

Reigate and Banstead Borough
Council

Green Belt Support

Exceptional Circumstances and
Safeguarded Land Advice Note

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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 and no responsibility is undertaken to any third party.

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1 Introduction

Ove Arup and Partners ('Arup') has been commissioned by Reigate & Banstead Borough Council ('RBBC') to prepare an advice note on Green Belt, and more specifically, on issues of 'exceptional circumstances' and 'safeguarded land'.

The rationale for providing an advice note is that RBBC is aware that the topics of exceptional circumstances and safeguarded land have become increasingly important as part of the overall narrative in justifying any alteration to Green Belt boundaries in a local authority area. The purpose of the advice note is therefore to provide guidance for RBBC to consider whilst progressing the Development Management Plan ('DMP').

The note provides an analysis of the issues at both the strategic and a site-specific level, and is grounded in the terms provided by the National Planning Policy Framework (NPPF) (Paragraphs 79 to 92).

The note provides a summary of the relevant policy context, applicable case law, and good practice to identify the main issues for exceptional circumstances and safeguarded land. The implications for local plan-making have then been summarised.

In addition, the implications arising from the Housing White Paper (in particular Paragraph 1.39) are briefly summarised.

2 Exceptional Circumstances

2.1 Policy context

The context for the term exceptional circumstances is provided by both Paragraph 82 and Paragraph 83 of the NPPF. Having confirmed the importance of Green Belts, and set out the five purposes that the Green Belt serves, the NPPF at Paragraph 82 goes on to note that:

*"The general extent of Green Belts across the country is already established. New Green Belts should only be established in **exceptional circumstances**, for example when planning for larger scale development such as new settlements or major urban extensions."* (emphasis added).

Later, in discussing how and when it is appropriate to alter existing Green Belt boundaries, Paragraph 83 of the NPPF states:

*"Once established, Green Belt boundaries should only be altered in **exceptional circumstances**, through the preparation or review of the Local Plan."* (emphasis added).

The references to exceptional circumstances in the NPPF are somewhat generic, and the words themselves, in the context of the sentences and paragraphs of the NPPF, do not assist in understanding when circumstances may be defined as exceptional.

On this particular issue, the Planning Practice Guidance (PPG) does not provide any further definition. Indeed, the PPG merely re-iterates the NPPF and notes:

“The Framework makes clear that, once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.” (Paragraph: 044 Reference ID: 3-044-20141006).

2.2 Main issues

2.2.1 Overview

In order to provide a better framework for considering what is meant by the term exceptional circumstances, we have reviewed relevant case law and set out some main issues that arise.

Separately we have set out some good practice examples of where local planning authorities have prepared an exceptional circumstances ‘case’ to justify alterations to Green Belt boundaries.

2.2.2 Review of case law

It is suggested that there are a number of issues associated with the notion of exceptional circumstances that have been tested in legal cases, these are:

(i) **The process of local-plan making and the need to demonstrate exceptional circumstances**

In *Gallagher Homes v. Solihull MBC* (2014), Hickinbottom J clarified that the mere process of preparing a new local plan is not, in itself, to be regarded as an exceptional circumstance justifying the alteration to a Green Belt boundary¹.

To this extent the ruling confirmed that the NPPF has not changed the long established principles for redefining a Green Belt, and that 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 PPG2²). In addition, the ruling underlined the fact that exceptional circumstances are required to necessitate a revision of a Green Belt boundary.

(ii) **How important is demonstrating exceptional circumstances in the consideration of altering Green Belt boundaries**

Gallagher Homes v. Solihull MBC (2014) also clarified that the question of whether circumstances are exceptional requires an exercise of planning judgment, but what is capable of amounting to exceptional circumstances is a matter of law, and a plan-maker may err in law if he fails to adopt a lawful approach to exceptional circumstances. Importantly, the ruling goes on to emphasise that once

¹ *Gallagher Homes v. Solihull MBC* [2014] EWHC 1283 (Admin) Case No: CO/17668/2013.

²

<http://webarchive.nationalarchives.gov.uk/20100519224712/http://www.communities.gov.uk/publications/planningandbuilding/ppg2>

a Green Belt has been established and approved, it requires more than general planning concepts to justify an alteration.

In simple terms, this means that exceptional circumstances do need to be truly exceptional, and cannot sit within the normal planning considerations that may normally feature in what is often referred to as the 'planning balance'.

(iii) Whether objectively assessed need represents exceptional circumstances

In *Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council* (2015), the ruling on the case, set out a decisive conclusion on the matter of exceptional circumstances³.

