



WHITE PEAK Planning

Matter 23 Hearing Statement: The Green Belt Review work and the site selection process

North Hertfordshire Local Plan Examination:
Further Matters, Issues and Questions

On behalf of Bloor Homes and The Crown Estate

February 2020

Ref: 2012.002

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Authorised for and on behalf of White Peak Planning Ltd.

A handwritten signature in black ink, appearing to read 'Rob White', written over a horizontal line.

**Rob White
Director**

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party. Any such party relies on this report at their own risk.



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1.0 Introduction

1.1 Background

- 1.1.1 This Statement has been prepared by White Peak Planning on behalf of Bloor Homes and The Crown Estate.
- 1.1.2 Bloor Homes and The Crown Estate control a substantial tract of land within the area identified in the Local Plan submission version as the Land East of Luton allocation (site references: EL1, EL2 and EL3).
- 1.1.3 Bloor Homes has submitted an outline planning application to North Hertfordshire District Council (NHDC) for the majority of sites EL1 and EL2 (planning application reference: 17/00830/1) for up to 1,400 new homes, as well as a local centre, primary school and all-through school.
- 1.1.4 The Crown Estate has submitted an outline planning application to NHDC (ref: 16/02014/1) for 660 new homes covering Site EL3.
- 1.1.5 The application documents can be viewed on the Council's website via the following link: <https://pa2.north-herts.gov.uk/online-applications/>.
- 1.1.6 Submissions were previously submitted with regards to Green Belt in our Hearing Statement Matter 7 Countryside and Green Belt dated November 2017 and Hearing Statement Matter 10 Luton (Cockernhoe) dated January 2018.

2.0 Responses to Inspector's Questions

2.1 Issue 23.1 (a) Have I understood the approach taken correctly?

- 2.1.1 The process described in short summary by the Inspector in para. 23.1 of ED180 is correct.
- 2.1.2 It should also be noted that as well as an assessment of the 'suitability' of sites, Stage 1 of the process also involved an assessment of whether sites were 'available' and 'achievable'.

2.2 Issue 23.1 (b) Is the approach taken reasonable, adequately robust and consistent with national policy?

- 2.2.1 Yes, NHDC have followed planning policy and guidance and in doing so they have prepared a proportionate evidence base and fulfilled their duty to co-operate with neighbouring authorities.
- 2.2.2 The approach is demonstrated as sound in the various evidence base documents submitted by NHD, including in relation to housing supply and Green Belt: HOU1; HOU7; HOU9; CG1; ED161; ED44; and in relation to the Duty to Cooperate: MoU8; SOC1; ED18.

2.3 Issue 23.1 (c) The Sustainability Appraisal is not influenced by the degree to which land does or does not contribute to the purposes of including land in the Green Belt. Should it be?

- 2.3.1 We support the position set out by NHDC in their Paper B paras 40-43 and Paper C paras 66-72 with regards to the role and scope of Sustainability Appraisal alongside the remainder of the evidence base, including the extensive evidence in relation to housing need and Green Belt. We reserve our position to respond further if necessary during Examination.

2.4 Issue 23.2 (a) Should the change in the assessment of these parcels of land (including the safeguarded land to the west of Stevenage) lead to their allocation for development/identification as safeguarded land in the Local Plan being rejected?

Observations on the updated assessment relevant to East of Luton sites

- 2.4.1 The Court of Appeal decision that led to the preparation of ED161(Parts A & B 2018) as stated at para 1.8 of ED161A, has now been quashed by a Supreme Court ruling (R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) -v- North Yorkshire County Council [2020] UKSC 3).

