



**BROXTOWE LOCAL PLAN PART 2**

**PUBLIC EXAMINATION**

**HEARING STATEMENT IN RESPONSE TO THE INSPECTOR'S  
MATTERS, ISSUES & QUESTIONS PAPER**

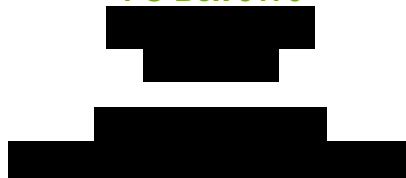
**RESPONDENT 1201  
WHITEHEAD (CONCRETE) LTD & FOULDS INVESTMENTS LTD  
RESPONSE TO POLICY 8 MATTER 11**

**IS THE APPROACH TAKEN TO REVIEW AND PROTECT THE  
GREEN BELT JUSTIFIED, EFFECTIVE AND CONSISTENT WITH  
NATIONAL POLICY IN THE NPPF?**

**PREPARED BY**

**Mark Flatman  
Managing Director**

**iPlan Solutions Ltd  
PO Box 9170**



## Introduction

These responses on behalf of Foulds Investments Limited and Whitehead Concrete Limited (**Foulds**) to the questions raised by the Inspector should be read in conjunction with the responses and associated appendices submitted by iPlan Solutions to the Publication Core Strategy dated 3 November 2017. To assist, this Letter is reproduced as **Appendix A**. provides document reference numbering also referenced within this Hearing Statement.

The appendices appended to this Hearing Statement are as follows:

<b>Appendix A</b>	Letter to Broxtowe BC, 3 November 2017
<b>Appendix B</b>	Extracts from Nottinghamshire Structure Plans relating to GB Reviews
<b>Appendix C</b>	Nottingham GB LP, 1989 Written Statement and Proposals Map Extracts
<b>Appendix D</b>	Enforcement Appeal Decision Letter, dated 16 September 1985, T/APP/J3015/C/84/3853/P6
<b>Appendix E</b>	Officer Delegated Report 06/00923/FUL, 28 December 2006
<b>Appendix F</b>	TK Gallagher Planning Permission, 5/12/00122/CCR, 27 March 2013
<b>Appendix G</b>	Planning Permission 09/00601/FUL, 15 October 2009
<b>Appendix H</b>	Committee Report to 14/00238/FUL, 16 July 2014
<b>Appendix I</b>	Calverton Parish Council v Nottingham City Council [2015] EWHC 1078 (Admin)

**a) Site Allocations in the Green Belt**

**1) Is the Green Belt review consistent with national policy in the NPPF and PPG's and with the sequential approach set down in Policy 2 of the ACS?**

- 1.1 It is not. As long ago as 16 September 1985 Inspector Michael Parsons DiplArch (JCL) RIBA stated that : “The appellants’ business is not a use that would normally be acceptable in the Green Belt..” **App D**. Inspector Parsons - determining an appeal - had no power to alter Green Belt (**GB**) boundaries. The Examining Inspector however now has the power to recommend modifications to the draft plan to alter the GB boundary; “A public body almost always has a duty in public law to consider whether it should exercise its powers ...” (Lord Hoffman, *Stovin v Wise & Norfolk County Council* [1996] AC 923).
- 1.2 The Plan has not been positively prepared in relation to the Green Belt (GB) review. The inclusion of this land in the GB is a long-standing anomaly and as a matter of law the appropriateness of continuing to do so must be approached with an open mind and having regard to all material considerations. The Inspector is respectfully invited to exercise her power to recommend modification by removal of this land from the GB. This is the first opportunity to do so since Inspector Parsons recognized its incompatibility with GB designation.
- 1.3 The Nottinghamshire GB review process within Broxtowe has been very infrequent despite successive Plan policies requiring this. **App B** contains extracts from previous Nottinghamshire Structure Plans (**NSP**) demonstrating this. The third paragraph from the Preface to the NSP of November 1996 (for 1991-2011) states;

**“In his decision letter proving the 1991 Plan, the Secretary of State requested an early Review in order to assess post-2001 development land needs with regard to possible Green Belt boundary changes.**

**Virtually no “free” land exists within the inner Green Belt boundary which is not needed to meet the development land requirements of the 1991 Structure Plan.**

**In accordance with the wishes of the Secretary of State, the County Council has undertaken this formal Review of the 1991 Structure Plan.”**

- 1.4 Policy 1/5 of that NSP provided guidance for GB review. The then Broxtowe Local Plan (LP) had been adopted in 1994 and had incorporated the GB boundaries established within the Nottinghamshire GB LP of June 1989.
- 1.5 As a consequence of the increased emphasis upon the reuse of previously developed land for housing, no GB review was done through the subsequent Broxtowe LP adopted in 2004. Two years later in 2006, the final Joint Nottinghamshire SP (JSP) was adopted. The second component of policy 1/2 of the JSP also required that LPs including GB were required to review their GB boundaries to meet the development land requirements for the JSP to 2021. This plan was revoked and superseded by the ACS of 2014, with Policy 3 of the ACS requiring a review of the GB.
- 1.6 Therefore, the Broxtowe Pt2 LP publication version of September 2017 is the first occasion that a GB review has featured in Broxtowe plan making since the boundaries were defined in the Nottinghamshire 1989 GB LP, some 28 years ago.
- 1.7 **Appendix C** contains the Nottinghamshire GB LP Written Statement adopted in 1989. It was accompanied by four 1:25,000 scale Proposal Maps. **Appendix C** contains an extract from the NW quadrant featuring Eastwood and Awsworth together with an enlargement of the Awsworth area within this. The extensive industrial buildings on the site are shown on the map in the GB (its boundary runs along Gin Close Way).



- 1.8 The evolution of the Nottinghamshire GB is further set out in paragraph 2.1-2.7 in **Appendix C**, confirming that that was the first statutory development plan within which the GB boundaries were statutorily determined. The owners of the objection site were not aware of the preparation of this plan and consequently did not participate in the plan making process seeking to oppose the inclusion of their land from GB designation. This current review of the GB presents the first opportunity since the adoption of the 1989 plan for the erroneous inclusion of this brownfield land to be corrected.
- 1.9 Paragraph 3.7 of **Appendix C** clarified that the inner boundary of the GB would be drawn *as near as practicable* to pre-existing development. Long before the inception of the GB, the objection site has been in continuous employment use since 1927 and used for the manufacture and storage of concrete products since 1949. It is therefore inconsistent with that intention to have mis-sited that boundary and included the objection site within the GB. As a matter of commonsense and professional planning judgment the business activities currently undertaken on the objection site (and historically), form an integral part of the broad spectrum of business activities also undertaken elsewhere within Awsworth, all of which are outside the GB. Irrespective of the presence of the A6096, Gin Close Way, the site physically forms part of the settlement and is firmly separated from the adjacent Erewash Valley landscape beyond by extensive woodland and tree belts.
- 1.10 The GB designation has been a severe impediment to the potential flexible use of this long established employment site. BBC has used the GB designation to restrict attempts by the owner to economically utilise the site. The Inspector's attention is drawn to the enforcement appeal decision letter T/APP/J3015/C/84/3853/P6 reproduced at **Appendix D**. At paragraph 12 the Inspector observes;

**“The appellants’ business is not a use that would normally be acceptable in the Green Belt. However, I**

do not agree with the Council's contention that the previous, permitted use of the site is irrelevant, since it must have had a bearing upon the impact of the change of use. Although your clients use of the land is not the same as the previous use, which continues on the adjoining premises retained by R Whitehead (Concrete) Ltd, the difference in appearance between the manufacture and storage of concrete products and the storage and sale of builders materials is one which the casual parcel-by by easily overlooked. The present use is, in my opinion no more incompatible with the Green Belt than the previous use and does not extend into previously open country;..." (emphases added)

- 1.11 Inspector Parsons made a finding that the use of the site is incompatible with the GB. There has been no material change in use of the site since then.
- 1.12 "...**(7) Consistency** in decision-making is important both to developers and local planning authorities, because it serves to maintain public confidence in the operation of the development control system...." Lindblom LJ in St. Modwen Developments v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643. In exercising his judgment we would respectfully invite the Inspector to conclude that in this instance like cases *should* be treated alike, and the objection site should be found to be incompatible with GB designation.
- 1.13 The historic and ongoing use of the site does not exhibit 'openness' - an essential characteristic of the GB - and required by paragraph 79 of the NPPF. This was assessed and confirmed by the 2010 LVIA, **Doc 9**.
- 1.14 The GB designation, as applied in practice by BBC since the 1956 Sketch Plan Green Belt, has severely curtailed the scope to economically utilise this previously developed existing employment site for at least the last 30 years. **Appendix E** comprises a December 2006 Officer Report recommending refusal of permission for the land for open storage. There have been a series of

enforcement actions negotiated away and demonstrates the extreme planning difficulties that have been encountered in productively utilising the existing employment site, encountered dating back to at least 1979 principally due to the GB designation of the site.

- 1.15 The current LP review of the GB is not consistent with the requirements of national policy in the NPPF and PPG, although there is no express PPG advising in respect of either the GB or employment. Fundamentally, paragraph 160 in the NPPF 2012 requires LPAs to have a clear understanding of business needs across the plan area when preparing the plan with the second bullet point requiring that local authorities should;

**“work closely with the business community to understand the changing needs and identify and address barriers to investment...”**

- 1.16 The Publication Plan is deficient and ineffective as the development needs for existing businesses that seek land released from the GB during the currency of the local plan have not been accommodated. Despite representations having been made on behalf of Foulds , **Docs 2, 3 and 4**, Broxtowe BC (**BBC**) has not removed the land from the GB. That has been requested through numerous representations - made to all relevant stages of the ACS - and to the Pt2 LP preparation process since February 2010.

- 1.17 Representations were submitted to the GB review process, **Doc 3** and preferred approach to site allocations from the GB review, **Doc 4**, criticising the emphasis of the assessment solely on residential development, noting no amendments to the GB Assessment Framework had been included between the July 2014 draft and February 2015 implemented version of the Assessment Framework. That unsustainable focus uniquely on housing has therefore never been corrected.

1.18 Within the January 2014 Issues and Options consultation document, it should be noted that the stated objective of BBC at i6.3 on page 17 is that it;

**“is determined to keep Green Belt alterations to the minimum required to meet the development needs as specified in the Core Strategy”.**

1.19 The Conservative controlling group at BBC was re-elected in 2015 on a manifesto that unrealistically promised the electorate no amendments to the GB, despite the express instruction to do so within Policy 3 of the ACS. This minimalist politically constrained approach is reflective of the outcome GB review exercise undertaken and presented within the 2017 Publication version of the Pt2 LP and which also fails to fulfil the broader NPPF obligation to define a GB boundary to accommodate potential need beyond 2028 and thereby similarly rendering the plan unsound and in conflict with the fourth bullet point of paragraph 85 of the NPPF.

1.20 Additionally, paragraph 84 of the NPPF requires LPA's to take account of the need to promote;

**“sustainable patterns of development.”**

1.21 A response was submitted within **Doc 4** to the March 2015 Preferred Approach to Site Allocations (Green Belt Review), **PD/13**. It tests the objection site against the 5 purposes of the GB specified at paragraph 80 of the NPPF between paragraphs 13-22 to demonstrate that there would be no conflict with these purposes arising from the release of the site from the GB.

1.22 In particular, this representation is highly critical of the inherently misdirected and unsustainably narrow residential land use perspective from which this review was conducted by the LPA. As a consequence it has resulted in an LP that is inherently unsound as the GB review has never included an assessment of the full scope and breadth of development potential that may have a future requirement during the current life of the redefined GB boundaries that will

result from the Pt2 LP. In particular reference is made to paragraphs 23 – 69 of **Doc 4** in respect of the GB assessment criteria and assessment matrix.

1.23 Additionally, it should be noted that BBC has misdirected itself at Footnote 2 of Figure 1 of the Assessment Criteria having regard to the requirement expressly stated in the first bullet point of paragraph 80 of the NPPF.

1.24 Within **Doc 4**, and proceeding submissions, iPlan Solutions has drawn to the attention of BBC that there are shortcomings and deficiencies in the approach that it has taken towards the GB review, insofar that it did not include any consideration of the need for land to be released from the GB to assist existing companies that provide considerable employment and economic benefit to the Borough.

