

DATE OF STATEMENT	31 October 2017
EXAMINATION	North Hertfordshire Local Plan 2011-2031
MATTER 7	Countryside and Green Belt: the Green Belt review and the approach to safeguarded land (Policy SP5)
DATE/ SESSION WISH TO SPEAK	Monday 20 November - Afternoon session 2.00pm
FROM	Carolyn Cottier
TO	C/O Louise St John Howe (Programme Officer) Simon Berkeley BA MA MRTPI (Inspector) PO Services, PO Box 10965, Sudbury, Suffolk, CO10 3BF Tel: 07789-486419 E: louise@poservices.co.uk

What legal or procedural requirements and associated Regulations does the Plan fail to meet?

Section 13 of the Planning and Compulsory Purchase Act 2004; Chapter 5, Part 2, Local Development Survey, Section 13, Survey of area; to “keep under review and examine the matters mentioned in subsections (2) and (3) in relation to any neighbouring area to the extent that those matters may be expected to affect the area of the authority.”

The Plan fails in the above and NPPF paragraphs 89 and 90.

Paragraph 89: “a local planning authority should regard the construction of new buildings as inappropriate in Green Belt”.

Only exceptions:

...buildings for agriculture and forestry; provision of appropriate facilities for outdoor sport, outdoor recreation; for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it; extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Paragraph 90:

mineral extraction; engineering operations; local transport infrastructure which can demonstrate a requirement for a Green Belt location; the re-use of buildings provided that the buildings are of permanent and substantial construction; and development brought forward under a Community Right to Build

Order are also not inappropriate in **Green Belt provided they:**

- **preserve the openness of the Green Belt and**
- **do not conflict with the purposes of including land in Green Belt.**

For this we must look at the Classes of Use in the Strategic Site East of Luton.

Most this site's development Class Uses are deemed inappropriate development from the start under NFFP 89 and 90. All below are not exceptions to inappropriate development:

Community Centres: D1,
Restaurants: A3,
Shopping Centres: A1,
Pubs/ Wine Bars/ Clubs: A3,
Schools to Sixth Form: D1,
Shops: A1,
Leisure Centres: D2,

SO ANY REMAINING PARTS MUST FULFIL ALL FIVE FURTHER CONDITIONS:

- **BE ONLY limited infilling (89)**
- **BE ONLY FOR limited affordable housing (89)**
- **HAVE special circumstances demonstrated (90)**
- **MUST preserve the openness of the Green Belt (90)**
- **MUST not conflict with the Green Belt land's purpose (90)**

Houses in Use Class C3 would unlikely meet ALL FIVE CONDITIONS.

The Plan's HS2 Policy is 40% of the dwellings must be Affordable Housing whereas the Developer is unlikely to agree to this; Glenigan shows they have already fixed the projects' value at £100,000,000 plus £49,500,000 – thus a profit reduction could affect deliverability.

Apartments, Flats (C3) are also inappropriate since they do not meet conditions of preserving the Green Belt's openness if taller than two storey.

The only parts of the East Luton development which could possibly be appropriate IF THEY MEET ALL FIVE OF THE ABOVE CONDITIONS would be the:

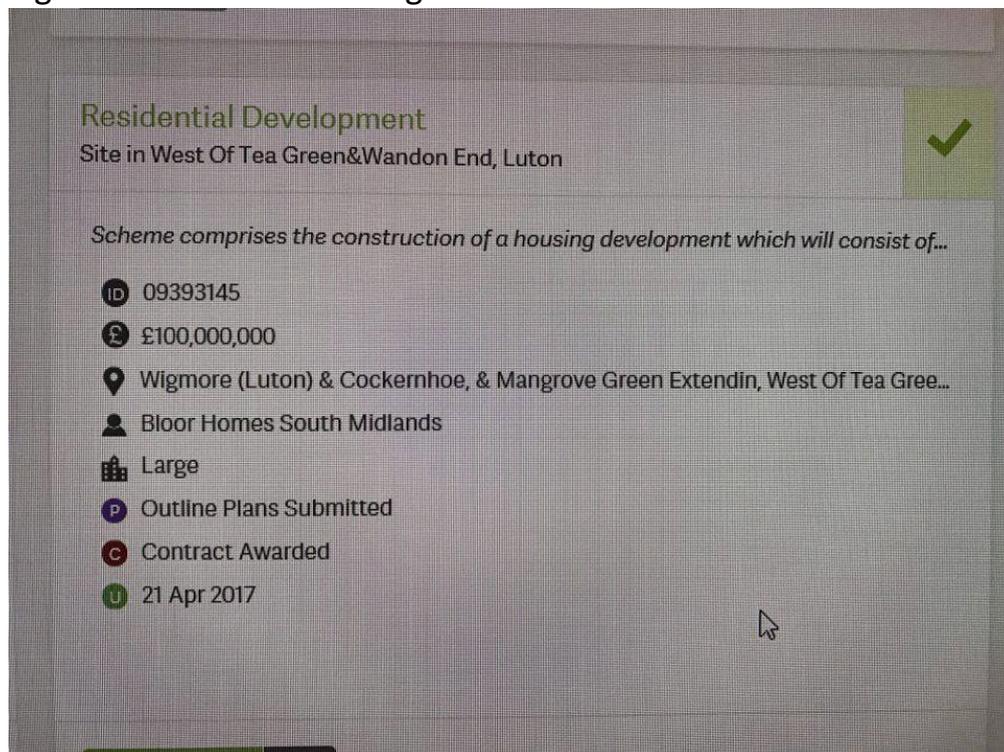
Playgrounds/ Skateboard Parks: D2,
Sports Fields: D2.

Glenigan Database, is not readily available to the public; its lowest membership fee costs approximately £3,500 annually. It's an industry portal linked directly to all internal planning within UK's council authorities and automatically uploads real-time data daily.

According to Glenigan, the Use Classes for East of Luton/ SP19 are:-

Houses and Residential Outlines: C3, Community Centres: D1, Restaurants A3, Shopping Centres: A1, Pubs/ Wine Bars/ Clubs: A3, Schools to Sixth Form: D1, Shops: A1, Apartments, Flats: C3, Leisure Centres: D2, Playgrounds/ Skateboard Parks: D2, Sports Fields: D2.

Figures 1-4 are from Glenigan:



Summary Contacts **Texts** Planning Materials

Project Texts

Planning Text
An application has been submitted for outline approval.