- 2.4.2 The Green Belt Review Update (ED161A) revised the overall strategic parcel assessment for Parcel 2 (including Sub-parcels 2c and 2d within which Sites EL1, EL2 and EL3 (the 'East of Luton' sites) are located, as well as other surrounding land) from having 'moderate' impacts on the purposes of the Green Belt in the 2016 Green Belt Review (CG1) to having 'significant' impacts (see Table 4 of ED161A).
- 2.4.3 However, it is to be noted that the assessments for the individual Sub-parcels within Parcel 2 (including Sub-parcels 2c and 2d within which Sites EL1, EL2 and EL3 are located, as well as other surrounding land) did not change between the two reviews (see Table 5 of ED161A).
- 2.4.4 ED161A undertook a further analysis of the proposed allocation Sites (identified as: ELW [EL1]; ELE [EL2]; and 212a [EL3]) on the basis of the impact on the Green Belt of them being developed in the future including an assessment on Visual Openness, Physical Openness and Quality of Boundaries (see Table 6 of ED161A).
- 2.4.5 As referred to by NHDC at para 27 of Paper B, Table 6 identifies that the Green Belt contribution for the individual site assessments have changed from overall 'moderate' in CG1 to 'significant' in ED161A, but has explained above there is a difference in approach to the assessments in that CG1 assessed the contribution of the sites 'as is' (i.e. the same basis as ED161A for the Parcel and sub-parcel assessments – see ED161A para 2.3) whereas ED161A assessed the impact of the introduction of significant development into the sites and specifically the visual perceptions (ED161A para 2.7).
- 2.4.6 Therefore, it should be noted that the Table 6 comparison is not necessarily 'like for like' and that the Sub-parcel analysis of 2c and 2d provides a more direct comparison and remains unchanged between CG1 and ED161A.
- 2.4.7 Section 1 of ED161 explains that since CG1 was completed, the Court of Appeal in *Samuel Smith Old brewery -v- North Yorkshire County Council [2018] EWCA Civ 489* established that an assessment of (potential) development on the openness of the Green Belt should include consideration of the impact of that (potential) development upon the visual dimension of openness as well as the spatial dimension of openness.
- 2.4.8 The methodology set out in pages 6-8 and Appendix 1 of ED161A explains that an assessment of openness has been expressly divided into visual and physical openness and this has been used to re-assess how development on each of the potential development Sites affects the purposes of including land in the Green Belt.
- 2.4.9 The previous methodology (see Section 5, page 99 of CG1) also assessed the impact of development of the proposed Site (but not with development) on the purposes of the Green Belt, but did not include specific details of visual and physical openness, albeit ED161A clearly states at paras 1.9 and 1.10 that CG1 was in any event considered to satisfy the Court of Appeal tests.
- 2.4.10 Although CG1 and ED161A were both prepared on behalf of NHDC, it is not clear whether they were prepared by the same consultants and therefore, whether variations in the results are simply a case of differences of professional judgement.

- 2.4.11 At paras 3.3 and 3.8 of ED161A the authors make the assumption that those Parcels and Sub-parcels most closely associated with the main urban areas make the most significant contributions to the purposes of Green Belt.
- 2.4.12 Paras 3.10 and 3.13 of ED161A suggest that the revised overall conclusions in relation to the Sites are simply due to the quantum of development proposed at the allocations.
- 2.4.13 However, it is to be noted that no new circumstances had arisen between the original Green Belt Review and the Green Belt Review Update to alter the nature of these sites or the assessment of them.
- 2.4.14 The presumptions of ED161A are that sites adjacent to the existing urban areas or those where a strategic level of development is proposed will lead to significant harm to the Green Belt. Therefore, by default this would mean that smaller sites with less impact on the countryside, but which make a substantially lower contribution to meeting housing need, or those remote from existing urban areas not affecting sprawl, would be considered preferable in Green Belt terms.
- 2.4.15 We suggest that the above presumptive approach is not correct and that each site should be assessed individually on its merits.
- 2.4.16 Development on smaller sites away from existing urban areas would not meet the spatial objectives of the Local Plan to deliver its housing need, and hence be contrary to the requirements of the NPPF to plan positively for sustainable development.
- 2.4.17 This is reflected in para 5.21 of ED161A which states that:
- ‘These sites represent the best opportunities for strategic-scale development within the District adjoining the main towns. The conclusions in Appendix 2 of HOU1 regarding the significant positive outcomes afforded by these sites being considered to outweigh the harms are still considered valid, even if the heightened [overall] contribution towards Green Belt purposes found in the revised analysis in the Report are applied.’*
- 2.4.18 These observations assist in understanding the updated assessment and help to show that the changes in the assessment certainly do not necessitate rejection of the allocated sites, as further explained below