1.25 The second bullet point of paragraph 85 of the NPPF requires LPA's when defining GB boundaries, such as through the review of this LP, to;

**“not include land which it is unnecessary to keep permanently open”**

1.26 Continued GB designation of the objection site is not justified. By removing the designation this land could be more effectively utilised for wider employment purposes.

1.27 Paragraph 21 of the NPPF requires LPA's to support existing business sectors to flexibly accommodate both identified need as well as those not specifically anticipated within the plan at the time of its preparation. Specifically the paragraph states;

**“Investment in business should not be over-burdened by combined requirements of planning policy expectations. Policies should recognise and seek to address potential barriers to investment....”**

- 1.28 The principal purpose of this LP objection is to highlight the lack of soundness of a plan which fails to secure the removal of the GB designation and to enable the LPA comply with its stated obligation to assist existing employers and the use of their employment sites at Policy 4h).
- 1.29 The submitted site specific comprehensive LVIA, **DOC 9** demonstrates the site character is industrial and that the release of this GB land would not offend any of the 5 GB purposes specified at paragraph 80 of the NPPF. In particular being already developed, it would not result in encroachment, and the range of existing uses does not contribute to the openness of the GB, nor does this brownfield site assist in preventing coalescence.
- 1.30 Continued designation of this site as GB inhibits urban regeneration. Release of the site from the GB designation would facilitate achieving the fifth bullet point of paragraph 80, enabling the recycling of previously used land to achieve a greater more flexible level of employment generation.
- 1.31 Apart from the long standing concrete manufacturing use, the existing materials reprocessing use by T&K Gallagher Ltd is subject to a 5 year temporary planning permission, **App F**, and thereafter will revert to the range of storage uses granted planning permission in 2009, **App G**. The other occupier on the site, Oak Tree Motorhomes, was granted planning permission in 2014, but condition 3 of that planning permission requires the buildings to be removed from the site by 2024, **App H**.
- 1.32 The LVIA, **Doc 9**, concludes in section 5 that there are very few locations from where the existing buildings on the site are visible, but that the industrial buildings on the site, combined with the petrol station and industry across the road form a gateway to Awsworth to traffic arriving from the A610. The site is readily perceived as part of the settlement and urban area of Awsworth. Parameter vegetation provides visual and physical separation from the open

GB land to the west and it was concluded that an appropriate well-designed redevelopment of the site would not have any discernible impact on the openness or fulfilment of the applicable functions of the GB. Indeed paragraph 5.8 questions whether the site should lie within the designated GB due to its visual perception as part of the Awsworth settlement and separation from the countryside beyond by the tree-lined Gilt Brook.

1.33 The Borough wide LVIA undertaken by AECOM on behalf of BBC of January 2017 is of its nature broad brush and has not separately assessed the objection site (which it has encompassed within a significantly larger geographic area defined as site reference LS2, **Doc 8**).

1.34 Whilst it is acknowledged that paragraph 8 of the Inspector Guidance Note indicates that the soundness of omission sites is not be considered in the Examination, the plan itself will not be sound if it fails to achieve consistency with the NPPF and PPGs including the policies respecting the GB. Consideration of the GB designation is necessary within the context of this LP examination, particularly since this is the first effective GB review opportunity since 1989.

1.35 Paragraph 83 of the NPPF clarifies that this LP review is the correct mechanism for the matter of GB boundaries to be addressed. Foulds and Whitehead are successful businesses but constrained by the GB designation; their respective positions cannot be compared with that of an objector speculatively seeking to release land from the GB for housing, for example.

1.36 BBC and the Inspector have a duty under section 39 of the Planning and Compulsory Purchase Act 2004 “..in relation to local development documents” to “ ...exercise the function with the objective of contributing to the achievement of sustainable development” The attached judgement in *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin) helps in this regard, **App I**.

1.37 Policy 3 of the ACS confirms the requirement for the GB review within the Pt 2 LP. Criterion h) of policy 4 of the ACS emphasises that BBC must appropriately manage existing employment sites. This is a complementary component of delivering the sustainable development Spatial Strategy sought by Policy 2 of the LP. Paragraph 3.3.1 of the ACS states that the GB shall be reviewed in order to meet these sustainable development requirements of the ACS and Pt 2 LPs. The LP has not been positively prepared because detailed consideration has not been given by BBC to the request to remove this site from the GB.

#### **b) Development in the Green Belt**

### **2 Does Policy 8 make provision for the protection of the Green Belt in line with national policy? Specifically is part 3) of the policy justified and consistent with the NPPF?**

2.1 There is a clear dichotomy in respect of the nuanced differences within paragraph 89 and 90 of the NPPF 2012 by comparison with the changes introduced within paragraphs 145 and 146 of NPPF 2018. Accordingly it is considered that this specific aspect is a material consideration that should be applied for the purpose of a local Plan Examination despite the provisions of paragraph 214 of the 2018 NPPF specifying that the previous NPPF 2012 is to apply.

2.2 In this regard, notably criterion d) of paragraph 146 of the NPPF 2018 facilitates changes in the use of land. Such changes of use are not exclusively limited to those specified within the criterion through the use of the phrase “such as”. This therefore indicates the list is not exhaustive and other potential changes of use are countenanced. In contrast criterion 3 of Policy 8 restricts the acceptable range of change of use to only that of outdoor sport and outdoor recreation. To



avoid conflict with the NPPF 2018 that will otherwise immediately occur following the adoption of the Broxtowe Pt 2 LP, Policy 8 3) should be amended to more broadly refer to “**material changes in the use of land**”.

- 2.3 Objection is also raised to the imposition of 30% as the tipping point a disproportionate addition to a building under criteria 2 of Policy 8. Such an approach is argued to be too prescriptive. Each case should be determined on its individual merits and assessed against potential harm to the openness of the Green Belt and impact upon the 5 purposes of the Green Belt.
- 2.4 Objection is also made to the Proposed Modification MM20 two the insertion of the words “taken cumulatively” as this is even more onerous and unnecessarily restrictive.



FAO Steffan Saunders  
Head of Neighbourhoods and Prosperity  
Directorate of Legal and Planning Services  
Broxtowe Borough Council  
Council Offices, Foster Street  
Beeston, Nottingham  
NG9 1AB

03 November 2017

Our Ref        09/005/MJF  
Your Ref

Dear Steffan

**Broxtowe BC Publication Part 2 Local Plan  
Objections to Policies 2, 4 and 8  
on Behalf of Whitehead (Concrete) Ltd and Foulds Investments Ltd  
in respect of Land at Gin Close Way, Awsworth**

Further to the publication of the Part 2 Broxtowe Local Plan, I enclose objections on behalf of Whitehead (Concrete) Ltd and Foulds Investments Ltd in respect of the land owned by both companies at Gin close Way, Awsworth.

The documentation that is submitted is as follows;

- Policy 2-Site Allocations Objection Form
  - Policy 4- Awsworth Site Allocations Objection Form
  - Policy 8- Development in the Green Belt Objection Form
- 
1. Whitehead (Concrete) & Foulds Investments – Site Location Plan
  2. Response Submitted to Broxtowe BC Site Allocations Issues & Options Consultation 10 January 2014
  3. Letter to S Saunders – Greenbelt Assessment Framework, 19 September 2014
  4. Letter to S Saunders – Greenbelt Boundary review Consultation, 23 March 2015
  5. Broxtowe BC Employment & Retail Workshop Notes, July 2016
  6. Broxtowe BC Sept 2017 Publication Pt2 Local Plan Map 17 Showing Allocation of Objection Site for Employment Use
  7. Map 17 with Employment Allocation Proposal annotated
  8. Site LS22 Extracted from AECOM 2017 LVIA

Landscape and Visual Impact Assessment prepared by FPCR, April 2010

**Planning & Development Consultants**

Planning Advice, Appraisals, Applications & Appeals | Planning Statements & Impact Assessments  
Design & Access Statements | Strategic Site Promotion | Project Management | S.106 Agreements

Transport Statement prepared by BWB Consulting, June 2013, comprising;

- a. Explanatory Letter to iPlan Solutions, 21 June 2013
- b. Transport Statement prepared by BWB Consulting Ltd
- c. Access Design NTW/284/001/Rev P2 Agreed in Principle by Nottingham County Council, 18 June 2013

Flood Risk Assessment documentation prepared by BWB Consulting Ltd, comprising;

- d. Employment Use FRA, Rev A, 21 July 2009
- e. Employment Use FRA, Rev B, 29 November 2010
- f. Revised Hydraulic Modelling Addendum (Oak Tree Motorhomes) rev A, 6 February 2013
- g. Revised Hydraulic Modelling Addendum(TK Gallagher) Rev A 6 February 2013
- h. BWB letter to iPlan Solutions, Flood Summary, 8 April 2014
- i. BWB letter to iPlan Solutions, FRA Plans, 2 June 2014
- j. Drawing NTW/2095/W01-P 1 @A3 - Modelled Flood Outlines, 2 June 2014
- k. Drawing in TW/2095/W03-P 2 @A1 - Potential Flood Depths, 2 June 2014

I confirm that I wish to participate at public examination.

Please confirm receipt of the objections and advise of the progress of the local plan, including when the representations are to be considered by the Council Planning Committee and also the arrangements for the public examination.

Should you wish to discuss any aspect of these objections, please do not hesitate to contact me.

Yours sincerely

This letter is sent electronically and therefore unsigned.  
If you would like a signed copy, please contact iPlan Solutions Ltd  
and one will be forwarded to you.

**Mark Flatman**



Enc. Objection Documents as Specified within Letter on CD

CC. Chris Foulds



**NOTTINGHAMSHIRE GREEN BELT**

**NOTTINGHAMSHIRE STRUCTURE PLAN 1991 – 2011  
ADPTED NOVEMBER 1996  
EXTRACT POLICY 1/5 GREEN BELT REVIEW**

**NOTTINGHAMSHIRE STRUCTURE PLAN 2001 – 2021  
ADOPTED FEBRUARY 2006  
EXTRACT POLICY 1/2 GREEN BELT REVIEW**

# Nottinghamshire

## Structure Plan Review



Written Statement  
November 1996

Fast Link

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[Map showing Sub-Areas of the County](#) (size 25.53k, approx download time 7 seconds)

### Chapter

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2. [Economy](#)

3. [Environment](#)



## Preface

The Structure Plan sets out strategic land use policies for future development covering matters such as the scale and broad location of residential and employment areas, transport and the protection and enhancement of the environment.

The former Structure Plan was approved by the Secretary of State for the Environment in September 1991. That Plan has an end-date of 2001. It is now replaced by the Adopted Structure Plan Review.

In his decision letter approving the 1991 Plan, the Secretary of State requested an early Review in order to assess post-2001 development land needs with regard to possible Green Belt boundary changes. Virtually no "free" land exists within the Inner Green Belt boundary which is not needed to meet the development land requirements of the 1991 Structure Plan.

In accordance with the wishes of the Secretary of State, the County Council has undertaken this formal Review of the 1991 Structure Plan. The Review replaces the 1991 Plan, building upon it, changing its emphasis and rolling forward to 2011.

The Review has been the subject of a number of important stages involving the public. In February 1993, the County Council published a consultative discussion document entitled "Your County Into the 21st Century: Making the Right Choices". The useful comments made on this document helped in the preparation of the Consultative Draft Structure Plan Review which was published in September 1993. The Consultative Draft Review was the subject of public meetings and a six week period for representations. These comments assisted the County Council to approve and publish the Deposit Draft Structure Plan Review in June 1994. Comments of objection and support on the Deposit Draft were considered and a list of issues was drawn up for discussion before invited participants at the Examination in Public which was held in January and May 1995 before an independent Panel. The Panel presented their Report to the County Council in June 1995. In March 1996, the County Council published Proposed Modifications which again have been subject to public comment. These comments were considered by the County Council but did not require further material changes to the Plan. Consequently the County Council gave notice of its intention to adopt the Plan in September 1996.

Now the Structure Plan Review is adopted, it will act as the strategic planning framework for Local Plans prepared by the District Councils, and for the Minerals and Waste Local Plans prepared by the County Council. Local Plans show proposals on an Ordnance Survey map base and provide the details of land-use planning policies. Local Plans must comply generally to the provisions of the Structure Plan Review.