The ruling provided a simple clarification that the need for housing and economic development, as defined through an objective assessment of need, does not constitute exceptional circumstances to alter Green Belt boundaries. More specifically, the ruling notes:

"[I]t 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."

For the avoidance of doubt this concept has been confirmed through an amendment to the PPG, which now clarifies that housing and economic needs do not override constraints on the use of land, such as Green Belt. In addition, it notes that need alone is not the only factor to be considered when drawing up a Local Plan (See Paragraph: 044 Reference ID: 3-044-20141006 for further details).

(iv) Exceptional circumstances in the context of achieving sustainable development

In the ruling attached to *I.M. Properties Ltd v Lichfield DC* (2014) there was a detailed review of the relationship between potential alteration of Green Belt boundaries, exceptional circumstances, and consequences for sustainable development⁴. The ruling notes that:

"The only statutory duty is that in Section 39 (2) (supra). In that regard the contents of paragraph 84 of the NPPF are relevant. That says,

"84. When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary."

³ *Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council* [2015] EWHC 1078 (Admin) Case No: CO/4846/2014

⁴ *I.M. Properties Ltd v Lichfield DC* [2014] EWHC 2440 (Admin) Case No: CO/1049/2014

That is clear advice to decision makers to take into account the consequences for sustainable development of any review of green belt boundaries. As part of that patterns of development and additional travel are clearly relevant.”

Elsewhere in the judgement, it is noted that: *“it is submitted that the green belt designation is a servant of sustainable development.”*

Again, in simple terms this means that the impact on, and wider objective for, achieving sustainable development must be had whilst considering a potential alteration to a Green Belt boundary.

(v) What criteria may be used to demonstrate exceptional circumstances

The *Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council (2015)*, also provides a second decisive conclusion on exceptional circumstances. The ruling sets out a series of matters or criteria that should be looked at when attempting to consider exceptional circumstances. The ruling states that:

“ascertainment of exceptional circumstances...should, at least ideally, identify and then grapple with the following matters: (i) the acuteness/intensity of the objectively assessed need (matters of degree may be important); (ii) the inherent constraints on supply/availability of land prima facie suitable for sustainable development; (iii) (on the facts of this case) the consequent difficulties in achieving sustainable development without impinging on the Green Belt; (iv) the nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and (v) the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.”

The judge in his ruling was clear that this is not a checklist, and that these are not the only matters that plan-makers and decision-takers can have regard to in demonstrating exceptional circumstances. However, it would appear prudent to factor these matters in to any consideration of proposed alterations to Green Belt boundaries.

2.2.3 Awareness of good practice

The exceptional circumstances ‘case’ that is made by local planning authorities is usually an overarching one. As such, we have not provided direct responses to each of the issues identified from the case law. Instead, this section provides an overview of good practice in demonstrating exceptional circumstances exist to justify altering Green Belt boundaries.

Poole Local Plan (Pre-Submission) (July 2017)

Poole Borough Council has published a Pre-Submission Draft of the local plan. Within the plan it notes that it has carried out a Green Belt Review that assesses the role and function of the South East Dorset Green Belt in Poole. It concludes

that there are exceptional circumstances that support the release of land from the Green Belt based upon the following rationale⁵:

- The acuteness of the objectively assessed need, and the aim to provide sufficient land, within their own boundary, to meet the full objectively assessed housing need and other uses and deliver sustainable development;
- To boost delivery of housing and address past issues of deliverability within the urban area – and in so doing significantly boost affordable housing supply;
- To provide a balanced mix of housing types to meet all needs by
 - i) providing homes suitable for families and plots for self/custom build that tend not to result from intensification of the urban area; and
 - ii) care homes;
- To provide enough homes to sustain Poole’s workforce;
- The opportunity to deliver significant areas of new public open space including delivering the first phases of the Stour Valley Park concept, which could have longer term heathland mitigation benefits for all of Poole; and
- As part of the Duty-to-Cooperate, the Council asked the other neighbouring authorities within the Eastern Dorset HMA if they have any suitable sites to meet this shortfall. It was confirmed that other local authorities within the housing market area are unable to help towards Poole’s housing needs.

Further to this, the Council has also made clear that overall there would be a 2.9% reduction in the Poole Green Belt, which represents a 0.18% loss of the South East Dorset Green Belt and that this is not considered to be a significant change, nor does it undermine the purpose of the South East Dorset Green Belt.

