

DACORUM BOROUGH COUNCIL SITE ALLOCATIONS EXAMINATION: OCTOBER 2016

Statement from CPRE Hertfordshire

MATTER 2 – GENERAL MATTERS, INSPECTOR’S QUESTIONS 11, 11A, 14, 16 AND 17

1. I am Stephen Baker, DMS, BSc, Dip TP, MRTPI, Planning Manager at Campaign to Protect Rural England (CPRE) Hertfordshire.
2. This statement complements our original representations on the Site Allocations Pre-submission DPD 2014, and Focussed Changes 2015, which still apply, and seeks to address the Inspector’s questions as set out in her Matters, Issues and Questions document.

Question 11: Has the principle of removing land from the Green Belt already been established in the CS? If so, does this Plan deviate from principles set out in the CS in this regard?

3. The CS set out specific provisions in respect of the Local Allocations that were considered by Dacorum Borough Council to be necessary in order to meet the need for housing during the Plan period. Those specific provisions, set out in Policy CS3, are that:
 - The sites *will be delivered from* (CPRE emphasis) 2021;
 - The sites listed in Table 9 of the CS ‘*will be managed as countryside (ie. Green Belt or Rural Area, as appropriate) until needed* (CPRE emphasis) for development’;
 - The release date (after 2021) for development will be guided by three criteria including ‘(b) *the relative need for the development at that settlement*’; and,
 - The release date may be brought forward (but not before 2021) in order to maintain a five year housing land supply.
4. The CS was adopted with these provisions subject to a formal review of the Strategy to be carried out in the context of up-to-date information on housing needs and housing supply, but also in the context of any other material changes in context that might justify a change in local plan policy.
5. In answer to the Inspector’s Question 11, CPRE Hertfordshire therefore considers that the principles established by the CS will not be observed if the proposed Local Allocations LA1 to LA5 are removed from the Green Belt either before 2021, or before

the review of the CS has been completed and a new CS or successor Local Plan consulted upon. If the Council wishes to depart from the provisions of the CS it must still respect the NPPF, and CPRE Hertfordshire considers that the release of the Local Allocations in the Green Belt through the SA DPD would be contrary to both.

6. The main reason from this conclusion is that Dacorum Council has not provided evidence that amounts to 'exceptional circumstances', as required by NPPF paragraph 83, including demonstrating that there is no alternative at this point in time to the removal of land from the Green Belt to meet the housing targets set out in the CS.
7. Amongst the issues that we ask the Inspector to consider in determining whether the requirements of the CS have been met, are:
 - Paragraph 14.19 of the CS which assumed that previously developed land in urban areas will be optimised, but '*will not maintain a sufficient and steady supply of housing over the lifetime of the plan*'. There has been a significant increase in the supply of housing in Dacorum from sources not included in the CS Housing Trajectory. Conversion of offices without the need for planning permission for 525 dwellings have been notified in the Borough since April 2013, and every such dwelling created that would not otherwise have been built increases housing supply and reduces the need to take land out of the Green Belt instead;
 - Policy CS17 in the CS on 'New Housing' states that '*An average (not a minimum or maximum – CPRE emphasis) of 430 net additional dwellings will be provided each year between 2006 and 2031*'. CPRE Hertfordshire considers that removal of land from the Green Belt at sites LA1 to LA5 to achieve an average of 430 new dwellings before 2021 and the review of the Core Strategy has been concluded, is unjustified and is by definition harmful to the Green Belt and the purposes for which it was designated. This is because the removal of all of the Local Allocations from the Green Belt may never be necessary if other means of meeting the Borough's reviewed housing target are identified in the CS/new Local Plan.
8. Our comments on whether exceptional circumstances exist now are set out below in response to the Inspector's Question 11a.

Question 11a: Do the exceptional circumstances, as required by the NPPF paragraph 83, exist to justify the plan's proposed revision of the boundaries of the Green Belt.

9. The Planning Minister (in a letter to Members of Parliament dated 6 June 2016) said that *"The Government has been very clear that when planning for new buildings, protecting our precious green belt must be paramount..... Today's guidance will ensure that councils can meet their housing needs by prioritising brownfield sites and fortify the green belt in their area."*

10. The Minister also stated that *"The Government has put in place the strongest protections for the Green Belt. The Framework makes it clear that inappropriate development may be allowed only where very special circumstances exist, and that Green Belt boundaries should be adjusted only in exceptional circumstances, through the Local Plan process and with the support of local people. We have been repeatedly clear that demand for housing alone will not change Green Belt boundaries. However, we recognise that it is local authorities, working with their communities and with detailed local knowledge, which are best placed to decide the most sustainable, suitable and viable sites for new homes"*.

11. In the 'Calverton' case [2015] EWHC 1078 (Admin), paragraph 50 of the judgment, the judge said *"it 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"*. He expands more (paragraph 51) on what matters he considered could constitute "exceptional circumstances", for example, the acuteness of the need. As he pointed out, if housing need alone constitutes "exceptional circumstances", then the need to consider whether meeting such need is consistent with national policy, is circumvented.