The Structure Plan Review comprises the Written Statement and a separate Explanatory Memorandum. The Written Statement contains the policies of the Review and the Key Diagram. The Explanatory Memorandum sets out basic facts, objectives and issues and gives explanation of the formal policies set out in the Written

Statement. A number of County Council policies are also contained in the Explanatory Memorandum. The Explanatory Memorandum will be published shortly after the Written Statement. Further details on the Structure Plan Review may be obtained by writing to me at Trent Bridge House, Fox Road, West Bridgford, Nottingham NG2 6BJ.

**Howard Jackson**  
Director of Planning and Economic Development  
Nottinghamshire County Council



### **Commitment to the Economic Development and Environment of the County**

- 1/1 During the plan period 1991-2011, provision will be made for a scale of Economic Development necessary to meet the needs of the county's population and that respects and enables the protection and enhancement of the environment. This will involve:
- (a) Provision of a wide range of sites for appropriate economic activity;
  - (b) Provision and promotion of the necessary transport and other infrastructure services and facilities needed in the county;
  - (c) Provision of sufficient housing sites;
  - (d) Protection of valuable environmental and heritage features;
  - (e) Protection of countryside and in particular a Greater Nottingham Green Belt;
  - (f) Development which is energy efficient in terms of location, layout, and design;
  - (g) The re-use of derelict and degraded land;
  - (h) Undertaking environment improvement schemes, habitat creation, planting and conservation schemes in both urban and rural areas;
  - (i) Protection and provision of open space for amenity and recreation.

### **Distribution of Development: Concentration within Main Urban Areas and, in the South Nottinghamshire Sub-Area, Public Transport Corridors**

#### **Guidance for Green Belt Revision and for Safeguarded Land**

- 1/5 Local plans for areas covered by the existing Greater Nottingham green belt will review and, as appropriate, redefine green belt boundaries to meet structure plan development requirements to 2011. In redefining boundaries, regard will be given to:
- (a) The provisions of policies 1/1, 1/2, 1/3 and 1/4;
  - (b) The need to protect land which fulfils green belt purposes of checking urban sprawl, preventing coalescence and protecting surrounding countryside from urban encroachment;
  - (c) The need for all green belt boundaries to follow firm, readily recognisable and defensible features on the ground;
  - (d) Any land released from the green belt beyond that required to meet development needs to 2011, should be safeguarded from development until a future local plan review proposes it for development, and be in keeping with the aims of the Structure Plan.

The major ridgelines and hills around the Greater Nottingham urban area and open breaks between distinct settlements, particularly along the named public transport corridors in policy 1/2, should remain in the green belt and be identified in local plans.



# Nottinghamshire and Nottingham

## JOINT STRUCTURE PLAN

# *Explanatory Memorandum*

Adopted

February 2006



Nottinghamshire  
County Council



City of  
**NOTTINGHAM**



## **POLICY 1/2 THE NOTTINGHAM DERBY GREEN BELT**

Planning permission will only be granted for appropriate development which is located and designed so as not to adversely affect the Green Belt, in particular its open character. Appropriate development will include:

- a) uses appropriate to rural areas including agriculture, forestry and mineral extraction;
- b) essential facilities for outdoor sport and recreation;
- c) cemeteries;
- d) limited extension, alteration or replacement of existing dwellings, limited infilling in existing villages, limited infilling or redevelopment of major existing sites as identified in local plans;
- e) change of use of agricultural and other buildings, with priority being given to employment and tourism uses, which help to diversify the rural economy.

Local plans/development plan documents for areas covered by the Green Belt will review its boundaries to meet the development land requirements of the Joint Structure Plan to 2021. In this review of Green Belt boundaries local planning authorities will have regard to:

- i) sustainable development principles and the sequential approach to development;
- ii) the principles and purposes of existing Green Belt land, in particular the need to maintain openness and prevent coalescence;
- iii) the retention of existing, or definition of new, defensible boundaries.

- 1.33** The Nottingham Derby Green Belt was established to prevent the coalescence of the two cities and the towns in the Erewash valley. It surrounds the Nottingham built-up area and extends to over 60,000 hectares in Nottinghamshire and Derbyshire. When first established statutorily in 1980, the inner boundary was tightly drawn around the urban area of Nottingham.
- 1.34** RSS8 reaffirms the principle of the Green Belt, but proposes that the boundaries of the Green Belt should be reviewed to take account of development needs. Such a review should ensure that the most sustainable sites are developed, minimising the need to travel by private car whilst taking full account of the importance attached to the Green Belt at the local level.
- 1.35** The sustainability appraisal of the Nottingham Derby Green Belt Study by Baker Associates in August 1999 recommended that the application of a sequential approach should be the preferred way forward in the review of Green Belt boundary changes to identify the most sustainable opportunities for urban extensions.





# **NOTTINGHAMSHIRE GREEN BELT LOCAL PLAN**

The Nottinghamshire Green Belt Local Plan was adopted by the County Council on June 7th 1989.

The Proposals Map at the back of this Plan is divided into four sheets to facilitate easy reference.

**V.S. Payne**  
Director of Planning and Transportation  
Nottinghamshire County Council

**June 1989**

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**WHAT IS A GREEN BELT?**

- 1.1 "A Green Belt is an area of land, near to and sometimes surrounding a town, which is kept open by permanent and severe restriction on building" (Ministry of Housing and Local Government, "The Green Belts", HMSO, 1962). In this context 'open land' means land generally free of buildings. The purpose of keeping land undeveloped will vary in detail from area to area, but broadly will be to prevent the merging of built-up areas and to minimise urban expansion. Normally the only new buildings allowed are those associated with agriculture or other uses which need a large open area or by their very nature need a countryside location.
- 1.2 The designation of a Green Belt is a very important part of planning policies not only for the Green Belt area itself, but also for the built-up areas encircled by it.

**WHAT IS A LOCAL PLAN?**

- 1.3 Local Plans deal with particular areas or aspects of the County Structure Plan in more detail. Definitive proposals are shown on an Ordnance Survey-based Proposals Map. Like all Local Plans the Green Belt Local Plan must conform generally to the Structure Plan.
- 1.4 Local Plans together with the County Structure Plan form the new Development Plan for Nottinghamshire. The new Development Plan will wholly or partly supersede the former Development Plans for both the County and City of Nottingham, which were approved by the Minister of Housing and Local Government in 1959-60, and the Town Maps approved between 1959 and 1965.



## 2.

## Planning Background

### HISTORY OF THE GREEN BELT IN NOTTINGHAMSHIRE

- 2.1 In 1955, the Minister of Housing and Local Government published Circular 42/55 entitled "Green Belts". Green Belts are intended, as set out in the circular, to perform at least one of the following three functions:
  - (i) to check the further growth of a large built up area;
  - (ii) to prevent neighbouring towns from merging into one another; or
  - (iii) to preserve the special character of a town.
- 2.2 In 1956 Nottinghamshire County Council, in consultation with other local authorities in the County, drew up a Sketch Plan Green Belt around the Nottingham conurbation, approximately eight kilometres (five miles) wide. To the north and north-west of the conurbation, the Sketch Plan Green Belt was up to twelve kilometres (seven miles) wide and extended to the fringes of the Mansfield, Kirkby and Sutton areas.
- 2.3 The main purpose of the Nottinghamshire Sketch Plan Green Belt was to restrict urban growth, particularly to the east and south of the Nottingham conurbation, and to prevent it merging with Hucknall, the Mansfield-Ashfield urban areas and the towns along the Erewash Valley.
- 2.4 At the same time, Derbyshire County Council drew up a Sketch Plan Green Belt in South-East Derbyshire extending along the Nottinghamshire-Derbyshire border from the River Trent to South Normanton. The South-East Derbyshire Green Belt complemented the Nottinghamshire Green Belt. Together they covered a roughly triangular shaped area bounded by Derby, Alfreton/Mansfield and Bingham.
- 2.5 The Sketch Plan Green Belt proposals were never formally submitted to the Minister for his approval. In 1962, the Minister decided that formal submission should await the Review of the County Development Plan, so that they would form part of a comprehensive planning framework. Work on the Review was begun, but not completed, before the 1968 Town and Country Planning Act introduced Structure and Local Plans.
- 2.6 While not formally approving the Sketch Plan proposals, the relevant Ministers in making

planning decisions have consistently supported the Sketch Plan Green Belt.

- 2.7 The approval of this Local Plan means that the Sketch Plan Green Belt is no longer an approved planning document of the County Council. It may still be referred to for historical purposes, for example to show that Green Belt policies have affected a certain area since 1956.

### THE STRUCTURE PLAN CONTEXT

- 2.8 The Nottinghamshire Structure Plan was approved with modifications by the Secretary of State for the Environment on July 22nd, 1980. The Structure Plan provides the framework within which Local Plans are prepared and development control decisions reached. The Structure Plan proposes that there should be a Green Belt around Nottingham. It states that without the support of a Green Belt, "normal" planning control powers would not be able to prevent further merging of the Nottingham conurbation with towns along the Erewash Valley, with Hucknall, and with the Mansfield-Ashfield area. Green Belt designation is also considered necessary to contain development pressures south and east of Nottingham. The Structure Plan contains a number of policies particularly affecting the Green Belt. These policies are set out in full in *Appendix II*.
- 2.9 While the Structure Plan reaffirms the need for a Green Belt around Nottingham, proposals are also made to provide land for residential and industrial purposes in the period 1976-96 (see policies in Chapters 20, 21, 22, 23, 24 and 25 of the Structure Plan). The scale of this provision requires some development on land which was formerly in the Sketch Plan Green Belt, in particular around the Nottingham conurbation.

### THE SCOPE OF THE LOCAL PLAN AND ITS RELATIONSHIP WITH OTHER PLANS AND PLANNING POLICIES

- 2.10 The Green Belt Local Plan has two main functions:
  - (i) to define detailed boundaries for the Green Belt;
  - (ii) to set out policies for the control of development within the area designated as Green Belt.



The Plan consists of this *Written Statement* and the *Proposals Map* defining the boundaries of the Green Belt at the scale of 1:25,000.

- 2.11 The content of the Local Plan has been guided by the advice set out in Government Circulars 42/55, 50/57 and 14/84 and in Planning Policy Guidance Note 2. The objectives of the Green Belt are set out below:

- (i) to prevent the merging of built-up areas;
- (ii) to check urban expansion into the countryside.

The Green Belt will assist in urban regeneration, principally within Greater Nottingham, by placing a strong presumption against development within the designated area.

- 2.12 The Green Belt Local Plan is only concerned with associated development control policies within the boundaries of the designated area. It does not cover proposals for development in areas outside

the Green Belt. Other Local Plans and policies will complement the provisions of this Local Plan. *Appendix I* gives details of relevant Local Plans and other planning guidance.

- 2.13 The South-East Derbyshire Green Belt Local Plan, as prepared by Derbyshire County Council, contains development control policies for the land adjoining the Nottinghamshire boundary from the River Trent to Pye Hill/Ironville. Nottinghamshire County Council generally supports the policies in this Local Plan. The boundaries of the South-East Derbyshire Green Belt have been taken into account in drawing up the Nottinghamshire Green Belt boundaries (*see Figure 1*).

- 2.14 The Green Belt Local Plan supplements other planning policies that also impose restrictions on development in the countryside, notably those relating to agricultural land (Structure Plan policy 14.14), woodland (policy 15.16) and landscape (policy 16.23). Landscape and recreational aspects in the Green Belt are further discussed in *Section 5*.