Selby Core Strategy (October 2013)

Selby District Council used a multi-faceted approach to demonstrating exceptional circumstances. The main rationale for green belt release was underpinned by the requirements for residential and economic development as set out in the Core Strategy, and notably the Inspector stating: *“if land availability difficulties prevail, the strategy should ensure that the required dwellings would be built, albeit not in the preferred location”*⁶.

In taking forward their approach to alterations to Green Belt boundaries, Selby predicated their exceptional circumstances case on the following:

- The Green Belt alteration required aligns with sustainable development outlined in local policy (Sustainable Development Criteria / settlement hierarchy defined within PLAN Selby and Core Strategy);
- There is no reasonable alternative of delivering sufficient land within the same Housing Market Area;

⁵ Borough of Poole, Poole Local Plan: Exceptional circumstances to amend the South East Dorset Green Belt boundary, July 2017

⁶ Selby District Core Strategy Local Plan (Inspector’s Report June 2013)

- Development cannot be appropriately delivered on a non-Green Belt site, or within the countryside area in the same market area;
- Green Belt release is necessary as the district-wide housing and employment requirements have been acknowledged, and the supply of deliverable and developable sites within the SHLAA and ELR cannot accommodate need otherwise;
- The Green Belt land required is (a) performing weakest when assessed against the Five Purposes of the Green Belt, is (b) least constrained by technical site constraints, and (c) when released, would result in a strongly defined Resultant Green Belt boundary.

When assessed against these circumstances and underpinned by evidence base documents, Selby successfully built a defensible justification for release from the Green Belt to facilitate sustainable development. (This will ensure that the definition of exceptional circumstances aligns with Section 39(2) of the Planning and Compulsory Purchase Act 2004, Paragraph 14 of the NPPF and Paragraph 84 of the NPPF).

Elmbridge Local Plan (September 2016)

Elmbridge Borough Council used a thematic approach of various housing-related factors, supported by appropriate evidence base documents, to demonstrate exceptional circumstances requiring alterations to the green belt boundary⁷. The Council has applied a strategic, Borough-wide approach to demonstrating exceptional circumstances, these strategic factors are:

- Housing need;
- House prices and affordability issues;
- Affordable housing need;
- Starter homes, self-build and custom housebuilding; and
- Imbalance in housing mix.

The Council has used national datasets and evidence base documents to demonstrate how each of these factors combined require the green belt boundary to be altered (i.e., projected dwelling size requirements, affordability issues, etc.) These factors are balanced against the Council's inability to meet development needs within urban areas due to the lack of available sites within the Borough, Housing Market Area (HMA) and other neighbouring Boroughs and Districts. The Council also demonstrates understanding of the issues through reference to recent changes in Government Policy and the development economics of the housing industry. The rationale is that each of these thematic factors, when combined as a whole, amount to a case for exceptional circumstances.

Bromsgrove District Plan (2016)

For the Bromsgrove District Plan, the Inspector considered that exceptional circumstances had been demonstrated for a strategic site in Brockhill. This

⁷ Elmbridge Borough Council, Exceptional Circumstances Case, September 2016

focused on the relationship of the proposed Green Belt deletion to the urban form⁸.

Specifically, the Inspector commented that the site “*relates well to the existing urban fabric of the town and has relatively easy access to the town centre*”. The Inspector considered that a “*strong Green Belt boundary can be established*” and there are “*limited environmental constraints and no evidence that heritage assets would be adversely affected*”. Alongside a need for housing within Redditch, the Inspector considered that exceptional circumstances are demonstrated to justify site removal from the Green Belt. The Bromsgrove District Plan was found sound in December 2016 and adopted in January 2017.

Cheshire East Local Plan Strategy (2017)

The Cheshire East Local Plan Strategy sets out that exceptional circumstances were based on “*the requirement to allocate sufficient land for market and affordable housing and employment development, combined with the significant adverse consequences for patterns of sustainable development of not doing so*”.

Whilst the exceptional circumstances were not directly validated by the Inspector, the overall approach to Green Belt within the Green Belt Assessment Update was considered to be found sound. The Cheshire East Local Plan was found sound in July 2017⁹.

Derby City Council’s Local Plan (2017)

In the converse to the other examples, the examination of Derby City Council’s Local Plan considered that there was not a compelling case, amounting to exceptional circumstances for the release of land from the Green Belt. This was justified on the basis that the Green Belt only extends around the northern and eastern edges of the City with only a smaller area to the south, with only a very limited area that exists within the administrative boundary. It was therefore considered that there is no evidence that development needs of the Housing Market Area as a whole cannot be accommodated within the urban area¹⁰.

