



Independent Examination of the Gedling Local Planning Document

Matter 4: Green Belt

Calverton Parish Council (Original Comment ID a/118, a/120 & c/6)

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Issue 4a: Protection of the Green Belt

Q1. Does the Plan make appropriate provisions for the protection of the Green Belt in accordance with national policy? [Policies LPD 12 – LPD 17]

1. Calverton Parish Council does not consider that the overall policy suite in the Gedling Local Planning Document provides for the effective protection of the Greater Nottingham Green Belt. The Parish Council are of the view that Policy LPD16 is inappropriate, and that the process of removing land from the Green Belt has not taken into account the necessary protection of the Green Belt in accordance with national policy.

Issue 4b: Removal of land from the Green Belt

Q2. Has the principle of removing land from the Green Belt already been established in the ACS? If so, does the Plan deviate from the principles set out in the ACS in this regard?

1. Calverton Parish Council have had fundamental concerns regarding the two stage approach to the removal of land from the Green Belt, firstly through the ACS and then through the LPD. As a consequence the Parish Council undertook a legal challenge to the ACS **[2015] EWHC 1078 (Admin)**, although this challenge was unsuccessful. However the obiter given by Mr Justice Jay in that case regarding the interpretation of the NPPF is highly relevant to this Examination.

2. The ACS Policy 3 has established in our view only the principle that there is a need to review the Green Belt boundary it has not, with one exception at Field Farm, made any decisions regarding the quantum of land to be removed from the Green Belt or which areas of land should be removed. The ACS does however set out a framework for making the decisions in the LPD regarding the review of the Green Belt boundaries.
3. ACS Policy 3 clearly defines the release of Green Belt land being the third and final choice in a sequential approach to deciding what land should be allocated for development in the LPD. The ACS also sets out clear criteria which must be met in order for any site to be removed from the Green Belt. These criteria are:
 - a) the statutory purposes of the Green Belt, in particular the need to maintain the openness and prevent coalescence between Nottingham, Derby and the other surrounding settlements;
 - b) establishing a permanent boundary which allows for development in line with the settlement hierarchy and / or to meet local needs;
 - c) the appropriateness of defining safeguarded land to allow for longer term development needs; and
 - d) retaining or creating defensible boundaries.
4. Calverton is encircled by the Greater Nottingham Green Belt, as such any extension of the existing built footprint brings into play the need to consider the appropriateness of releasing that land from the Green Belt.
5. Mr Justice Jay concluded that Paragraphs 83 and 84 of the NPPF are, clearly, complementary provisions. He agreed that Calverton Parish Council is entitled to emphasise the second sentence of paragraph 83 which reads: *“At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.”*
6. Mr Justice Jay went on to highlight that: *“The review process referred to in paragraph 84 cannot ignore that sentence...During any review process, the consequences for sustainable development must be carefully considered. The second sentence of paragraph 84 is not altogether clear. On the face of things, it might well be argued that it appears to reinforce the need to protect the Green Belt, but in my view it is capable of being interpreted slightly more broadly. The consequences for sustainable development may require revision of the Green Belt.”*