Further Consideration of the ‘East of Luton’ sites

- 2.4.19 In terms of the overall contribution of the ‘East of Luton’ sites to the purposes of the Green Belt, although the outcomes of the assessments in CG1 and ED161A, were revised from ‘moderate’ to ‘significant’, it should be noted that the assessment results for the individual Green Belt purposes were identical for Sites EL1 and EL2 and almost identical for Site EL3, as shown in Table 2.1.
- 2.4.20 It should also be noted that the corresponding assessments of Green Belt sub-parcels 2c and 2d, within which the sites are located, were the same in both CG1 and ED161A. As such, there was plainly an appreciation of the levels of contribution to the purposes of the Green Belt provided by the ‘East of Luton’ sites prior to ED161A being prepared

Table 2.1 – Green Belt Review and Update Assessment Results					
Site	Green Belt Assessment				Overall Contribution
	Sprawl	Towns merging	Safeguarding countryside	Preserving setting of historic towns	
EL1 (CG1)	(3)Significant	(2)Moderate	(3)Significant	(1)Limited	Moderate
EL1 (ED161)	Significant	Moderate	Significant	Limited	Significant
EL2 (CG1)	(3)Significant	(2)Moderate	(3)Significant	(1)Limited	Moderate
EL2 (ED161)	Significant	Moderate	Significant	Limited	Significant
EL3 (CG1)	(2)Moderate	(2)Moderate	(3)Significant	(1)Limited	Moderate
EL3 (ED161)	Significant	Moderate	Significant	Limited	Significant
<p>Notes:</p> <p>In CG1, the sites are identified at Table 5.3 on pages 118-119 as follows (based on SHLAA 2014 nomenclature):</p> <ul style="list-style-type: none"> • ELb = EL1 • ELa = EL2 • 212a = EL3 <p>In CG1 a numerical scoring system is used in Table 5.3 (and elsewhere) whereby:</p> <ul style="list-style-type: none"> • 1 = land making limited contribution to Green Belt purpose • 2 = land making moderate contribution to Green Belt purpose • 3 = land making significant contribution to Green Belt purpose 					

2.4.22 In relation to visual openness of each site, ED161A states at Appendix 4 pages 1,5,7 [emphasis added]:

- **EL1:** Mixed / High – Parts of the site are internally open. Part of a plateau landscape gently sloping westwards together with a central woodland block contains views into and out of site and limits longer views other than from the northern tip.
- **EL2:** Mixed - Plateau landscape gently sloping westwards together with small blocks of woodland contains views into and out of site and limits longer views.
- **EL3:** Mixed – Internally open though largely sloping westwards in towards Luton which contains views into and out of site and limits longer views.

2.4.23 It is unclear as to why the authors of ED161A came to a different conclusion on the overall contribution of the ‘East of Luton’ sites to the purposes of the Green Belt than the authors of CG1, when the individual assessment results were almost identical and the appraisal of visual openness acknowledges that the sites are predominantly self-contained with limited potential for wider views.

2.4.24 This assessment of visual containment reflects the evidence presented in our Hearing Statement Matter 10 at our response to Issue 10.26 set out at Section 2.2 and the accompanying figures 5.1 to 5.24 and Appendices E3, E4 and E5 which were discussed at the previous Luton (Cockernhoe) EiP session. These demonstrate that there are no visual or landscape factors which would warrant

the 'East of Luton' sites being considered as having a greater impact on the purposes of the Green Belt with respect to visual openness.

2.4.25 As summarised in paragraph 2.4.21 of the Matter 10 Statement:

'there are no additional factors or contributions that differentiate these parcels from the surrounding greenbelt land'.

2.4.26 The exceptional circumstances in relation to the East of Luton sites are set out fully in the evidence and summarised at para 12 of Paper C and we fully endorse these as the basis for retaining these allocations within the Local Plan.