⁸ Bromsgrove District Council, Bromsgrove District Plan, Inspector’s Report December 2016

⁹ Inspector’s Further Interim Views (11/12/15) Cheshire East Council Examination Of The Cheshire East Local Plan Strategy

¹⁰ Derby City Local Plan Part 1: Core Strategy, Inspector’s Report December 2016

3 Safeguarded land

3.1 Policy context

The NPPF and the PPG provide the basis for the concept of ‘safeguarded land’. The NPPF draws out the issue having first set out in Paragraph 83 that when altering Green Belt boundaries through the preparation or review of a local plan, then “*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.*”

Further context to the issue of safeguarded land is provided when the NPPF discusses the “*...drawing up or reviewing Green Belt boundaries...*” in Paragraph 84. Paragraph 85 of the NPPF then sets out the more specific purpose of safeguarded land, noting 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.’ [emphasis added].*

3.2 Main issues

3.2.1 Overview

It is clear that a number of issues or uncertainties arise from the concept of safeguarded land. Unlike in the review of exceptional circumstances, there are fewer clear conclusions on the matter of safeguarded land stemming from legal rulings. Instead, the main reference points are Inspector’s Decision Letters on planning appeals, and/or Interim Findings Letters and Final Reports stemming from Independent Examinations in to local plans.

As such, the following section combines these perspectives with a review of good practice examples. These main issues identified are:

- i) whether it is necessary to identify safeguarded land;
- ii) how to define longer term development needs, stretching well beyond the plan period – in terms of both scale and time; and
- iii) where and how to define locations for safeguarded land.

3.2.2 Whether it is necessary to identify safeguarded land

Decisions not to identify safeguard land

Given the NPPF’s use of the words “*where necessary*”, there are cases where local planning authorities have chosen not to specifically identify safeguarded land.

The Inspector’s Report in to the joint Core Strategy and Urban Core Plan for Gateshead and Newcastle (February 2015) accepted the logic that some larger allocations identified in the plan would provide a substantial number of homes beyond the end of the plan period (2030)¹¹. Specifically, in concluding on the matter of safeguarded land, the Inspector states: “... *where some land is already identified for development after 2030, and the need beyond 2030 cannot reasonably be predicted, the “necessary” test of the Framework is not satisfied. Thus the absence of safeguarded land does not make the Plan unsound*”.

It is noteworthy that the Inspector took such a clear view on the necessity for safeguarded land.

Other local planning authorities have remained silent on the issue, notably Birmingham City Council in the adopted Birmingham Development Plan (2011 to 231) (adopted January 2017).

Postponing the identification of safeguarded land

In a number of cases, decisions on safeguarded land have been deferred to a later point in the plan-making process, either actively by the local planning authority or on the advice of the Inspector.

In the case of Purbeck District Council, the Purbeck Local Plan, the Inspector found the plan ‘sound’ but instructed the Council to undertake a Local Plan Review “*as soon as...practicable*” to encompass further work to identify a detailed Green Belt boundary, including safeguarded land.

In the case of City of Bradford Metropolitan District Council, the Inspector, whilst examining the Core Strategy (2004 to 2030) accepted the Council’s argument that a decision on whether to allocate safeguarded land could be deferred to later iterations of the plan, and for the issue to be re-considered “*if and when the wider sub-regional Green Belt is reviewed*”.

¹¹ Joint Core Strategy and Urban Core Plan for Gateshead and Newcastle – Inspector’s Report (February 2015). https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/planning-and-buildings/planning-policy/inspectors_report_on_the_examination_in_public_into_planning_for_the_future.pdf

Bromsgrove District Council did not consider the allocation of any safeguarded land within the Local Plan. Indeed, the Council have delayed wholesale review of the Green Belt until a stage when the GBSLEP Joint Strategic Housing Needs Study has been released. The Bromsgrove District Plan recognises that there might be a need to assist the City of Birmingham in achieving its housing target. The Inspector has therefore considered it is acceptable to postpone the identification of any resultant Green Belt or safeguarded land associated with meeting the needs of the GBSLEP housing needs study, and instead this could take place within a plan review. This would enable multiple reviews of the Green Belt to be avoided¹²

In other examples, local planning authorities have set out an intention to identify safeguarded land in their Core Strategy, and stated that a decision on detailed boundaries will be taken in subsequent Site Allocation Development Plan Documents.