7. However in our view crucially Mr Justice Jay stated: *“Nonetheless, I do not readily agree with Miss Ellis (appearing on behalf of the LPAs) that paragraph 84 throws any light on the meaning of “exceptional circumstances” within paragraph 83, or should be taken as somehow diluting this aspect. Sustainable development embraces environmental factors, and such factors are likely to be negatively in play where release of Green Belt is being considered. The second sentence of paragraph 83 supplies a fetter or brake on development which would, were it not for the Green Belt, otherwise be sustainable; but in deciding whether exceptional circumstances pertain regard must be had to the whole picture, including as I have said the consequences.”*
8. Exceptional circumstances” remains undefined. The Department has made a deliberate policy decision to do this, entrusting decision-makers with the obligation of reaching sound planning judgments on whether exceptionality exists in the circumstances of the individual case.
9. Mr Justice Jay went on to indicate in his judgement that: *“I read this provision as making clear that the identification of “exceptional circumstances” (although not expressly mentioned) is a planning judgment for the Local Planning Authority. However, net gains across all three of the dimensions of sustainable development may not always be possible. In these circumstances, the impingement on environmental factors will require the identification of exceptional circumstances in order to be justified (“significant adverse impacts on any of these dimensions should be avoided”), and - to the extent that this cannot be achieved - must be ameliorated to the extent possible.”* As such where a proposed site generates an impingement on environmental factors, such as landscape, setting, peace and tranquillity, heritage assets or biodiversity then exceptional circumstances must be identified to support the release.
10. Mr Justice Jay agreed with Calverton Parish Council that: *“it would be illogical, and circular, to conclude that the existence of an objectively assessed need could, without more, be sufficient to amount to “exceptional circumstances” within the meaning of paragraph 83 of the NPPF.”* He went to agree with the Parish Council concerns that: *“the two-staged approach adopted by the ACS, I agree that, in principle, there is a danger of the issue of exceptional circumstances falling between two metaphorical stools. If, for example, exceptional circumstances were not properly considered at Stage 1, it would be difficult for the issue properly to be addressed at Stage 2.”*
11. Consequently it remains a fundamental concern to Calverton Parish Council that in the LPD the issue of exceptional circumstances must be fully considered and demonstrated with regard to the release of each and every proposed allocation.
12. The case of ***Solihull Metropolitan Borough Council v Gallagher Estates Limited and Another [2014]*** is relevant where the Court found that the LPA had made an error relating to the requirement to

demonstrate exceptional circumstances to justify a change to the green belt boundary. The Court of Appeal had explored this issue in **COPAS v Royal Borough of Windsor and Maidenhead [2001]**. The judge in this case was bound by the previous decision in **COPAS**, that green belt boundaries are meant to be long-term and a prime character of green belts is their ability to endure through changing policies.

13. In the **Solihull** case the inspector had undertaken a balancing exercise concluding that it was unlikely that either site would be found suitable for development. The court considered that this fell very short of the stringent test of exceptional circumstances. Whilst the judgment only reiterates Simon Brown LJ's judgment in **COPAS** it has provided a timely reminder to many local planning authorities that reviewing green belts purely to facilitate required levels of housing development is not necessarily a matter which can automatically be considered as exceptional circumstances.
14. The NPPF at paragraph 85 requires that when defining boundaries, local planning authorities should:
 - ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development;
 - not include land which it is unnecessary to keep permanently open;
 - where necessary, identify in their plans areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;
 - make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a local plan review which proposes the development;
 - satisfy themselves that Green Belt boundaries will not need to be altered at the end of the development plan period; and
 - define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.
15. The Green Belt Assessment (LPD/GRE/02) in paragraph 4.5 states: *"It is emphasised that this Green Belt assessment considers whether land should be within the Green Belt and is focussed on the five purposes of the Green Belt set out in paragraph 80 of the NPPF. Other factors, such as landscape, flooding and nature conservation will be the subject of separate assessments and will be given due weight when making decisions about which sites to allocate for development."* Calverton Parish Council is of the view that this illustrates that the Green Belt Assessment has not taken into account all the relevant factors necessary to demonstrate exceptional circumstances in the overall planning judgement. As such the Green Belt Review fails to comply with the obligations of paragraphs 83 and 84 of the NPPF and the judgement of Mr Justice Jay referred to above.