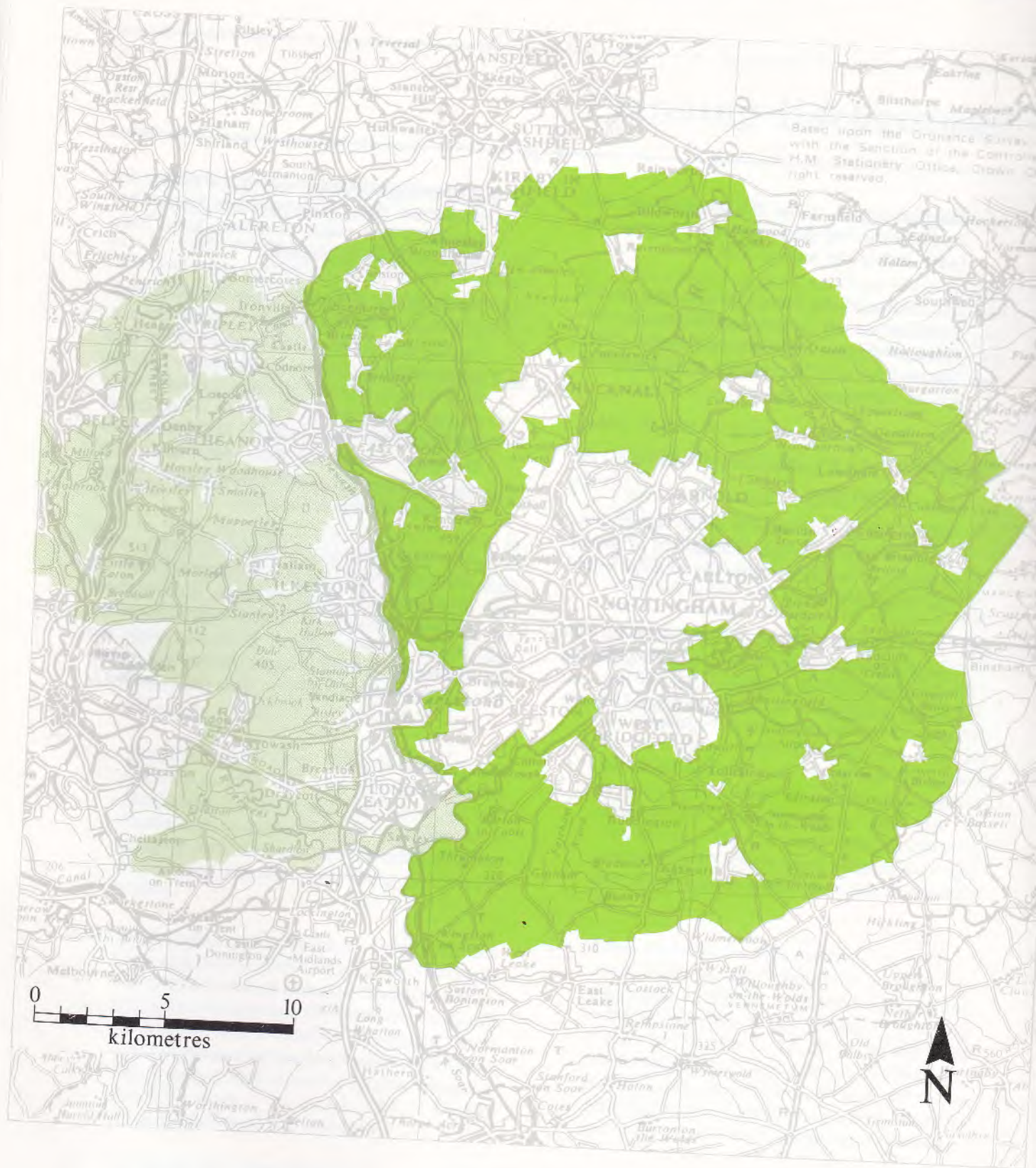


Figure 1 The Nottinghamshire Green Belt in relation to the South East Derbyshire Green Belt

General extent of Green Belts:

South East Derbyshire

Nottinghamshire



### 3.

## The Green Belt Boundaries

- 3.1 The Structure Plan establishes the principle that a Green Belt policy should operate in the area around Greater Nottingham, but does not define the precise boundaries of the Green Belt. That is one of the purposes of the present document. The boundaries are shown on the *Proposals Map*. (The general extent of the Green Belt is also diagrammatically shown on *Figure 1*).

**P1 THE NOTTINGHAMSHIRE GREEN BELT WILL COVER THE AREAS DEFINED AS GREEN BELT ON THE PROPOSALS MAP.**

### PRINCIPLES OF APPROACH

- 3.2 Green Belt boundaries must reflect the main objectives of the Green Belt - to prevent the merging of built-up areas and to check their growth. The interpretation of these objectives must also be in line with Structure Plan policies, including those which allow for future development in various areas. In particular, around the Nottingham conurbation, some new development such as homes, factories, shops and schools will be essential. Circular 14/84 gives general advice that, in defining Green Belt boundaries, account should be taken of development needs arising over a longer time period than that covered by the Structure Plan. This advice requires to be interpreted in the light of Structure Plan policies which provide specific guidance for the Local Plan.
- 3.3 It should be emphasised that the exclusion of an area of land from the Green Belt does not necessarily imply that it is available for development. For example, owners may be unwilling to sell, there may be drainage constraints, land may be required for recreational purposes.
- 3.4 It is clearly essential that the boundaries of the Green Belt should be firm. They should, therefore, be easily defensible and hence wherever possible follow features on the ground that are distinct and unlikely to change, for example, rivers, roads, railways, woodlands and the edges of built-up areas.
- 3.5 Open land outside built-up areas is suitable for inclusion within the Green Belt irrespective of its use; for example playing fields, parks and golf courses are as appropriate in a Green Belt as farmland (*also see paragraph 4.4*).

### SUMMARY OF BOUNDARIES

- 3.6 The following description and justification of the Green Belt boundaries deal in turn with the inner boundary, the outer boundary, and towns and villages excluded from the Green Belt.

#### (A) The Inner Boundary

- 3.7 The Structure Plan states that "the inner boundary of the Green Belt will be drawn as near as is practicable to development, including that provided for in the Structure Plan up to 1996" (policy 16.28). Whilst it is in order to provide a measure of flexibility to meet development land requirements up to 1996, it would be contrary to Structure Plan policy 16.28 to make specific allowance in the Local Plan to meet post 1996 development land needs. In drawing the inner boundary account has also been taken of possible needs for uses such as community facilities that are not quantified in the Structure Plan.

#### (a) *Wilford to Lady Bay Bridge* (*Rushcliffe Borough*)

- 3.8 The boundary runs along Clifton Boulevard from the Nottingham City boundary to Loughborough Road. This line accords with the Structure Plan which provides for residential and industrial development between Wilford and West Bridgford (policy 20.141) whilst protecting the area south of Clifton Boulevard from such development (policy 20.142).
- 3.9 The edge of the built-up area is then followed to Melton Road, thus protecting the Sharphill Wood area from residential and industrial development in accord with Structure Plan policy 20.142.
- 3.10 From Melton Road the boundary broadly follows the northern boundary of the Edwalton Golf Course. It then runs along the Gamston - Lings Bar Road in line with Structure Plan policies 20.141 and 20.142 which provide for residential and industrial development between West Bridgford and Gamston whilst protecting land east of the Gamston - Lings Bar Road from such development.
- 3.11 North of Radcliffe Road the boundary follows the line of the proposed Trent Crossing at Colwick to Adbolton Lane, and from Adbolton Lane westwards to the edge of Lady Bay. Land to the east of the proposed Trent Crossing is protected from development by Structure Plan policy 20.142



which states that there is a presumption against residential and industrial development east of the proposed route.

- 3.12 At Lady Bay the boundary is drawn along Holme Road to Lady Bay Bridge. The open aspect looking east from the Bridge along the Trent, together with formal and informal recreational areas, is thus given additional protection to its status as flood-plain.

**(b) Lady Bay Bridge to Colwick**  
(Nottingham City)

- 3.13 The River Trent provides a clear-cut boundary for the Green Belt from Lady Bay Bridge to the Colwick Racecourse and Country Park area. The Green Belt boundary then follows the edge of largely undeveloped land mainly comprising Colwick Woods, most of the Racecourse and the Colwick Country Park.

**(c) Colwick to Forge Mill**  
(Gedling Borough)

- 3.14 From Colwick the boundary follows the Trent and, subsequently, the eastern side of the proposed industrial land on the former Colwick Sidings. The edge of existing or committed development is then broadly followed to Burton Road.

- 3.15 The rest of the boundary in Gedling is considerably influenced by the Structure Plan policies to protect the major ridge-lines which run approximately from Gedling Wood to Dorket Head and thence to Big Wood (policy 20.139). The Green Belt boundary broadly follows the edge of existing or committed development.

**(d) Forge Mill**  
(Ashfield District)

- 3.16 A suitable boundary for the Green Belt is provided by the footpath and road north of Forge Mill.

**(e) Forge Mill to Beeston Rylands**  
(Broxtowe Borough, Nottingham City)

- 3.17 The boundary from Forge Mill to Seller's Wood broadly follows the edge of existing or committed development. The inclusion of Bulwell Hall Park and the City Golf Course will help to maintain the separate physical identities of Hucknall and Nottingham.
- 3.18 The Structure Plan proposes substantial development on the western side of the conurbation: it also safeguards certain areas of land from development. The Green Belt proposals are in accord with both these intentions.
- 3.19 South of Seller's Wood the boundary of the Green Belt follows the Western Outer Loop Road to

Trowell Road. (This section of the Loop Road comprises Low Wood Road, Woodhouse Way and Bilborough Road). The boundary thus broadly follows the edge of the built-up area but also allows for development in the Assarts Farm area.

- 3.20 South of Trowell Road the boundary runs generally along the edge of existing development, first to the A52 and subsequently along the northern edge of Stapleford.

- 3.21 The boundary then follows Stapleford's western edge, complementing the South-East Derbyshire Green Belt boundary which aims to preserve the break between Stapleford and Sandiacre.

- 3.22 The Green Belt boundaries have been drawn so as to maintain the open break between Stapleford and the built-up areas from Toton to Bramcote.

- 3.23 To the west of Toton the Green Belt boundary follows the edge of existing development, so as to maintain the north-south 'green link' and keep the land adjacent to the River Erewash free from development.

- 3.24 From Toton to Beeston Rylands the Green Belt boundary generally follows the edge of existing or committed development.

**(f) Beeston Rylands to Wilford**  
(Nottingham City)

- 3.25 The boundary broadly follows the edge of existing or committed development (in consequence Clifton is surrounded by Green Belt). This is in accord with the principles of (a) drawing the Green Belt as near as is practicable to development and (b) preventing coalescence - in this case of Clifton with surrounding areas. This will also help to protect areas in formal and informal recreational use and prevent development from approaching the Local Nature Reserve at Wilwell Cutting. The boundary is also compatible with the protection much of the area enjoys as flood-plain or by covenant. Bringing the Green Belt along the Trent up to Clifton Bridge complements the Green Belt boundary which is drawn up to Lady Bay Bridge.

**(B) The Outer Boundary**

- 3.26 Structure Plan policy 16.28 provides guidance for defining the outer boundary. The Green Belt is to be approximately 11kms wide to the north (excluding Annesley Woodhouse), 9 kms wide to the east (excluding Bingham), 7 kms wide to the south (excluding East Leake) and will extend to the County boundary to the west. In the letter approving the Structure Plan, the Secretary of State for the Environment stated (para 7.6) "that



the outer boundary of the Green Belt should broadly coincide with that of the Sketch Plan Green Belt"; and indeed the kilometre figures given for the width of the Green Belt are generally approximate to the outer boundary of the Sketch Plan Green Belt. The outer boundary of the Green Belt proposed in this Local Plan broadly accords with that for the Sketch Plan Green Belt: the same settlements are within the proposed outer boundary as were included within the outer boundary of the Sketch Plan Green Belt. Alterations to the Sketch Plan outer boundary, however, have been made in various places so as (a) to provide a line that is defensible and follows distinct features on the ground wherever possible; (b) to enable necessary development in the urban areas of the Mansfield-Ashfield Zone; and (c) to accord with the boundary of the South-East Derbyshire Green Belt.

