

## LUTON COUNCIL HEARING STATEMENT

### Matter 23 – The Green Belt Review work and the site selection process

23.1 Paper B of the Council’s response to my letter of 9 July 2019 explains how the Council’s assessments of the contribution of land parcels to the purposes of including land in the Green Belt has been taken into account through the process of selecting sites for development. As I understand it, and in short summary, this has been a two-stage process:

Stage 1 – an initial ‘sift’ through the Strategic Housing Land Availability Assessment, involving an assessment of the ‘suitability’ of sites including in relation to Green Belt factors

Stage 2 – to assess the contribution that areas and potential development sites make to the purposes of including land in the Green Belt (through the Green Belt Review and the Green Belt Review Update 2018) to help inform the judgement about the existence or otherwise of the exceptional circumstances necessary to warrant the ‘release’ of the land in question from the Green Belt

Paper B of the Council’s response also explains how the Sustainability Appraisal has considered matters relating to the contribution land parcels make to the purposes of including land in the Green Belt.

**a) Have I understood the approach taken correctly?**

**b) Is the approach taken reasonable, adequately robust and consistent with national policy?**

**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?**

Luton Council’s Response:

1. Luton Council (LBC) supports the approach taken by North Hertfordshire District Council to the consideration of Green Belt factors through the site selection process and the Sustainability Appraisal.

23.2 The Green Belt Review Update 2018 arrives at some different conclusions to that of the original Green Belt Review. Some sites are now considered to make a significant contribution to the purposes of including land in the Green Belt (which were previously assessed as making a lesser contribution).

**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?**

**b) If so, and bearing in mind the methodology used, why does the change in the assessment render the Local Plan unsound in this respect?**

Luton Council's Response:

2. Luton Council (LBC) does not support the Green Belt Review Update 2018 [ED161]. In particular, LBC considers that the Green Belt Review [CG1] had adequately addressed both the spatial and visual dimensions of the openness of the Green Belt in the assessment of parcels, sub-parcels and potential development sites. It was a proportionate exercise.
3. LBC notes that it is acknowledged in Paragraphs 1.9 – 1.11 of the Green Belt Review Update [ED161] that both the visual and spatial dimensions of the existing Green Belt had already been considered in the Green Belt Review [CG1].
4. No clear explanation is provided of why it was necessary for the Green Belt Review to be revisited or updated. Reference is made in Paragraphs 1.7 and 1.8 of the Update [ED161] to challenges by some representors through the Examination process and to the Court of Appeal Judgement – Samuel Smith Old Brewery-v-North Yorkshire County Council [2018] EWCA Civ 489. The Court of Appeal Judgement appears to be the principal reason for the Green Belt Review Update.
5. LBC notes that on the 5 February 2020 the Supreme Court allowed the appeal against the Court of Appeal Judgement – R (on the application of Samuel Smith Old Brewery (Tadcaster) and others)-v-North Yorkshire County Council (Appellant) [2020] UKSC 3. The effect of this judgment was to reverse the judgment of the Court of Appeal. Accordingly, there is no obligation to take into account visual harm as an element of openness unless, in a particular case, it is so obviously material that it would be an error of law to fail to address it directly. It follows that, in relation to the sites with which Luton Council is concerned, there was no error of law in the Green Belt Review, and the judgments it made upon those parcels was correct.
6. The revised assessment in the Update [ED161] considers the visual and physical openness of each parcel but only the contribution of the parcel to the purpose of 'safeguarding the countryside from encroachment' has been specifically evaluated against the refined assessment methodology. It is stated in Paragraph 2.5 of the Update that the analyses of the parcels for the other purposes is considered sufficiently robust.
7. For the potential development sites the revised assessment in the Update [ED161] considers the potential visual and physical impacts of future allocation and development against all four Green Belt purposes.

8. In the case of Parcel 2 – Lilley Bottom (which lies to the East of Luton) the assessment of the Contribution to the Green Belt purpose ‘To assist in safeguarding the countryside from encroachment’ remains the same at ‘Significant Contribution’ in the Update [ED161] as it was in the Green Belt Review [CG1]. However, in the Update [ED161] the Overall assessment is increased to ‘Significant Contribution’ from ‘Moderate Contribution’. Bearing in mind that there is no change in the Update to the assessment of the Contribution of Parcel 2 to the other three Green Belt purposes, LBC considers that there is no reason why Parcel 2’s overall contribution is now ‘Significant’ as opposed to ‘Moderate’. In addition, it is noted that the wording given in the ‘Contribution to Green Belt Purposes/ Explanation’ column in the Update [ED161B, Page 8 of PDF] is identical to that included in the ‘Overall evaluation and contributions to Green Belt purposes’ in the Green Belt Review [CG1, Page 18].
9. In relation to the Sub-Parcels 2a, 2b, 2c, 2d and 2e (to the East of Luton) there is no change in the assessment of the Contribution to the Green Belt purpose ‘To assist in safeguarding the countryside from encroachment’ or the Overall contribution for any of these Sub-Parcels between the Green Belt Review [CG1, Pages 36 – 37] and the Update [ED161B, Pages 60 – 69 of PDF].
10. For the Potential Development Sites to the East of Luton there is no change in the assessment of the four Green Belt purposes for Sites ELW and ELE (Proposed Local Plan Allocations EL1 and EL2) between the Green Belt Review [CG1] and the Update [ED161], but the Overall Assessment of the Contribution to Green Belt Purposes has changed from ‘Moderate’ to ‘Significant’. It is unclear why the Overall Contribution has been increased for both of these sites.
11. LBC considers that, even if it is concluded that the Green Belt Review Update [ED161] was necessary and that it is generally robust, it is not robust in relation to the specific parcels identified above, and in any event the changes in the assessment of the East of Luton sites should not result in the rejection of their allocation or render the submitted North Hertfordshire Local Plan unsound.
12. LBC strongly supports North Hertfordshire District Council’s view that exceptional circumstances remain to justify the allocation of the East of Luton sites in the submitted North Hertfordshire Local Plan – see LBC’s response to Matter 24 for further details. The original Green Belt Review was an appropriate and proportionate piece of work, in particular in relation to the way it dealt with the East of Luton.