12. In this context CPRE Hertfordshire notes that the Oxford English Dictionary definition of 'exceptional' is *'unusual, not typical, out of the ordinary, special'*. Accordingly, we do not consider that the absence of a five-year housing land supply against the target set out in the CS is 'unusual', 'out of the ordinary' or indeed 'untypical' of local planning authorities constrained by policies identified in paragraph 14, and footnote 9 of the NPPF. Indeed the judge giving the lead decision in the Court of Appeal in the Hunston case [2013] EWCA Civ 1610, in neighbouring St Albans District, referred to by the Calverton judge, stated (paragraph 29) that for such Councils *'it may be wholly unsurprising that there is not a five year supply of housing land when measured simply against the unvarnished*

figures of household projections'. Indeed the judge also stated (paragraph 32) that *'There may be nothing special (CPRE emphasis), and certainly nothing 'very special' about a shortfall in a district which has very little undeveloped land outside the Green Belt*.

13. In our opinion, the Council has not set out the evidence that sites LA1 to LA5 must be removed from the Green Belt now in the context of up-to-date information on expected housing supply from all sources, and in the context of currently re-stated Government Planning policy. All options preferable to the release of Green Belt sites should be considered, taking into account amongst other factors, the potential for the redevelopment or conversion of office accommodation, particularly in Hemel Hempstead, as revealed in the report (Potential Housing Supply from Office Premises in Hemel Hempstead, December 2014) prepared by CPRE Hertfordshire and provided to Dacorum Council. That report identified the potential for creation of at least 500 dwellings, just from vacant offices in the three principal employment areas of the town, which were additional to those (350 dwellings) for which prior notification of a change of use to residential had already been approved by Dacorum.
14. CPRE Hertfordshire considers that any such removal of Local Allocations from the Green Belt should take place in the context of the Council's intended new Local Plan following the current CS review.

Question 14: Are there any policies in the Plan that do not accord with the Framework or advice in Planning Practice Guidance?

15. CPRE Hertfordshire considers that Policy GB/9 as proposed in the Council's Focused Changes does not accord with the NPPF, as a consequence of proposing the removal of an even larger area of land West of Tring from the Green Belt, without having demonstrated 'exceptional circumstances' for doing so. This objection is also addressed in our separate representations on Matter 11 – Policy LA 5: Icknield Way, West of Tring, to which we also objected.
16. Given the national policy context set out in the NPPF, the need for the release of Green Belt land for development is not justified or founded on a credible evidence base and is not appropriate when considered against available suitable land. CPRE Hertfordshire

considers that exceptional circumstances do not exist which necessitate a change to Green Belt boundaries in the short term.

17. No Green Belt sites should be released for development until such action has been demonstrated as being necessary as an exception to Green Belt Policy through the thorough testing of the need for those Local Allocations proposals, which we consider can only be carried out as part of the CS review and preparation of the intended new Local Plan.

18. Irreversible decisions on the permanent removal of land from the Green Belt should not be taken now.

Question 16: Is the evidence base relating to such matters as housing, employment, retail, and flood risk up-to-date and relevant?

19. CPRE Hertfordshire does not consider the evidence base for the SA DPD to be up-to-date in respect of Housing and Housing Land Supply. Housing Need, and Housing Target information is also out of date, but this should be updated for the review of the CS and the preparation of the intended new Local Plan, rather than this SA DPD.

Question 17: Are there any important developments/changes since the submission of the Plan, for instance in terms of planning permissions/completions? Is the SHLAA and SHMA up-to-date and robust?

20. Please also see our answer to Question 16, above, and on Matter 4, Housing. In particular CPRE Hertfordshire is concerned that inadequate consideration has been given to sources of housing supply not included in the Council's Housing Trajectory when the Pre-submission SA DPD was first published in 2014, and not included in the Council's latest SHLAA. We consider that there is no satisfactory reason to exclude the likely contribution of windfalls to housing supply throughout the Plan period to 2031, and the specific contribution to housing supply resulting from the relaxation of planning restrictions on changes of use from other land uses to residential for which information is now readily available to the Council, and which are consistent with the NPPF including paragraphs 48, 51 and 157.

21. We consider that in order to be robust the information on which the Plan is based must be complete. If it is not, we do not consider that the Inspector can determine that exceptional circumstances exist for the removal of land from the Green Belt, and that the 'Plan' is sound in terms of being justified and in accordance with national policy on that issue.

Summary

22. In summary, CPRE Hertfordshire does not consider the SA DPD, with Focussed Changes to be sound in respect of consistency with Planning Policy as set out in the CS and the NPPF, or justified in terms of the removal of the Local Allocations from the Green Belt in advance of the review of the Core Strategy and preparation of the Council's intended Local Plan.