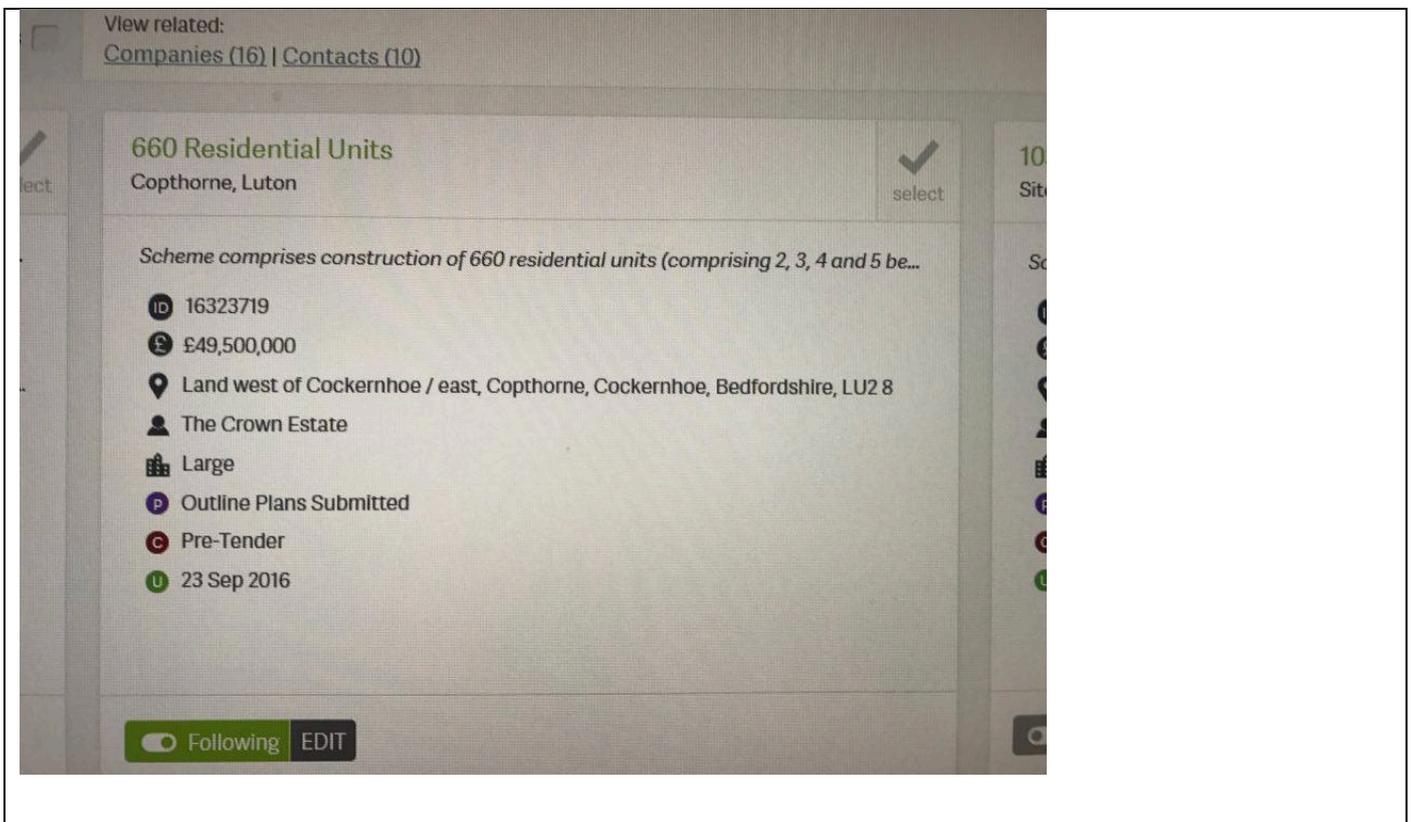
Tender Text
Contract has now been awarded

Civil Text
No civil text available.

my.glenigan.com/#/project/09393145/sectors

sector type	sector	building type	planning use class	Development
Primary	Private Housing	Residential Outlines	C3	New
Secondary	Private Housing	Houses	C3	New
Secondary	Community & Amenity	Community Centres	D1	New
Secondary	Infrastructure	Infrastructure	-	New
Secondary	Hotel & Leisure	Restaurants	A3	New
Secondary	Retail	Shopping Centres	A1	New
Secondary	Hotel & Leisure	Pubs/Wine Bars/Clubs	A3	New
Secondary	Education	Schools To Sixth Form	D1	New
Secondary	Infrastructure	Landscaping Works	-	New
Secondary	Retail	Shops	A1	New
Secondary	Private Housing	Apartments, Flats	C3	New
Secondary	Utilities	Cable Laying	-	New
Secondary	Infrastructure	Enabling Works	-	New
Secondary	Infrastructure	Estate Roads	-	New
Secondary	Hotel & Leisure	Leisure Centres	D2	New
Secondary	Infrastructure	Local Roads	-	New
Secondary	Hotel & Leisure	Playgrounds/Skate Board Park	D2	New
Secondary	Utilities	Sewer Systems	-	New
Secondary	Hotel & Leisure	Sports Fields	D2	New

here to search



THE EVIDENCE OF UNSOUNDNESS

In the Plan's "Policy SP4: Town and Local Centres" it says that they will be putting a new local centre in the Green Belt at East Luton/ Cockernhoe which will involve a range of retail facilities.

This is incompatible with Class Uses/ purposes, as under NPPF 89 and 90, they are not considered appropriate development in the Green Belt.

CHANGE PLAN

CHANGE PLAN: "Policy SP4: Town and Local Centres"

iii. 2 1 new local centres north of Baldock and East of Luton within the some of the strategic housing sites identified in this Plan;

CHANGE PLAN: "Policy SP4: Town and Local Centres ...b. Support proposals for main town centre uses in these locations where they are appropriate to the size, scale, function, catchment area, historic and architectural character of the centre; main town centre uses are not appropriate for East of Luton."