16. The Green Belt Assessment (LPD/GRE/02) has in Stage 1 strategic quadrants and groups of sites as we argue should have also been undertaken in the SA as well as we contend in our evidence to Matter 2 on the Sustainability Appraisal. The Stage 1 analysis clearly concluded that the North-West of Calverton is by some way the most appropriate quadrant in which to consider Green Belt release. Notwithstanding the deficiency identified above that the Green Belt Assessment has not taken into account all the relevant factors necessary to demonstrate exceptional circumstances in the overall planning judgement. Calverton Parish Council agree with the fact that the North-West of Calverton is the most appropriate location for Green Belt release, if such release is justified by exceptional circumstances.
17. We do not agree with the subsequent Stage 2 assessment considered in paragraph 4.13 (LPD/GRE/02) which indicates that this Stage 2 assessment has been based on the 'Reasonable Alternative' sites. In our evidence to the SA in Matter 2 we identified a deficiency in relation to the SA by 'salami slicing' sites which plainly need to be considered in the form of holistic groupings of sites. As such this SA shortcoming has been perpetuated as a further deficiency in the Green Belt Assessment. Although it is noted that the Green Belt Assessment does group some of the sites looked at individually in the SA, this further undermines the principles of the SA assessments.
18. The Green Belt Assessment in Stage 2 concludes that Site 1 is the most appropriate for release, followed by Sites 2 and 9. Site 9 at Dark Lane should not have been assessed given that this site represents a committed site with extant planning permission on which development has commenced. Sites 1 & 2 are within the North-West Quadrant of Calverton, Site 1 includes the new cemetery, the Miners Welfare Sports Facilities and an established employment area. As such the Parish Council consider that Site 1 could not be delivered or developed even if released. This leaves Site 2, which includes the Park Road site H16 and the safeguarded land as the sequentially preferable site to be released.
19. Site 13 which is the Main Street site H15 scores worse than Site 2 in the LPA's own assessment. It is our view that in the Stage 1 and Stage 2 assessment process, having reached the conclusion that the North-West Quadrant was the most appropriate strategic direction for Green Belt release. Then the Stage 2 assessment should only have looked at the constituent parts of that strategic quadrant. Given that Site 2 (including Park Road site H16) in this quadrant allows more than sufficient quantum to deliver the housing requirement then no exceptional circumstances can be demonstrated to release Site 13 (Main Street site H15). Consequently Calverton Parish Council consider that the Green Belt Assessment (LPD/GRE/02) has erred in law in relation to proposing to release site H15 without demonstrating the required exceptional circumstances.

20. In addition if the Green Belt Assessment had correctly taken into account all the relevant factors necessary to demonstrate exceptional circumstances in the overall planning judgement, including the environmental factors, such as landscape, setting, peace and tranquillity, heritage assets or biodiversity. Then we strongly contend that the score for Sites 9 to 13 inclusive in the South-West Quadrant would have scored much worse in terms of Green Belt Assessment.
21. Calverton Parish Council consider that there to be inconsistency in the treatment of Ravenshead and Calverton with respect to the removal of land from Green Belt. The sites north of Main Street, Ravenshead could deliver in excess of 1000 dwellings. The two principal reasons given for not allocating these sites were:
- the fact that Rigg Lane, beyond the sites to the north, is the only defensible green belt boundary, this is similar to the situation in Calverton, with respect to H16, led to the safeguarding of a large area of land down to the Oxton Road; and
 - the fact that community opinion does not support development to the north of Ravenshead Main Street.
22. In the case of site H15, a simple hawthorn hedgerow is regarded as a strong green belt boundary which is considered not to represent a long-term defensible boundary in any manner. In the case of site H14 at Dark Lane, the promise of a hedgerow to be planted in the future was considered sufficient to form the necessary defensible boundary. The reasons that Gedling have applied to Ravenshead to conclude not to allocate land north of Main Street equally apply to site H15 in Calverton. GBC has always been aware that there is no community support for development to the south of Main Street in Calverton, if this is a justifiable reason not to allocate land in Ravenshead then it must also be a reason not to allocate site H15 in Calverton.

Q3. Have exceptional circumstances been demonstrated to enable the removal of land from the Green Belt in order that it be designated as Safeguarded Land in the Plan? [Policy LPD 16]

23. No, whilst Calverton Parish Council has no objection to the principle of the inclusion of land as 'Safeguarded Land' in the LPD in Calverton and would agree that the broad location in the North-West Quadrant is the most appropriate. We note that there appears to be no evidence base specifically relating to the release of this site or the site at Moor Road in Bestwood Village. The Safeguarded Land (March 2016) document (LPD/GRE/04) only deals with the sites Top Wighay Farm; Mapperley Golf Course; Glebe Farm, Lambley Lane; and Lambley Lane/Spring Lane. It does not therefore address all 6 of the sites in Policy LPD16.