One example is the Broxtowe Borough, Gedling Borough and Nottingham City Aligned Core Strategy (2011 to 2028) (adopted September 2014). Following the Independent Examination in to the Aligned Core Strategy, the Inspector's Report noted that: "*On safeguarding, it would be appropriate for the Councils to identify such land in their Part 2 Local Plans to achieve a degree of flexibility in meeting future development needs and postpone the need for further Green Belt reviews*"¹³.

The decision to identify safeguarded land

Many local authorities have recognised the need to identify safeguarded land. Although some have positively addressed the issue, whereas others have been instructed to provide it based on the views of Inspectors.

City of York Council recently reported a legal opinion expressed at their internal Local Plan Working Group, which discussed the issue of safeguarded land in the context of York¹⁴.

The view taken by John Hobson QC was that the "‘where necessary’ test...applies where longer term needs for development have been identified [and that by] identifying [safeguarded] land, the Green Belt can be protected from encroachment thus ensuring its boundaries remain permanent".

Interestingly, the Counsel opinion also emphasised importance of such land being "*genuinely available and capable of development when needed*", thus tying the process of identifying safeguarded land specifically to the site selection process.

By way of contrast, Rotherham Borough Council during the Independent Examination of their Core Strategy (adopted September 2014) were instructed to identify safeguarded land in order to avoid the need for future reviews of the

¹² Bromsgrove District Council, Bromsgrove District Plan, Inspector's Report December 2016

¹³ Broxtowe Borough, Gedling Borough and Nottingham City Aligned Core Strategy (2011 to 2028) (adopted September 2014). <https://www.broxtowe.gov.uk/media/2173/inspectors-report.pdf>

¹⁴ <http://democracy.york.gov.uk/documents/s95547/Report%20-%20Local%20Plan%20Safeguarded%20Land.pdf>

Green Belt boundary, which may be required to meet the longer term development needs at least five years beyond the end of the Plan Period.

Cheshire East positively planned for the issue of safeguarded land. The Cheshire East Local Plan Strategy establishes how CEC seeks to designate 200ha of Safeguarded Land, an increase from 130ha in the submitted LPS, based on projecting forward development requirements in the northern part of the Borough for a period of 8-10 years beyond the end of the current Plan Period. The Inspector commented that ‘the CEC approach aims to strike a balance between preserving the Green Belt and the need for further expansion’. With regard to scale and how, the Inspector considered:

- **Scale:** The Inspector *“There is little guidance available on defining the appropriate amount of Safeguarded Land, but after considering best practice, an approach which considers a 10-15-year period beyond the end of the current plan period seems reasonable in the context of Cheshire East; it strikes a reasonable balance between avoiding the need to review the Green Belt at the end of the current plan period and avoiding unnecessary releases of Green Belt land at this time”*.
- **Amount:** Given CEC has decided to focus growth within the north of the District, the Inspector has responded by stating *“it seems appropriate to predict the development needs of the northern part of the borough separately, since this is a proportionate approach which recognises where there is likely to be most pressure for development affecting the Green Belt in the future”*.

3.2.3 How to define longer term development needs, stretching well beyond the plan period – in terms of both scale and time

In the absence of any formal guidance, the approach to defining the amount of safeguarded land to be provided varies considerably. Similarly, there is no consensus on the timescale for which the amount of safeguarded land should apply.

Some local planning authorities have provided safeguarded land within their plans, but have remained silent on the justification for the quantum, this includes Gedling Borough Council as part of the Aligned Core Strategy (adopted September 2014).

Other local planning authorities have presented the idea that a precise figure cannot be ascertained. This is the case for the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. The Inspector’s Report in to the Core Strategy agreed the Council’s approach that it was not possible to identify *“a precise land area”* requirement by way of a specific quantum of need, and that there is *“no expectation in the NPPF that it either could or should”*¹⁵.

A number of other local planning authorities, such as Knowsley, York and Rotherham, have opted to identify a number of years’ worth of safeguarded land,

¹⁵ Gloucester Cheltenham and Tewkesbury Joint Core Strategy – Inspector’s Report (October 2017) https://drive.google.com/file/d/0BwVPoSbUL_uXbUJWbzRNQnN0Q3M/view

or a proportion of their total housing requirement to ensure that the Green Belt boundary retains a degree of permanence.