2.4.27 Paras 30-32 of the same paper reiterate by summary reference to the evidence base why there are not preferable sites to the East of Luton sites to meet the proportionate amount of Luton's unmet need, and we endorse the supporting evidence in relation to this.

2.4.28 As background to the East of Luton sites, the submission version of the Local Plan was informed by the Luton HMA Growth Options Study (HOU7 Published November 2017) and by the long-standing agreement between the principal Local Planning Authorities (i.e. Luton BC, Central Bedfordshire BC and North Herts DC) as to the proportionate distribution in delivering the unmet housing need across the authorities through their Local Plans and thereby meeting their joint Duty to Cooperate obligations. This was established in a SoCG with Luton BC in May 2016 (reproduced at Appendix A of ED18) and re-confirmed with Luton BC for the purposes of the examination of this Local Plan at ED18, and at MOU8 between Central Bedfordshire BC and North Herts DC which has informed the preparation of their respective emerging local plans.

2.4.29 As described further in our Matter 24 Statement, the majority of development within the 'East of Luton' sites, is intended to help meet Luton Borough's unmet housing need. In order to do this in a sustainable way, the sites are located within the Luton HMA, in close proximity to Luton where the need arises.

2.4.30 Attention is drawn in particular to Figure 3.3 of the Luton HMA Growth Options Study (HOU7), which shows the overall contributions of land around Luton to the purposes of the Green Belt. Almost all Green Belt land which is directly adjacent to Luton is classified as making a 'strong' (i.e. 'significant') contribution to Green Belt purposes.

2.4.31 Rejecting the proposed 'East of Luton' sites on purely Green Belt terms would not mean that there would be a preferable site elsewhere to compensate for the loss of housing. Far from it.

2.4.32 It is therefore, difficult to see how sufficient development could be brought forward to meet Luton's unmet need in an alternative sustainable location close to Luton without the release of land that makes a strong/significant contribution to the Green Belt, i.e. it would appear to be impossible.

2.4.33 It should also be noted that in relation to alternative sites within North Hertfordshire ED161A included all of the sites previously included in CG1 and not just those selected for development. This is considered in paragraphs 5.24-5.28 of the ED161A and Table 9 (page 44) with the detailed site assessments set out in Appendix 4 (ED161B). Paragraph 5.26 of ED161A concludes that:

'It is not considered that any of these sites would now be judged as more appropriate, alternative development sites in light of the revised analysis in this Report'.

- 2.4.34 It is important to draw attention to assessments which demonstrate, in line with NPPF guidance, that it is not possible to meet the housing OAN within the Luton HMA without Green Belt release and the 'East of Luton' sites are a sustainable and appropriate location for development. Attention is drawn in particular to paras. 4.29- 4.40 of HOU1, in particular paras. 4.37-4.39:

'4.37 As such it is considered there would be significant difficulties in achieving, in particular, the social role of sustainable development without resort to the Green Belt. This would be likely to impinge upon the economic role.

'4.38 Notwithstanding the above, it is recognised that a policy of constraint would have environmental benefits in ensuring the continued protection of land and this is a factor which needs to be balanced.

'4.39 If North Hertfordshire resolved not to meet its housing requirements on Green Belt grounds, it would be difficult to approach other authorities within the HMA for assistance under the Duty to Co-operate without taking an inconsistent, or even illogical, approach.'

Conclusion

- 2.4.35 For the reasons provided in the previous sections, we do not consider that the change in the assessment of the 'East of Luton' sites (EL1, EL2 and EL3) should lead to their allocation for development in the Local Plan being rejected.
- 2.4.36 We consider that exceptional circumstances have been demonstrated emphatically through the evidence base to support the allocation of these sites.
- 2.4.37 Furthermore it is clear that preferable sites which make less contribution to the purposes of Green Belt do not exist within either North Herts or the Luton HMA which are in close proximity to Luton and therefore, in order to plan positively to deliver a sustainable spatial distribution of development these Green Belt sites should be retained in the local plan.