**(a) North**

*(Ashfield District, Newark and Sherwood District)*

- 3.27 The outer Green Belt boundary generally follows the line of the River Erewash to Portland Park. Three major changes to the Sketch Plan Green Belt boundary have been made. (i) The area between the Erewash, the Derbyshire boundary, the A38 and the western edge of the Kirkby urban area has not been included in the Green Belt for two main reasons: to accord with the Derbyshire Green Belt, and to accord with the general width of the Green Belt laid down by Structure Plan policy 16.28. (ii) The Portland Park area has been included in the Green Belt (this area was within the Sketch Plan Green Belt for the period 1957-62). This area of the Green Belt serves to prevent the merging of Nuncargate/Kirkby Woodhouse with the main Kirkby built-up area. (iii) The area south of Mansfield (*see paragraph 3.29*).
- 3.28 From Portland Park, the Green Belt boundary has been drawn around the urban areas of Nuncargate, Kirkby Woodhouse and Annesley Woodhouse, and the eastern edge of Kirkby-in-Ashfield as far as the Coxmoor Plantation. From the Coxmoor Plantation, the boundary of the Green Belt follows, in turn, the field boundaries to Coxmoor Road, Coxmoor Road to the A611 and the A611 to Cauldwell Road. This boundary line has been selected as it is better defined on the ground than that of the Sketch Plan Green Belt, which extended further north and west.
- 3.29 The Green Belt boundary from the Cauldwell Road/A611 junction to Rainworth follows the northern edge of the major areas of woodland (Thieves Wood and Harlow Wood), the minor road from Harlow Wood to Blidworth Lane, and the southern edge of L Lake to the edge of development at Rainworth. The former Sketch

Plan Green Belt boundary extended further north but the line has been moved further south partly so as not to act as a constraint on the future planning of Mansfield and to follow firm, recognisable and defensible features on the ground. Minor revisions have been made to the boundary at Rainworth.

**(b) East**

*(Newark and Sherwood District, Rushcliffe Borough)*

- 3.30 The outer Green Belt boundary between Rainworth and the River Trent generally follows the line of the Sketch Plan Green Belt. Some alterations have been made in order to follow distinctive topographic features rather than parish boundaries. In the Hoveringham/Thurgarton area, alterations have been made so as to accord with the boundary of sand and gravel workings east of Hoveringham and to follow the Hoveringham/Thurgarton Road as far as Thurgarton. The Gonalston/Thurgarton parish boundary, which is followed by the Sketch Plan Green Belt, is not readily apparent on the ground. As a result, the Green Belt now abuts Thurgarton village.
- 3.31 From the River Trent southwards the Green Belt boundary has been drawn closer to Kneeton village than the Sketch Plan line and then follows the road from Kneeton to the Foss Way (A46). The Foss Way is used as far as the Saxondale roundabout and the Bingham by-pass is then followed to the Bingham-Langar road. The Green Belt boundary then follows unclassified roads to the A606 except (i) at Tithby, where the village is included in the Green Belt, (ii) between the A46 and the Owthorpe/Kinoulton road, where a private road and a public right of way are used, and (iii) between the A46 and A606 where the boundary runs along the northern edge of Roehoe Wood. Minor changes to the Sketch Plan Green Belt boundary have been made, mainly to follow a more clearly defined topographic feature as at Kneeton and between Colston Bassett and Kinoulton. A small change in the boundary also occurs at Bingham to accord with Structure Plan policies 16.28 and 21.37.

**(c) South**

*(Rushcliffe Borough)*

- 3.32 From the A606 to the Leicestershire border the Green Belt boundary follows the Roehoe Brook/Fairham Brook and then the line of the north-facing ridge between Wysall and East Leake. From the East Leake/Gotham road, the boundary follows the road to the golf course and a public right of way to near the village of West Leake. The boundary then follows unclassified roads, farm tracks and areas of woodland to Scotland Farm in the parish of West Leake.



3.33 The main changes to the Sketch Plan Green Belt occur between the A60 and West Leake. The line between the A60 and East Leake is more in accord with the width of the Green Belt laid down by Structure Plan policy 16.28 and more easily identified on the ground than the Sketch Plan Green Belt line. Between East and West Leake the boundary also follows more easily identified physical features than does the Sketch Plan Green Belt.

(d) *West*

(*Rushcliffe Borough, Broxtowe Borough, Ashfield District*)

3.34 The Structure Plan boundary generally extends up to the County boundary, in accord with Structure Plan policy 16.28.

**(C) Town and Villages excluded from the Green Belt**

3.35 The Structure Plan names (in policy 16.28) a number of towns and villages which lie between the inner and outer boundaries of the Green Belt but should be excluded from it. The list consists of those towns and villages that are excluded from the Sketch Plan Green Belt: all have substantial populations and a generally built-up character. Five areas not named in policy 16.28 have also been excluded from the proposed Green Belt - Gunthorpe, the area Kodak has permission to develop, Clifton, New Annesley and the business park site south of Ruddington. These are considered in turn:

- (a) *Gunthorpe* has experienced significant growth since the Sketch Plan Green Belt was originally defined. Furthermore a limited amount of new housing could be accommodated in the village which, while in keeping with its scale and character, would represent more than infill as defined in *policy P5(i)(c)*.
- (b) After public participation, an extensive area south of Annesley Woodhouse was given planning permission in 1977 for development by *Kodak Ltd.*
- (c) *Clifton* - See *paragraph 3.25.*
- (d) *New Annesley* - following comment on the Draft Plan by Annesley Parish Council, an envelope is defined for the village of New Annesley to enable development associated with a scheme for necessary environmental improvements to be carried out which would otherwise be contrary to Green Belt policies. In drawing the envelope boundaries, care has been taken to preserve Green Belt designation for the ridge line which lies between the village and the developed area

of Nuncargate and Annesley Woodhouse.

- (e) To enable the reclamation of the former *Ruddington Ordnance Depot* to be carried out, a business park is proposed as part of the scheme which would otherwise be contrary to Green Belt policies.

3.36 Usually the Green Belt boundaries have been tightly drawn around the 'excluded' towns and villages, including land committed for development, to prevent them expanding into the surrounding countryside. The chief exceptions are Calverton and Hucknall, which are indicated in the Structure Plan for development. The main locations where the Green Belt boundaries depart from the edges of these built-up areas are as follows:

(a) *Calverton*

- (i) *North of the village:* this area is excluded from the Green Belt to meet future industrial needs of the settlement and nearby villages;
- (ii) *South-west of the village:* a small area is excluded to meet future residential needs.

These departures accord with the policies and proposals of the Gedling Borough Local Plan.

(b) *Hucknall*

- (i) *Linby Colliery and Tip:* part of the colliery and tip area is excluded from the Green Belt, allowing for possible development whilst also providing for Green Belt to be maintained between Hucknall and Linby;
- (ii) *Butler's Hill area:* in which the Hucknall District Plan proposes industrial development;
- (iii) *South-west and west of the town:* where undeveloped land has been excluded mainly to allow for possible future development, in particular for aero-engine research and testing on Hucknall Airfield where detailed planning will give an opportunity for ensuring that both land in the vicinity of Astral House and the area between the Green Belt and the northern boundary of the runway remain largely open;
- (iv) *North-west of the town:* where the proposed Hucknall By-pass provides a suitable boundary.



## 4.

# Green Belt Development Control Policies

- 4.1 The main purpose of including land in a Green Belt is to maintain its open character so as to prevent built-up areas merging and to restrict their expansion. The policies below are designed to serve this aim whilst also achieving other ends, such as allowing the requirements of farming to be met. The policies are restricted to matters of specific Green Belt concern: they do not cover many of the matters taken into account in making planning decisions, for example the effect of proposed development on traffic.
- 4.2 The policies below accord with the provisions of the Structure Plan, in particular policy 16.28 of the Structure Plan which lays down the basis for controlling development within the Green Belt. The first policy below is largely taken from policy 16.28 and gives the main framework for regulating development. Some refinement to the policy is given by the subsequent policies.
- P2 WITHIN THE GREEN BELT THERE WILL BE A STRONG PRESUMPTION AGAINST DEVELOPMENT EXCEPT FOR:
- (a) ESSENTIAL RURAL ACTIVITIES, INCLUDING AGRICULTURE, FORESTRY AND MINERAL EXTRACTION;
  - (b) APPROPRIATE RECREATIONAL USES;
  - (c) CERTAIN INSTITUTIONAL USES AND SIMILAR USES STANDING IN EXTENSIVE GROUNDS;
  - (d) CEMETERIES.
- 4.3 To achieve the objectives of Green Belt designation most types of development can only be allowed in exceptional circumstances. Some types of use, however, are appropriate to a Green Belt, principally those that are essentially rural in nature, including agriculture and forestry. Similarly, mineral extraction often necessarily requires a rural location. Policies controlling mineral development are contained in the Structure Plan. The County Council has prepared a Sand and Gravel Local Plan which includes policies and proposals affecting the area of the Green Belt. The Nottinghamshire Sand and Gravel Local Plan was statutorily adopted by the County Council in 1984. Provision for other minerals will be set out in the Minerals Local Plan which is in preparation: this Plan also will affect the area covered by the Green Belt. Industrial development close to mineral extraction sites can be acceptable if it is essential to the efficient operation of the sites (also see paragraph 13.54 of the Structure Plan and

paragraph 5.13 of the Sand and Gravel Local Plan). Purely on Green Belt considerations ancillary structures and activities that are essential to mining operations, such as spoil disposal, would be appropriate in the Green Belt (but see also Structure Plan policy 13.52 and Green Belt Local Plan *policy P3*). Other essential development in the countryside may include that for public utilities, such as the extension or reconstruction of electricity transmission lines and pylons, railway installations, pumping stations, and sewage works, which may need to be located in the Green Belt.

- 4.4 Certain recreational facilities such as country parks, golf courses, and playing fields need extensive areas of land, and keep the open character of the land. Such uses would be appropriate on suitable sites within the Green Belt. Buildings or other structures associated with such a use can be acceptable where they are essential to the functioning of that use. Structure Plan policy 12.10 states that new recreation facilities requiring substantial areas of land will normally be provided on the fringes of the urban areas so that these facilities will be located as near as possible to the main centres of population. Such facilities may provide useful buffer areas between the urban areas and productive farmland, and reduce problems experienced by farmers in urban-fringe locations. Structure Plan policies 12.26, 12.28, 12.31, 14.14, 14.17 and 18.14 are also of relevance (*see Appendix II*).
- 4.5 It is not intended to turn the area within the Green Belt into a form of agricultural museum. It is a working area for farmers and foresters, and is an area within which many casual and quiet recreational pursuits can be undertaken (walking, cycling, horseriding, fishing and bird watching). The Green Belt can also be used for locating more noisy activities; while such activities require careful siting, they are not in conflict with Green Belt designation, though there may be conflict in particular cases with other planning policies for the control of development.
- 4.6 Non-residential (i.e. touring and transit) caravan site provision in the County is considered in Structure Plan policy 12.29 which states that such development should be located so as to minimise the adverse effect on the environment. Touring caravan sites can be acceptable as part of proposals for marina and country park development, where they are properly landscaped and ancillary to the main use of the site. The County is on through routes to a number of holiday centres and as such



transit caravan and camp sites may be necessary close to the main routes.

- 4.7 Cemeteries and institutions standing in extensive grounds are acceptable in the Green Belt, being large space users that are substantially open in character.
- 4.8 Development for purposes other than those stated in *policy P2* will not normally be acceptable. *Policies P4 and P5*, however, state circumstances in which the general rule can be relaxed. Thus, for example, dwellings will not normally be permitted in the Green Belt, but can be allowed on appropriate 'infill' sites.
- P3 WHERE PROPOSED DEVELOPMENT IS CONSIDERED APPROPRIATE TO A GREEN BELT, THEN ANY BUILDING OR STRUCTURE SHOULD BE LOCATED AND DESIGNED SO AS NOT TO DETRACT FROM THE OPEN CHARACTER OF THE GREEN BELT.
- 4.9 Proposals may be made for types of development which are acceptable in principle in the Green Belt, but whose location or design may impair the open character of the Green Belt.
- P4 (i) IN VILLAGES WITHIN THE GREEN BELT, APPLICATIONS FOR THE CHANGE OF USE, REPLACEMENT, OR EXTENSION OF EXISTING BUILDINGS WILL NORMALLY BE CONSIDERED FAVOURABLY WHERE THEY ARE IN KEEPING WITH THE SCALE AND CHARACTER OF THE VILLAGE AND THE BUILDING, AND WOULD NOT IN ANY OTHER WAY HAVE A MATERIALLY ADVERSE EFFECT ON THE ENVIRONMENT.
- (ii) OUTSIDE VILLAGES, THERE WILL BE A PRESUMPTION AGAINST THE CHANGE OF USE, REPLACEMENT, OR SUBSTANTIAL EXTENSION OF EXISTING BUILDINGS IN THE GREEN BELT, EXCEPT FOR PROPOSALS:
- (a) NECESSARY FOR THE PURPOSES OF AGRICULTURE OR OTHER USES APPROPRIATE TO A GREEN BELT (AS IDENTIFIED IN POLICY P2);
- (b) NECESSARY FOR THE RETENTION OF BUILDINGS REGARDED BY THE LOCAL PLANNING AUTHORITY AS BEING OF ARCHITECTURAL OR HISTORIC VALUE, AND WHICH WOULD ALSO MAINTAIN THE CHARACTER OF THE BUILDINGS CONCERNED.