Drawing on these examples, it can be seen that the number of years' worth of land that equates to the safeguarded land amount varies between 2 years and 10 years. However, it should be noted that there is limited supporting evidence or justification to underpin these choices. As noted above, City of York Council has sought legal opinion on the safeguarded land issue. With regard to meeting long term development needs stretching well beyond the plan period, the legal opinion notes that: "*Quite how far beyond is a matter of planning judgment, but in my opinion a 10-year horizon beyond the life of the Plan as mentioned in my Instructions would be appropriate*".

Until recently, no local plan authority had identified two plan periods' worth of safeguarded land. However, it is interesting to note that the St Helens Local Plan (Preferred Options) proposes to safeguard housing and employment land to meet the need for two local plan periods (2018/19 to 2032/33 and 2033/34 to 2047/48).

The justification for this appears unclear beyond the Council's view that changes to the Green Belt should be a "*once in a generation occurrence*", and that their interpretation of the wording in the NPPF is that Green Belt boundaries should endure well beyond the plan period. It should be noted that the Plan is at Regulation 18 consultation stage and this approach is, as yet, untested at Independent Examination.

3.2.4 Where and how to define locations for safeguarded land

In considering where to identify safeguarded land, it is important for local planning authorities to consider whether the land will be adjoining an existing built up area; or is an additional component to a site that is scheduled to be released from the Green Belt and identified for development; or whether it can be a separate (or free-standing) area of land that is specifically for safeguarding.

Again, there is no additional guidance or explanation on this issue, over and above the wording already set out in the NPPF. In grappling with this issue, it is clear that local planning authorities in seeking to where to define safeguarded land are having regard to the principle that any identification of safeguarded land should support and enable sustainable development.

One example, is the decisions that have been taken in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. Here, the location for safeguarded land is focused around an urban expansion at Cheltenham.

For other local planning authorities, a more distributed approach to development has been adopted. For example, St Helens has taken a more 'pepper pot' approach to meeting its housing need, and the same approach therefore extends to the identification of locations for safeguarded land.

Interestingly, where local planning authorities have identified safeguarded land in locations which are inconsistent with the broader local plan strategy, they have faced objections during the examination process. For example, a representation submitted by Geoffrey Prince Associates with respect to the Gedling Local Plan

criticises the distribution of safeguarded sites as being inconsistent with the broader spatial strategy to focus growth at the edge of Nottingham.¹⁶

4 Summary

This advice note has provided a review of policy, legal, and good practice issues associated with both exceptional circumstances and safeguard land. In summary the main issues for each topic are:

4.1 Exceptional circumstances

The review of policy, case law, and good practice shows that there is no formal methodology to follow in order to demonstrate exceptional circumstances. However, it is clear that significant justification will need to be set out, which showcases the unique and particular aspects that face the local planning authority considering altering Green Belt boundaries.

In addition, the particulars of the case will need to be more comprehensive and compelling than merely linked to objectively assessed need, or the need to accommodate a higher level of growth than perhaps was previously the case within a given location.

The criteria set out in the *Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council (2015)* ruling provides some more specific components to examine in building up an exceptional circumstances case. The components are now featuring in local planning authorities' evidence base and overall justification.

4.2 Safeguarded land

The review of Inspector's Decision Letters, Inspector's Reports, and good practice demonstrates that the approaches to defining safeguarded land vary significantly.

Some local planning authorities are choosing not to safeguard any land to meet longer term needs beyond the plan period; whereas others are setting out 10 years' worth of safeguarded land based upon the existing objectively assessed housing need figure for their area.

There is also no conclusive approach for selecting where safeguarded land should be identified, once it is decided that it should be delivered to meet longer terms needs.

¹⁶

http://www.gedling.gov.uk/media/documents/planningbuildingcontrol/examinationlibrary/statements/Matter4_9157121_LangridgeHomes.pdf

5 Next Steps

Given the array of different approaches to both exceptional circumstances and safeguarded land, it would appear sensible to reflect on the unique context within Reigate and Banstead.

One common theme that has emerged is that the evidence, justification, rationale and overall case needs to be specific to each local planning authority, and that there is no one-size-fits-all method or standard solution that can be prescribed.

The NPPF sets out the local plan 'tests of soundness'. It requires local plan-making to be positively prepared, justified and evidence based. To help in matters of soundness it is suggested that Reigate and Banstead prepares a topic paper on both exceptional circumstances and safeguarded land. Given the acuteness of housing need across all local planning authority areas, it would seem logical and appropriate to confirm, either in the positive or the negative, what approach Reigate and Banstead is going to take on these two important issues relating to the Green Belt.