CHANGE PLAN: c. Identify Primary Shopping Frontages within town centres where A1 retail uses will be expected to concentrate, excluding East of Luton since this would not be appropriate there.

d. With the exception of East of Luton since it would be inappropriate development there, Make provision for 38,100m² of additional A-class floorspace over the plan period, consisting of:

- i. 22,500m² comparison goods (e.g. clothes, shoes, furniture, carpets);
- ii. 8,500m² convenience (e.g. food, drink, toiletries); and
- iii. 7,000m² other town centre uses”

CHANGE PLAN: “4.44 The growth of the District will require additional centres to be provided to serve the largest new developments at Baldock and on the edge of Luton. Once built, these will become local centres in our retail hierarchy and future proposals within them will be assessed appropriately.”

REMOVE: POLICY SP19 b. ~~A new local centre with additional neighbourhood level provision providing around 250m² (net) class A1 convenience retail provision and 850m² of other A-class floorspace;~~

~~c. Structural planting to create a sense of place, integration into the surrounding landscape and to reinforce a long term, defensible Green Belt boundary to the east and mitigate landscape impacts;~~

~~e. Up to 4FE of primary age and secondary age education provision to ensure the needs arising from this allocation can be met within the site;~~

ADD: There are serious issues relating to landscaping and SUDs in East of Luton area, due to its proximity being 1km away from the UKs fourth largest aerodrome. No SUDs are allowed within 13km zone of an aerodrome. There are very clear rules about what can and can't be put in the surrounding area.

CASE LAW THAT WOULD APPLY HERE

Merely because Green Belt land is used for outdoor sport or recreation does not justify permitting the construction of a building or buildings that fail to preserve the openness of the Green Belt or conflict with the purposes of including land in the Green Belt, applying the approach to these concepts identified by Ouseley J in *Europa Oil and Gas*.

The Deputy Judge relied on the analysis of Ouseley J in *Europa Oil and Gas Limited v. SSCLG* [2013] EWHC 2643 (Admin) where he said: "*Secondly, as Green Belt policies NPPF 89 and 90 demonstrate, **considerations of appropriateness, preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of the building or structures but include their purpose.** The same building, as I have said, or two materially similar buildings; one a house and the other a sports pavilion, **are treated differently in terms of actual or potential appropriateness. The Green Belt may not be harmed necessarily by one but is harmed necessarily by another.** The one is harmed by because of its effect on openness, and the other is not harmed by because of its effect on*

openness. These concepts are to be applied, in the light of the nature of the particular type of development."

Thus we must apply this approach in order to decide whether a particular building which is claimed to provide appropriate facilities for outdoor sport or recreation, to decide whether what is proposed preserves openness and does not conflict with the purposes of including land within the Green Belt. **If it does, then what is proposed will come within the potential exception created by the second bullet point in the list in Paragraph 89. If it does not, then it will fall within the scope of the first sentence of that paragraph and can be permitted only if very special circumstances are made out.**

The Deputy Judge considered that very special circumstances will have to be shown for a change of use to Green Belt land not falling within one of the classes identified in Paragraph 90 of the NPPF. Ouseley J in *Europa Oil and Gas*.

INSPECTOR'S MATTERS

7.2 Is the Green Belt review based on a robust assessment methodology?

No, because the assessments ignore regionally significant macro factors like New Century Park.

Also tiny Cockernhoe only has 205 houses.

Wigmore and Cockernhoe sit on respective sides of the Luton/ Herts border - with only a thin slither of Green Belt (about 200 metres width) between them.

Certainly by methodologically adding a disproportionate extension of over 2,106 % on top of it, or a ginormous 50% increase on Wigmore, an unwanted aberration; complete with no roads and infrastructure, would surely fulfil the goal of decimation to both settlements and achieve unsustainability.

If realistically reappraised the Plan should say, "The quality and attractiveness of the landscape of North Hertfordshire, which contributes to its distinctive character, will have been ~~conserved and enhanced~~ damaged forever where possible."