4.10 Since the attractive character of the villages within the Green Belt is partly due to their existing buildings, it is important that new uses be found for them if they become redundant or disused. These new uses could include small firms, which can help to provide jobs, prevent loss of services and keep a balanced and viable community. The problems of starting and maintaining small scale businesses will be substantially eased if permission can be given for such uses to be established in existing buildings, subject to normal planning safeguards. Similarly it is considered that where firms are established in Green Belt villages their limited expansion should not be unnecessarily resisted. Replacement or extension of other buildings in villages is also acceptable, provided that no significant harm is done to the environment.

4.11 Because of the importance of safeguarding the open nature of the Green Belt, proposals for the change of use, replacement, or extension of existing buildings are more acceptable in villages than in the countryside. Such proposals, however, can be acceptable outside villages where they are necessary for the retention of buildings which are of value because of their individual architectural or historic worth or because of their strong contribution to the local scene.

- P5 (i) IN VILLAGES WITHIN THE GREEN BELT THERE WILL NORMALLY BE NO OBJECTIONS ON GREEN BELT GROUNDS TO APPLICATIONS FOR DWELLINGS PROVIDED:
- (a) THE SITE IS LOCATED WITHIN THE BUILT-UP AREA OF A VILLAGE; AND
- (b) THE PROPOSED DEVELOPMENT IS IN KEEPING WITH THE SCALE AND CHARACTER OF THE VILLAGE AND NEIGHBOURING PROPERTY; AND
- (c) THE PROPOSED DEVELOPMENT REPRESENTS ACCEPTABLE INFILLING OF A SMALL GAP WITHIN A SUBSTANTIALLY BUILT-UP FRONTAGE.
- (ii) OUTSIDE VILLAGES, DWELLINGS WILL NORMALLY ONLY BE PERMITTED IN THE GREEN BELT WHERE THEY ARE BOTH ESSENTIAL FOR THE PURPOSES OF AGRICULTURE OR OTHER ACTIVITIES APPROPRIATE TO A GREEN BELT (AS IDENTIFIED IN POLICY P2) AND THE NEED FOR THE PROPOSED LOCATION HAS BEEN ESTABLISHED.



4.12 Dwellings will not normally be permitted in the Green Belt, but in some cases 'infill' development may be acceptable. Not all small gaps are appropriate for infilling. Part of the character of many villages is made up of gardens, paddocks and other breaks between buildings. Infill development may also not be desirable if it would consolidate groups of houses which are isolated from the main body of a village, or if it would consolidate a ribbon of development extending into the open countryside. In some villages little or no infill development may be appropriate; in others a limited amount of infill on selected sites may be acceptable. Further guidance is, or will be, available in the Local Plans and supplementary planning guidance prepared by District Councils.

4.13 It is desirable that infill sites should be developed as far as possible to meet local housing requirements. Such requirements may, for example, include specialist accommodation for the elderly, housing for agricultural workers, or remedy local shortages of dwellings of a particular size.

4.14 *Policy P5(ii)* will help to maintain the open character of the Green Belt without unnecessarily constraining agriculture and other appropriate activities. Unless there is an overriding need, dwellings are usually best sited within villages or, failing that, close to existing buildings, in order to keep the open nature of the countryside.

4.15 Residential caravans and mobile homes are regarded as dwellings for the purposes of *policy P5*.



## 5.

# Complementary Proposals in the Green Belt

- 5.1 Green Belt designation is principally concerned with maintaining the undeveloped character of the area so as to prevent built-up areas merging and to contain urban development. As is stated in *Section 2*, Green Belt designation is not intended specifically to encourage recreational uses, or to protect good quality farmland. These aspects and others are covered by separate planning policies set out in the approved Structure Plan, and developed further in Local Plans and management plans.
- 5.2 It is essential that, within the Green Belt, land is put or can be put to positive uses such as agriculture, forestry, leisure or other appropriate uses. If this is not the case, there is the very real danger that land will fall into disuse or become derelict and be subject, particularly near the edge of towns and villages, to proposals for development of an urban character. There is also a need to maintain and, where necessary, improve the visual quality of the environment within the Green Belt. This can be done for example by the removal of eyesores, the restoration of derelict or disused land to a suitable use, and by amenity tree planting. Government advice set out in Circular 14/84 is that local planning authorities can assist in improving and enhancing the countryside environment within the Green Belt by working together with landowners, farmers and voluntary groups. The Circular goes on to state that once detailed Green Belt boundaries have become fixed they should not be amended, or development allowed, merely because the land has become derelict. The County Council accepts and agrees with this advice.
- 5.3 Policies and proposals on recreation and landscape matters will, if carried out with proper care and management, complement the designation and aims of the Green Belt. New Structure Plan recreation policies place emphasis on future leisure uses requiring extensive areas of land being located in the urban fringe areas of the County, which include part of the Green Belt. Recreational uses may act as a buffer between farmland and housing on the urban edge, or channel leisure trips to certain parts of the urban fringe away from sensitive areas of farmland.
- 5.4 The Structure Plan also proposes (policies 23.24 and 24.67) that environmental improvement will be undertaken in the Erewash Valley, much of which lies within the Green Belt, and an Environmental Improvement Plan for this area has been approved by the County Council.
- 5.5 Bodies such as the Countryside Commission provide grant-aid and advice both to the public and private sectors for a range of recreational and amenity schemes in the Green Belt on a priority basis. The County Council acts as the agent for the Countryside Commission as regards amenity tree planting schemes in Nottinghamshire. Financial and other assistance may also be available from other bodies, for example, for environmental improvement, tree planting (e.g. the Forestry Grant Scheme operated by the Forestry Commission) and appropriate tourist development.
- 5.6 The County Council will continue to reclaim land through the Derelict Land Reclamation Programme which is grant-aided by Central Government. Support will also be given to other bodies or individuals for appropriate reclamation schemes. Tree planting to replace existing woodlands, coppices or hedgerow trees, and new planting, will substantially affect the visual quality of the countryside in the Green Belt. Long-term landscaping schemes involving tree planting may be undertaken in the confidence that urban encroachment is unlikely to take place for a considerable period of time, if at all. Particularly where the Green Belt is narrow, tree planting to screen development may help to create the illusion of space.
- 5.7 The removal of hedgerows is not controlled by planning legislation. The County Council, however, recognises that the visual quality of land in the Green Belt is at risk in some areas if existing hedgerows and small woodland areas are removed and that it can be greatly improved in other areas by planting programmes. The County Council is an important tree planting agency and as such will carry out planting schemes in the County as justified by local need. In undertaking such schemes, the County Council will normally give precedence to species traditional to the area, and will pay special regard to species composition and method of establishment.
- 5.8 Particular attention to planting will be given:
- (a) in those areas which have been denuded of trees in the landscape insofar as is compatible with modern agricultural practices;
  - (b) in those areas where the existing tree stock is over-mature and is not being replaced;

- (c) in conjunction with new and existing developments which would be outside the scope of the development itself, but which would integrate it with the surrounding landscape;
- (d) to rehabilitation planting in existing woods especially where these are in danger of dereliction;
- (e) to minimising the visual impact of intrusive development;
- (f) in Conservation Areas;
- (g) along the main approach roads to towns and villages to which there is a need to attract new employers.



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## 6.

# Monitoring & Review

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- 6.1 The Plan will be monitored to see:
  - (a) how far its provisions are carried out;
  - (b) whether its provisions need to be changed.
- 6.2 The policies to control development will be carried out chiefly by the six District Councils affected by the Green Belt. Monitoring will help to secure a reasonable degree of consistency.
- 6.3 Monitoring may also indicate a need to tighten some policies or slacken others.
- 6.4 The effect of Green Belt policies on pressures for development outside the Green Belt will also be monitored as far as possible. In particular, the impact of the necessarily restrictive Green Belt policies on villages located within the Green Belt will be the subject of monitoring in consultation with the local communities concerned.
- 6.5 Green Belt boundaries should be firm. It is intended that major modifications to the Green Belt will only be made, if at all, as a consequence of future reviews of the Structure Plan, unless there are very exceptional circumstances. The First Review of the Nottinghamshire Structure Plan is in preparation. Minor changes can be made either by a review of the Green Belt Local Plan or by the approval of other statutory Local Plans. Adjustment to boundaries will require strong justification.
- 6.6 If modification of the inner boundary of the Green Belt proves necessary, this should be done in a way which avoids undermining the basic purpose of preventing built-up areas merging and restricting their expansion. Any modification to the inner boundary should also continue to:
  - (a) prevent building taking place on or beyond ridge lines;
  - (b) avoid building where transportation problems would become burdensome; and
  - (c) avoid incurring high infrastructure costs (e.g. of drainage).

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# Local Plans & Other Planning Appendix I. Guidance in the Area of the Green Belt

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(Read with Figure 2 - overleaf)

1. It is intended to progress the following Plans to statutory adoption (each lies, wholly or partly, within the Green Belt).

## Ashfield District Council

- (1) *Hucknall Local Plan (LP)*  
Former Hucknall Urban District.
- (2) *Kirkby (LP)*  
Former Kirkby Urban District east of the M1 motorway, together with additional land south of Annesley Woodhouse, east of the M1 motorway, north of the A608 and west of the A611 (adopted 1984).

- (3) *Sutton (LP)*  
Former Sutton Urban District.

## Broxtowe Borough Council

- (4) *Broxtowe (LP)*  
All of Broxtowe Borough (adopted 1985).

## Gedling Borough Council

- (5) *Gedling Borough (LP)*  
All of Gedling Borough.

## Nottingham City Council

- (6) *Nottingham City (LP)*  
All of the City of Nottingham apart from the City Centre.

## Rushcliffe Borough Council

- (7) *Central Rushcliffe (LP)*  
Former West Bridgford Urban District and the parishes of Gamston, Holme Pierrepont and Ruddington (adopted 1989).
- (8) *South Rushcliffe (LP)*  
All of Rushcliffe Borough not covered by (7) above (adopted 1985).

2. The County Council has prepared a Sand and Gravel Local Plan (adopted 1984) which includes policies and proposals affecting the area of the Green Belt. Provision for other minerals will be set out in the Minerals Local Plan which is in preparation: this Plan will also affect the area covered by the Green Belt.

3. Proposals for environmental improvement and additional planning guidance for particular parts of the Green Belt are or will be contained in policy documents. These documents include ones for:

## Nottinghamshire County Council

- (a) Plan for Sherwood Forest (approved 1988).
- (b) Trent Valley Recreation (covering land adjoining the River Trent that is used for recreational purposes).
- (c) Erewash Valley Environmental Improvement Plan (covering the Nottinghamshire side of the Erewash valley) (approved 1981).

## Broxtowe Borough Council

- (a) Attenborough Gravel Workings.
- (b) Bramcote Hills (approved 1976, revised 1981).
- (c) Nottingham Canal.

## Newark and Sherwood District Council

- (a) Newark Southern Area (covering Southwell and the villages in the south of Newark and Sherwood District) (approved 1983).
- (b) Newark Western Area (covering the coalfield in the west of Newark and Sherwood District from Ollerton in the north to Blidworth in the south) (approved 1976).

Detailed planning guidance from District Councils is, or will be, available for particular villages within the Green Belt.



