that an appropriate assessment would show the ‘significant contribution’ the parcels make to maintaining the existing settlement pattern between South Hatfield and Welham Green.

4 Contribution Assessment Findings

4.1 The scenarios for P55a and P56a comprise the Park and Ride facility and the Cemetery, as well as Local Plan allocation site HS11. The purpose of the Study is to assess the harm to the Green Belt of releasing land suitable for housing. Why has land already in use for purposes that can be considered to be appropriate development within the Green Belt been included? The Case Law cited in the Study establishes that, “*appropriate development is deemed not harmful to the Green Belt and its (principal) characteristic of openness in particular*”²⁴. Scenarios P55a and P56a should therefore be deleted from the assessment findings.

4.2 The comments for P55a describe the Cemetery as having an urban fringe character. This is inconsistent with paragraphs 3.24 and 3.37 of the Study which state that appropriate

¹⁹ Appendix 3: Welwyn Garden City and Hatfield New Towns Designation Order map

²⁰ Lionel Brett MA, ARIBA, 4th Viscount Esher, appointed architect planner to Hatfield New Town in 1949

²¹ Point 3, page 1, ‘Prefatory Memorandum on the relationship of the New Towns of Welwyn Garden City and Hatfield’, Report of the Welwyn Garden City Development Corporation, Author: Louis de Soissons, O.B.E., A.R.A., F.R.I.B.A., 1949

²² Appendix 2: Diagrammatic Plan of Welwyn Garden City and Hatfield New Towns

²³ SUB/6, Chapter 25, Development within the Green Belt: Major Developed Sites, page 200

²⁴ Paragraph 25, R (Lee Valley Regional Park Authority) v Epping Forest DC [2016] EWCA Civ 404, accessed from <http://www.bailii.org/ew/cases/EWCA/Civ/2016/404.html>

developments within the Green Belt cannot be considered to be urbanising features and therefore cannot have an urbanising influence.

4.3 The assessments for P55 and P56 comment that the inset edges of Welham Green and Hatfield have almost merged and meet at the Travellers Lane/A1001 roundabout, with only a little over 200m separating the nearest built development in each.

4.4 Whilst the land in P55, P56 and the Industrial Area is in the administrative authority of North Mymms Parish, local perception is that the area to the south of Hatfield is functionally part of Hatfield, which it was historically²⁵.

4.5 With respect to the Industrial Area, the functional appearance is reinforced by the fact that Travellers Lane goes from the A1001 roundabout into the former Tesco distribution depot and stops there; at a distance of about 320m. The northern (Hatfield) and southern (Welham Green) areas of the Industrial Area are therefore physically separate.

4.6 The release of P55 and/or P56 for development would lead to the perception that Welham Green and Hatfield *had* merged. Moreover, the strong boundaries to the north of P55, and north and east of P56, would be breached which would have a significant impact on the integrity of the wider Green Belt.

5 Harm Assessment Findings

5.1 We note the three key factors used to inform the assessment of Green Belt harm set out in paragraph 3.82 of the Study. These were referred to when we reviewed the methodology and the assessments.

5.2 As local residents, our main concerns are the harm to the countryside and to the existing settlement pattern between Welham Green and Hatfield that would occur if P55, P56, sub-parcel P56b and P60 were released from the Green Belt, singly or in combination. We consider the harm to the Green Belt has been understated in the assessments, in most cases by inconsistent application of criteria. Sub-parcels P55a and P56a should be deleted for the reasons given in paragraph 4.2 above.

Welwyn Hatfield Friends of the Earth welcomes this opportunity to comment on the Green Belt Study and reserves the right to make representations on specific sites at Stage 6 of the Hearings.

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²⁵ Appendix 3: Welwyn Garden City and Hatfield New Towns Designation Order map