Grandiose statements hide vapid methodology revealed in reversal by asking "how would one achieve the exact opposite of this?"

For example the Plan states:	Flip it to reverse:
<i>"The quality and attractiveness of the landscape of North Hertfordshire, which</i>	<i>"The devolution and unattractiveness of the landscape of North Hertfordshire, which</i>

contributes to its distinctive character, will have been conserved and enhanced.”

doesn't contribute to its distinctive character, will have been enhanced”

... Herein we find the greater truth; that development they are expressing will indeed perfectly achieve the exact opposite of their stated ideal.

Hidden meta-sabotage of swallowing up four villages (Cockernhoe, Tea Green, Mangrove Green and Wandon End) and half of East Luton and stating it as conservation.

SP19 is a spatially challenged vision of absolute non-enhancement.

Heavily industrial Luton is already spatially deficient of public green space, so its removal further is methodologically backward.

Its population is on the verge of losing their Area of Local Community Value (Wigmore Valley Park) to New Century Park and Airport Enterprise Zone development – whilst awaiting the Phase 1 Airport expansion and Phase 2 second terminal!

The only remaining vestige of Green Space beauty left for 10,000 people would be robbed. Removing the *only existing opportunity* for healthy lifestyles; jogging, horse riding and dog walking.

The ONLY green corridor linking Lutonians in the East to their countryside would be bricked up.

NHDC once nobly argued: “h. Loss of Recreation.

The area East of Luton is currently well used for recreation by the existing population including residents of Luton. It is an important green lung close to where they live. The existing pattern of minor roads that discourages through traffic and are ideal for walking, cycling and horse riding.”

The once reasonable concluded that an urban extension into Sites L and L1 could not be considered ‘small scale’.

(Quality control Response to Environmental Sensitivity Study prepared to inform the selection of Potential Growth Areas around Luton & Response to the emerging Luton and South Bedfordshire Core Strategy for North Hertfordshire District Council - 24/07/09)

The most damning attack on the Plan’s soundness of logic and methodology comes from this very document; when NHDC criticized Central Bedfordshire back in 2009 - for wanting development upon this very same land! – Discouraging them in no uncertain terms:

“This has not been assessed at an appropriate level of detail and with a consistent and transparent methodology,”

“The development would not respect the sensitivity of the local landscape as identified both by the LUC report and confirmed by the findings of this report. Rather there would be significant adverse impacts on the landscape and visual character of the area. The proposed development would irreversibly affect the tranquillity and quality of the area and directly impact upon Putteridge Bury Registered Park and Garden.” (1.8)

Further warning was stated:

“4.4 The main concerns with the content of the Core Strategy: a. Protection of the Countryside” ... “The proposed Development East of Luton (would have) an impact on the countryside. In addition all the land around Luton and Dunstable is designated as Green Belt and some areas are either AONB or close to AONB.”

It advised, “the relative sensitivity of the areas affected in landscape terms should be a prime consideration in guiding location for growth”.

It criticised, “There are some inadequacies with the process undertaken and that landscape sensitivity and potential impacts within North Hertfordshire have not been given sufficient consideration. Development as currently proposed would be a major contravention of the principle of safeguarding areas of important landscape around the conurbation as stated in para 6.14 (bullet 2).”

Furthermore, “b. Inappropriate Scale of development.

This would be the second largest urban extension and is promoted at para 4.28 of the Preferred Option as ‘a strategic mixed use urban extension’. Site L1 is noted in the LUC ESA as having a, ‘strong character’; being of ‘high quality’ and ‘high landscape sensitivity’. It would seem that the Preferred Options document has ridden roughshod over the clear findings of its own ESA.”

Additionally, “c. Impact on rural communities.

Para 4.9 seeks to protect the rural communities....However in contrast by the proposed...in area ‘L’ in NHDC east of Luton there would be a significant impact on the existing small hamlets and villages e.g. Mangrove Green, Tea Green and Cockernhoe. These settlements are a key characteristic of the area. The sensitivity of and protection of the settlements in North Hertfordshire does not appear to have been given equivalent consideration as those areas in Bedfordshire.”

Moreover, “d. Impact on Registered Park and Garden.