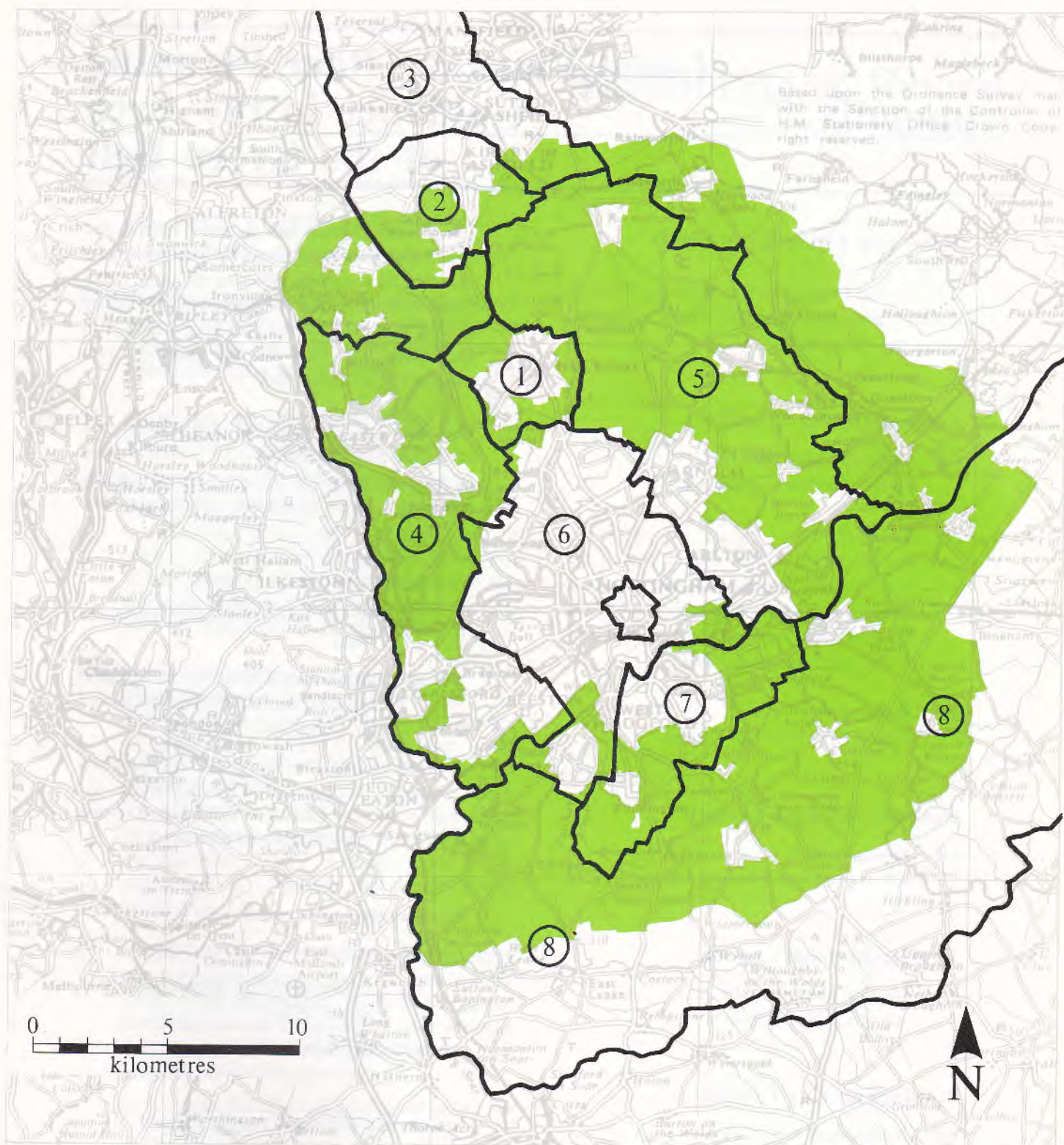


Figure 2 Local Plans in the Area of the Green Belt

- General extent of the Green Belt
- 7 Approximate boundaries of Local Plans  
(Numbers refer to Appendix 1)



## Appendix II.

## Structure Plan Policies Relevant to the Local Plan

- 4.65 Outside the urban areas of the County, provision will be made for a limited amount of industrial development in appropriate settlements. Normally, in other settlements, applications for industrial development will only be considered favourably where the development will not create unacceptable traffic or environmental problems. There will be a presumption against industrial development in the countryside. Within the Green Belt, applications will be considered in the light of the policy for Green Belt (policy 16.28).
- 12.10 Provision for new recreation facilities requiring substantial areas of land will normally be made on the fringes of the urban areas and will avoid agricultural land of a high quality.
- 12.26 Provision will be made for additional public open space within and on the fringe of urban areas and in rural settlements where present provision is inadequate to meet the needs of the local population.
- 12.28 Provision for a range of facilities for golf will be made on existing golf courses, in country parks, or on derelict land wherever possible.
- 12.29 Provision for caravan sites will be made in locations which minimise the adverse effect upon the environment.
- 12.31 Provision for recreation facilities will be made on derelict and disused land and land subject to mineral workings where appropriate.
- 13.52 There will be a presumption against the surface tipping of waste and spoil where other methods of disposal which have less environmental impact are available. Where surface tipping is unavoidable the County Council will require it to be located and designed so as to minimise pollution and visual intrusion and to enable the satisfactory restoration of the land.
- 13.54 Applications for industrial development associated with the mineral extractive industry in close proximity to sites of extraction will not normally be considered favourably where this conflicts with general policies for the location of industry and it is not essential to the efficient operation of the extraction site.
- 14.14 There will be a strong presumption against the use of high quality agricultural land for development and against the disruption of economic farm units. If it is necessary to take agricultural land for development, it will, wherever practicable, be of a lower rather than a higher grade.
- 14.17 In considering proposals for new recreational development there will be a presumption against the use of agricultural land and the disruption of economic farm units.
- 15.16 Applications for development will not normally be considered favourably where they involve the destruction of amenity woodland.
- 16.23 The Sherwood Forest area will be defined as a special landscape area in which particular priority will be given to the stringent control of development and the preparation of detailed proposals for enhancement.
- 16.28 There will be a Green Belt around Nottingham within which there will be a strong presumption against new development except:
- (a) for essential rural activities, including agriculture, forestry and mineral extraction;
  - (b) for appropriate recreational uses;
  - (c) for certain institutional uses and similar uses standing in extensive grounds.
- The inner boundary of the Green Belt will be drawn as near as is practicable to development, including that provided for in the Structure Plan up to 1996. The depth of the Green Belt will be approximately 11 kilometres to the north (excluding Annesley Woodhouse), 9 kilometres to the east (excluding Bingham), 7 kilometres to the south (excluding East Leake), and to the County boundary to the west. The following settlements are excluded from the Green Belt; Hucknall, Kimberley, Awsworth, Eastwood, Brinsley, Jacksdale, Underwood, Selston, Ravenshead, Blidworth, Calverton, Woodborough, Lambley, Burton Joyce, Lowdham, Ruddington, Radcliffe-on-Trent, Cotgrave, Keyworth, Cropwell Bishop, Tollerton and East Bridgford. Infill housing development on a limited scale will be permitted in some settlements within the Green Belt. These will be identified in Local Plans.
- 18.14 The County Council will support or where necessary undertake the reclamation of derelict, degraded and under-used land, for uses appropriate to the area in which it is located.



## **GREATER NOTTINGHAM ZONE**

- 20.43 Between 1976 and 1996 provision will be made for the development of 835 hectares of land for residential purposes.
- 20.45 Provision will be made for most of the new residential development needed in Greater Nottingham between 1976 and 1996 to take place on the periphery of the existing urban area.
- 20.48 (a) Between 1976 and 1996 provision will be made for 280 hectares of land for industrial development.

### **Greater Nottingham Outer Area**

#### *Nottingham District Part of the Outer Area*

- 20.132 Between 1976 and 1996 provision will be made for the development of 180 hectares of land for residential purposes and 105 hectares for industrial development in the Nottingham District Part of the Outer Area.

#### *Gedling District Part of the Outer Area*

- 20.137 Between 1976 and 1996 provision will be made for the development of 160 hectares of land for residential purposes, mainly on the northern periphery of Arnold and Nottingham.
- 20.138 Between 1976 and 1996 provision will be made for the development of 45 hectares of land for industrial purposes, mainly in the Netherfield area.
- 20.139 There will be a presumption against residential and industrial development on and to the north of the major ridge lines which lie to the north and east of the existing built-up area of Greater Nottingham.

#### *Rushcliffe District Part of the Outer Area*

- 20.141 Between 1976 and 1996 provision will be made for the development of 190 hectares of land for residential purposes and 30 hectares for industrial development, mainly between Wilford and West Bridgford and the proposed road between Gamston and Lings Bar.
- 20.142 There will be a presumption against residential and industrial development to the east of the proposed Trent crossing at Colwick and the proposed road between Gamston and Lings Bar, to the south of Clifton Boulevard (A614(T)) and in the Sharphill Wood area.

#### *Broxtowe District Part of the Outer Area*

- 20.145 Between 1976 and 1996 provision will be made for the development of 190 hectares of land for residential purposes, and 20 hectares for industrial development in the Broxtowe District Part of the Greater Nottingham Zone.
- 20.150 There will be a presumption against residential and industrial development on the Catstone Hill Ridge, the land between the Catstone Hill Ridge and the M1 motorway, the Bramcote Hills area, and the visually most important parts of the undeveloped land between Beeston and Stapleford.

#### *Ashfield District Part of the Outer Area*

- 20.153 Between 1976 and 1996 provision will be made for the development of 65 hectares of land for residential purposes and 20 hectares for industrial development in the Ashfield District Part of the Greater Nottingham Zone.
- 20.154 There will be a presumption against residential and industrial development in the Misk Hill area.

## **RUSHCLIFFE ZONE**

- 21.36 Between 1976 and 1996 provision will be made for the development of 140 hectares of land for residential purposes and 25 hectares for industrial development.
- 21.37 Provision for residential development will be concentrated in Bingham. Limited provision for small-scale development will also be made in the larger settlements of the Zone. Elsewhere there will be a presumption against further provision.
- 21.41 Provision of development leading to new employment opportunities will be made in existing major settlements in the Zone.

## **CENTRAL NOTTINGHAMSHIRE (COMMUTING) ZONE**

- 22.26 Between 1976 and 1996 provision will be made for the development of 75 hectares of land for residential purposes and 10 hectares for industrial development.

## **EREWASH ZONE**

- 23.29 Between 1976 and 1996 provision will be made for the development of 95 hectares of land for residential purposes and 140 hectares for industrial development.



23.32 Provision for residential and industrial development will be concentrated in Eastwood and Kimberley. Elsewhere there will be a presumption against further residential development.

23.34 Measures to improve the general environment of the Erewash Zone will be taken and will be encouraged.

### **MANSFIELD-ASHFIELD ZONE**

24.51 Between 1976 and 1996 provision will be made for the development of 510 hectares of land for residential purposes and 300 hectares for industrial development.

24.54 Provision for residential and industrial development will be concentrated in Mansfield, Mansfield Woodhouse, Sutton-in-Ashfield, Kirkby-in-Ashfield, Huthwaite and Fulwood.

24.62 Between 1976 and 1996 provision will be made for the development of 45 hectares of land for residential purposes and 103 hectares for industrial development in Central and Southern Mansfield.

24.64 Between 1976 and 1996 provision will be made for the development of 205 hectares of land for residential purposes and 135 hectares for industrial development in the Sutton, Kirkby, Huthwaite and Fulwood area.

24.65 There will be a presumption against any new development additional to existing planning permissions outside the Sutton, Kirkby, Huthwaite and Fulwood area of the Ashfield Area of the Zone.

24.66 Apart from the necessary provision for residential and industrial development there will be a presumption against new development outside the limits of the existing built-up area except:

- (a) for essential rural activities including agriculture, forestry and mineral extraction;
- (b) for appropriate recreational uses;
- (c) for certain institutional uses and similar uses standing in extensive grounds.