Issue 4c: Safeguarded Land

Q4. Should Safeguarded Land be allocated in the Plan? If so, has sufficient Safeguarded Land been allocated?

Q5. What evidence is there to support the quantum of Safeguarded Land allocated in the Plan? [Policy LPD 16]

Q6. Is the distribution and amount of Safeguarded Land within the Borough appropriate? [Policy LPD 16]

Q8. Is the allocation of Safeguarded Land at Calverton appropriate? [Policy LPD 16]

24. Calverton Parish Council is satisfied that the housing level currently proposed for Calverton in the LPD is more sustainable and achievable than the higher quantum proposed in the ACS. However, there is significant concern with respect to the amount of safeguarded land proposed for the village; the level is disproportionate relative to Calverton's position in the borough's identified settlement hierarchy.

25. Whilst recognising that the entire area bounded by Park Road, Flatts Lane, Oxton Road, Hollinwood Lane and Collyer Road results in a clearly defined and strongly defensible area being removed from the Green Belt, the Parish Council are concerned that this places an undue preference on Calverton, rather than other settlements in the event that additional land is required to be released during this plan period. Notwithstanding the proposed wording of MM9 in the Revised Schedule of Changes to Local Planning Document Publication Draft (EX/10A), it should be noted that GBC granted planning permission on safeguarded land in the last Local Plan because of a housing land supply shortage during the last plan period, despite a large supply of allocated, undeveloped sites.

26. 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 in the long term, so that they should be capable of enduring beyond the plan period. The Parish Council recognises that the revised Green Belt boundary along Oxton Road is capable of enduring in the long term as the NPPF requires in paragraph 83.

27. However, over one third of the total amount (by area) of safeguarded land identified in the LPD for the Gedling Borough plan area adjoins Calverton. This is significantly higher than the amount of safeguarded land allocated at the other two key settlements of Bestwood (8.5% of the total by area)

and Ravenshead (no safeguarded land). It is important to note that, as supported by the Aligned Core Strategy (main document, sustainability appraisal and evidence base) the Key Settlements have been assessed as being equally sustainable.

28. Previous plan periods have experienced 5-year housing land supply shortages that have enabled development to occur on safeguarded land within Calverton; failure/delays in the delivery of development at strategic PUA/SUE sites could produce temporary land supply shortages and trigger the release of a large area of safeguarded land at a single location. Given the large quantum of housing that could be accommodated on the proposed area of safeguarded land at Calverton, this would result in a spatially unbalanced and unsustainable distribution of development across the borough within the plan period that would fail to comply with the ACS Spatial Strategy, Policy 2. The current distribution of safeguarded land compromises the overall sustainability of the LPD.
29. Calverton Parish Council is of the opinion that a significant adjustment of the distribution of safeguarded land across the borough is required in order to ensure that the LPD is sound. If circumstances arise that enable the release of safeguarded land for development within the current plan period, it is probable that the delivery of housing would not be compliant with the ACS Spatial Strategy.
30. Given the current c.25% growth rates proposed for rural Calverton, it is considered necessary to achieve a more proportional balance in the levels of safeguarded land allocated within the settlements in the hierarchy. Achieving conformity with the ACS Spatial Strategy requires alternative locations for safeguarded land to be identified in other settlements to achieve the relevant balanced approach. These alternative sites should firstly be sought from SHLAA sites within the PUA and then to identifying alternative sites within the other two key settlements of Ravenshead and Bestwood.
31. As has already been noted there is no evidence-based justification for the significantly different levels of development proposed for the 3 Key Settlements - the ACS process having assessed them as being equally sustainable. This disparity in the Key Settlement housing levels is significantly compounded by the proposed distribution of safeguarded land. It is important, therefore, that the LPD does not create a policy context that has the potential to reverse the settlement hierarchy identified in the ACS, should anticipated delivery rates/assessed housing need change during the plan period.
32. A change in circumstances resulting in GBC not having a 5-year housing land supply and enabling the development of safeguarded land could result, notwithstanding the wording of MM09, in Calverton being one of the largest single locations for new development in the Greater Nottingham area, despite its rural location at the periphery of the plan area. The sustainability of such a scenario has

not been comprehensively assessed and no explanation is provided to justify safeguarding such high levels of land at this single location. The next Local Plan Review will by virtue of Green Belt boundaries needing to endure in the long term, prioritise the development of the existing Safeguarded Land, meaning that of the Key Settlements for Growth Calverton will inevitably get further development over and above the 25% growth during this plan period.

