
Matter 5: Proposed Revision of Green Belt Boundaries (including CP13)

5.1 Do the exceptional circumstances, as required by the NPPF (paragraphs 79-86), exist to justify the plan's proposed revision of the boundaries of the Green Belt, having particular regard to:

(a) Housing Allocation Sites 1, 2, 3 and 4?

(b) The land between site 1 and 2, to the east of the A34?

(c) The land to be removed from the Green Belt but not allocated for any particular use?

1. The City Council would refer back to its representation to the Publication LPP1, in which we stated, in the context of CP13 and NPPF paragraph 83:

"It is clear from the NPPF that the Green Belt boundary should be changed once and once only, and not in a piecemeal fashion as proposed in Core Policy CP13. In this case, it has been agreed that a strategic Green Belt review should be undertaken by the Oxfordshire Growth Board, and this may lead to further changes being necessary to the Oxford Green Belt in the Vale. The joint review is due to conclude in June 2015, and the likely outcome is that further changes may need to be made to the Green Belt boundary to address Oxford's unmet needs before the Vale Local Plan even reaches adoption. This would mean that the Plan would be immediately out-of-date."

2. In response to VWHDC note HEAR03 'Summary Note on Changes to the Oxford Green Belt' (September 2015) the City Council submitted a response (HEAR07I). This sets out in further detail why it considers that the approach of VWHDC as reflected in Policy CP13 and the submitted Policies Map is unsound.
3. It should be noted that the Oxford Green Belt Study, prepared by consultants LUC and dated October 2015, was published in November 2015.¹ This study forms part of the Oxfordshire Growth Board's joint work primarily to inform the distribution of Oxford's unmet housing need. It was commissioned and signed off for publication by all six Oxfordshire local authorities.
4. It is important to note that the joint Green Belt Study does not seek to recommend sites for allocation. Rather it recommends that exceptional circumstances, such as unmet housing or employment, must be demonstrated, and that consideration should be given to the need to promote sustainable patterns of development. This is mandatory given the requirement in NPPF paragraph 84: "When drawing up or reviewing Green Belt

¹ Available at

<http://modgov.cherwell.gov.uk/ecSDDisplay.aspx?NAME=Oxfordshire%20Green%20Belt%20Study&ID=426&R PID=7026794&sch=doc&cat=13638&path=13637%2c13638>

boundaries local planning authorities should take account of the need to promote sustainable patterns of development..." Specifically the study states in paragraph 5.4:

"A common interpretation of the policy position is that, where necessitated by development requirements, plans should identify the most sustainable locations, unless outweighed by adverse effects on the overall integrity of the Green Belt according to an assessment of the whole of the Green Belt based around the five purposes. In other words, the relatively poor performance of the land against Green Belt purposes is not, of itself, an exceptional circumstance that would justify release of the land from the Green Belt. We therefore recommend that the Growth Board considers points i) and ii) above in developing the spatial strategy."

5. It should be further noted that the joint Assessment of Spatial Options for the Oxford unmet housing need in Oxford is now to be completed in April 2016, and the final decision by Growth Board on the matter scheduled in July 2016. This work is needed to inform the review of Oxford's Green Belt, bearing in mind the Green Belt 'permanence test' in the NPPF (paragraph 85), as without it there is no cooperative cross-boundary consideration of sustainable locations for development relating to Oxford's unmet need.
6. The City Council therefore maintains its view that the evidence for Policy CP13 has not properly considered exceptional circumstances (including the Oxford unmet need). Most notably there are areas of Green Belt release that do not relate to any specific need or locational consideration, but are based only on the five Green Belt purposes. The problem with this approach is summarised in paragraph 125 of Hickinbottom J's judgement in Gallagher Homes v. Solihull MBC [2014] EWHC 1283. In particular he states:

"However, it is not arguable that the mere process of preparing a new local plan could itself be regarded as an exceptional circumstance justifying an alteration to a Green Belt boundary. National guidance has always dealt with revisions of the Green Belt in the context of reviews of local plans (e.g. paragraph 2.7 of PPG2 : paragraph 83 above), and has always required "exceptional circumstances" to justify a revision. The NPPF makes no change to this.

For redefinition of a Green Belt, paragraph 2.7 of PPG2 required exceptional circumstances which "necessitated" a revision of the existing boundary. However, this is a single composite test; because, for these purposes, circumstances are not exceptional unless they do necessitate a revision of the boundary (COPAS at [23] per Simon Brown LJ). Therefore, although the words requiring necessity for a boundary revision have been omitted from paragraph 83 of the NPPF, the test remains the same."

7. The approach also does not recognise the need for cross-boundary working on strategic issues such as strategic Green Belt review, and is therefore not effective.
8. The City Council cannot comment on the appropriateness of re-designating Green Belt land at housing sites 1,2,3 and 4 and elsewhere as the joint Growth Board work has not yet concluded. However it should be noted that these revised boundaries should not be

seen as permanent and long-term, given that the strategic options for meeting Oxford's unmet housing needs (including those in Vale of White Horse) have not yet been tested.

9. Accordingly the City Council is of the view that it cannot be concluded that exceptional circumstances exist as required by the NPPF in accordance with the lawful approach to reviewing Green Belt boundaries as summarised in paragraph 125 of the judgement mentioned above.