The Grade II Registered Putteridge Bury is located directly adjacent to the existing edge of Luton. The park and garden is included on English Heritages ‘at Risk Register’ due to the proposed expansion of Luton. The Park and Garden is included within Site ‘L1’ in the ESA which is identified as Grade 1 in landscape sensitivity terms.”

CHANGE PLAN

ADD: “In sites of deficient green space, or where there is only narrow bands of Green Belt, the remaining green corridors surrounding urban developments shall not be removed. The damage associated with Green Belt removal outweighs the benefits in sites with airports or associated industry in immediate vicinity; thus the Green Belt protections shall remain in place since they serve as a mitigation to pollution and environmental stresses that these areas are more greatly susceptible to. Removal of Green Belt impacts more dramatically here than in other areas. Its removal decreases opportunities for healthy lifestyles in areas where impacts upon health from air pollution are a greater risk. Its presence fulfils important purpose of reducing Air Pollution emissions in line with UK and EU regulations.”

INSPECTOR'S MATTERS

7.2 d) Has account been taken of the need to promote sustainable patterns of development?

The Plan fails to promote sustainable patterns of development.

It's truly amazing that the Plan completely ignores this:

Luton Council are at the precipice of a major two road project and industrial employment site; they have already received financing from SEMLEP and have agreed funding loans (from Council to London Luton Airport Ltd).

This Major Infrastructure Project “New Century Park Airport Enterprise Zone” is only at Phase 1, with Phase 2 involving a second terminal as an extension to London Luton Airport.

NHDC's grave and shocking oversight would have far-reaching negative consequences of regional significance.

NHDC's 2009 *Quality control Response to Environmental Sensitivity Study* cited Century Park as strong reason why *not to permit* development East of Luton.

How the mighty have fallen in their reversal of heart! Such fickle methodology at work.

Luton are initiating the planning application before the Luton Council Authority - who directly and wholly own the company applying; this subsidiary company and all of its

employees and directors are simultaneously employees and directors of the Council, without exception. Thus this New Century Park Airport Enterprise Zone planning application will obviously be approved.*

FIGURE 5 – Red shards showing where the Green Belt would no longer be open at East of Luton.



CONCLUSION

Is the Plan sound in accordance with the National Planning Policy Framework? – No.

Green Belt East of Luton is so narrow that it would leave NO GREEN BELT AT ALL between Cockernhoe, Hertfordshire and East Luton, Bedfordshire. Thus we can conclude that the openness and purpose of the Green Belt would be damaged.

Automatically “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” (83. NPPF) are instead eradicated.

Positively Prepared? – No, it is not consistent with achieving sustainable development. Only an anti-planner would have failed to mention, but once, New Century Park, with its additional 8,000 associated daily vehicle movements.

Such spatially challenged vision is not generally a positive preparation for anything other than a crash.

Justified? – No, it is not based on proportionate evidence since the Plan has missed Major Infrastructure Projects of regional significance onsite of Strategic Sites.

Exceptional circumstances, is the only justifiable reason to remove the Green Belt. (Peter Village QC and Ned Helme were instructed by Duffield Harrison LLP). But these are not present for East of Luton.

Effective? – No then; it is not based on effective joint working on cross-boundary strategic priorities with its unfulfilled Duty to Cooperate exemplified again.

NOTES

*For Luton Council, The Town and Country Planning (Consultation) (England) Direction 2009 requires them to consult Secretary of State, as New Century Park's proposed roads come under paragraphs 3-8 and thus the provisions in paragraphs 9-12. Also since it comes under Sections 44 (Major Infrastructure Projects) & 45 (Simplified Planning Zones) of the Planning & Compulsory Purchase Act 2004.

BIBLIOGRAPHY

Quality control Response to Environmental Sensitivity Study prepared to inform the selection of Potential Growth Areas around Luton & Response to the emerging Luton and South Bedfordshire Core Strategy for North Hertfordshire District Council - 24/07/09

[The Landscape Partnership file: W:\2009 Projects\B09013 North Herts Response to Luton & South Beds Environ Sensit. Study\Documents\Report\Final Report_24-7-09.doc July 2009]