33. The safeguarding of land has the potential to enable the quantum of housing delivered during the plan period to exceed the “up to” figures identified in the ACS. However, some safeguarded land could be provided at Ravenshead without breaching those “up to” levels in the event that it was released for development during the plan period. The quantum of housing that could potentially be delivered at the key settlement of Ravenshead totals almost 2,000 (as assessed in the SA “reasonable alternative sites”). The ACS allows for an “up to” figure of 330 for Ravenshead. The LPD proceeds to allocate only 250 dwellings - 13% of the total available from the pool of “reasonable alternative sites”. In contrast, in the case of Calverton, the LPD allocates 28% of the total dwellings available from the “reasonable alternative sites”. Shortage of site-choice can no longer be cited as a justification for not allocating more development/safeguarded land at Ravenshead.

Conclusion and Modifications Sought

34. Calverton Parish Council does not consider that the Green Belt Assessment accompanying the Publication Gedling Local Planning Document is Sound and as such renders the LPD unsound.
35. The Parish Council is of the view that the Gedling Local Planning Document could only be made Sound by substantial additional work involving an adjournment of the Examination to allow the LPA to propose Main Modifications as follows:
- Undertake an amended Green Belt Assessment having regard to all relevant factors we identify necessary to demonstrate exceptional circumstances in Stage 1, then only undertaking the Stage 2 analysis of sites within the quadrants, areas or groups identified as sequentially preferable in the Stage 1 analysis;
 - Delete site H15 on Main Street in Calverton;
 - The Safeguarded Land (March 2016) document (LPD/GRE/04) needs to be reconsidered to include evidential analysis of the Policy LPD16 sites at Bestwood Village and Calverton;
 - Undertake a full detailed re-consideration of ‘Reasonable Alternatives’ for Safeguarded Land across the Urban Area and the Key Settlements for Growth including identification of Safeguarded Land in Ravenshead and Bestwood Village to ensure that the current Green Belt boundary review can endure for the long term and that Calverton is not unduly penalised in

the next Local Plan Review by having a disproportionately high percentage of the total safeguarded land;

- Policy LPD16 should be amended to set out a framework for the release of Safeguarded Land during this plan period if necessary to ensure that the overall spatial strategy is not undermined. We put forward specific proposed wording in our original representation which is repeated below for ease:

The Parish Council would wish to see Policy LPD16 reworded as follows:

“Policy LPD 16 - Safeguarded Land

...The release of safeguarded land in the event of any shortfall in housing supply during the plan period will have regard to the spatial strategy and settlement hierarchy of the Aligned Core Strategy.”

The Parish Council would wish to see Paragraph 6.6.5 reworded as follows:

“6.6.5 Of the three sites identified as being safeguarded for future development, Top Wighay Farm and Moor Road may be suitable for development in their entirety subject to a detailed assessment of the site through a review of the Local Plan and a subsequent planning application. The Oxton Road/Flatts Lane site at Calverton is considered to be only partially suitable for future development in the medium to long-term subject to consideration of all site options in future Local Plan Reviews. Land to the north is to be retained as a landscape buffer, to protect the setting of a Listed Building, the setting of Calverton and to avoid an area at risk of flooding. In addition a buffer between the village edge and the prospective Sherwood Forest Special Protection Area is required to ensure that harm to the pSPA does not arise. Due to the need for Green Belt boundaries to follow defensible features these areas cannot be included in the Green Belt. The release of safeguarded land in the event of any shortfall in housing supply during the plan period will have regard to the spatial strategy and settlement hierarchy of the Aligned Core Strategy.”

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Planning Advisors to Calverton Parish Council and the Calverton Neighbourhood Plan

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