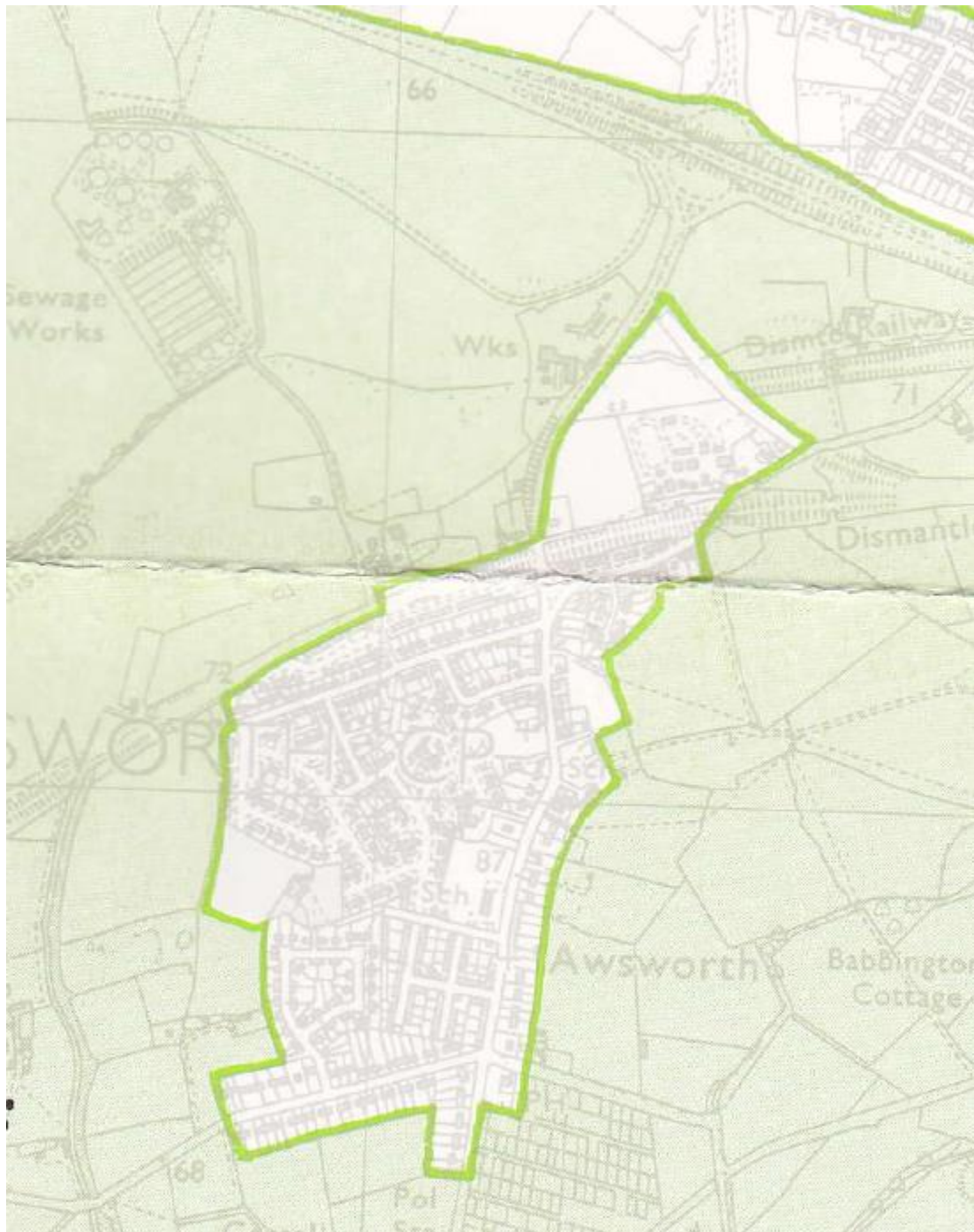
24.67 Provision will be made for environmental improvements to be undertaken.

### **CENTRAL NOTTINGHAMSHIRE (MINING) ZONE**

25.27 Between 1976 and 1996 provision will be made for the development of 120 hectares of land for residential purposes and 40 hectares for industrial development.

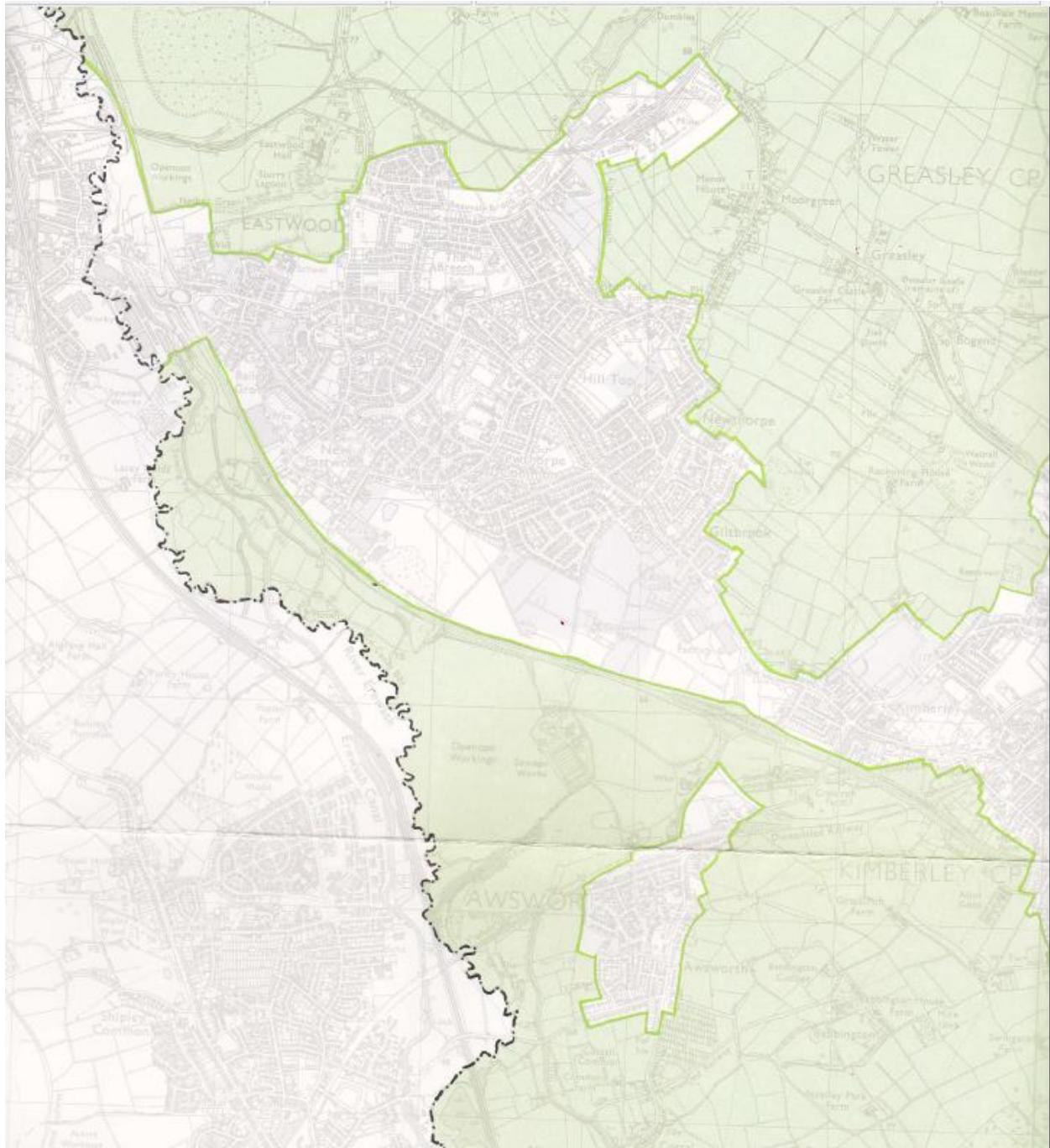
25.29 Provision for residential and industrial development will be concentrated in Ollerton-Boughton. Provision for industrial development will also be made in Bilsthorpe, Warsop and Calverton.

**Enlargement from 1989 Nottinghamshire Green Belt Proposals Map;  
Awsorth**





**Awsorth Eastwood Extract from NW Quadrant  
Nottinghamshire Green Belt Local Plan, 1989**







# Department of the Environment and Department of Transport

Common Services

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Direct Line 0272-218 938

BROXTOWE BOROUGH COUNCIL 0272-218811

DIRECTORATE OF PLANNING &amp; DESIGN

AND DESIGN

Council Ref: JEP/MR E/174

Elvin & Co  
Solicitors  
Ropewalk House  
Cottage Terrace  
The Ropewalk  
NOTTINGHAM NG1 5DX

RECEIVED 24 SEP 1985

REPLIED ☐REFERRED TO ☒FILE ☐

SER. No. ....

FILE REF. ....

Your reference

WG/MH

Our reference

T/APP/J3015/C/84/3853/P6

Date 16 SEP 85

A/85/029023/P6

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
APPEALS BY ANTHONY HOSKER BUILDING AND ROOFING CONTRACTORS LTD  
LAND AND BUILDINGS AT GIN CLOSE WAY, AWSORTH, NOTTINGHAMSHIRE

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against an enforcement notice issued by the Broxtowe Borough Council and against a refusal of planning permission by that Council concerning the above mentioned land and buildings. I held an inquiry into the appeals on 31 July 1985. I have considered all the representations made by you and by the Council and also those made by other interested persons and I have inspected the site.

2. a. The date of the notice is 19 November 1984.

b. The breach of planning control alleged in the notice is the making of a material change in the use of the land to the storage and sale of builders materials, unconnected with the authorised use of the land for pre-cast concrete manufacturing.

c. The requirements of the notice are to cease the said breach of planning control and remove all materials and equipment stored on the land in connection with that use.

d. The period for compliance with the notice is 28 days.

e. The ground was made on grounds 88(2)(a), (b) and (h) but at the inquiry ground 88(2)(b) was withdrawn.

3. The development for which planning permission was refused is the use of premises as an office and for the sale of bricks and roof tiles at Unit 1, Viaduct Works, Giltbrook, Nottinghamshire. It was made clear at the inquiry that, notwithstanding the terms of the planning application, the application was in effect for the use of the land subject of the enforcement notice for the purposes enforced against, and I have considered the planning application accordingly.

4. The evidence was taken on oath.

*all*

*sent for copy please  
(incl. reply) done 3/10/85*

5. The appeal site lies on the northern outskirts of Aysworth, about 200 m south of the Eastwood and Kimberley Bypass (A610), on the north-west side of Gin Close Way (A6096). It is of irregular shape, extending to approximately 2,100 m<sup>2</sup>, enclosed by chain link fencing on concrete posts, reinforced by an overgrown hedgerow on the 30 m frontage to the road. Access from the highway is in the eastern corner of the site and is shared by the adjoining premises to the north-east. There is a semi-derelict building, affording some 73 m<sup>2</sup> of floorspace, adjacent to the south-western boundary. Most of the remainder of the site is covered with compacted hardcore. At the time of my inspection there was a "Portakabin" stationed to the north-east of the existing building, and small quantities of bricks, tiles and slates, mostly second-hand, were stacked on the land.

6. Beyond the strip some 25 m wide adjoining the north-east boundary of the site, formerly a railway viaduct and now occupied by the Nottingham Rock Asphalt Company, open unused land extends to the roundabout junction of Gin Close Way with the bypass. On the south-west side of the appeal site are the premises of R Whitehead (Concrete) Ltd, devoted to the manufacture and open storage of concrete products. On its north-west side the site is separated by Gilt Brook from open country, predominantly devoted to agriculture. On the south-east side of Gin Close Way, opposite the land occupied by your clients, there is a triangular plot of rough ground used for the storage of pallets. A private road separates the north-east side of this plot from open agricultural land which extends to the bypass.

7. The approved Nottinghamshire Structure Plan states that:-

"There will be a Green Belt around Nottingham within which there will be a strong presumption against new development except":-

- a. for essential rural activities, including agriculture, forestry and mineral extraction;
- b. for appropriate recreational uses;
- c. for certain institutional uses and similar uses standing in extensive grounds.

The Plan provides that the precise boundary of the Green Belt will be determined in a Local Plan, and pending its introduction the Sketch Plan Green Belt will be used to guide implementation. The Sketch Plan Green Belt was drawn up by the Nottingham County Council in 1956 and includes the appeal site. The Green Belt Local Plan has been the subject of a Public Local Inquiry, modifications have been considered, and the period for further representations on the modifications expired on 5 July 1985. The Green Belt Local Plan includes the appeal site within the Green Belt boundary. The adopted statutory Broxtowe Local Plan reaffirms Green Belt policy in the area.

Ground (a) and the Application for Planning Permission

8. In the light of the evidence given at the inquiry and in the written representations I have come to the conclusion that the principle issue to be considered under ground (a) of the appeal against the enforcement notice and in the appeal against the refusal of planning permission is whether or not there are exceptional circumstances which justify the change of use in the Green Belt.



9. The Council said that the main purpose of the Nottinghamshire Green Belt was to restrict urban growth and prevent coalescence of settlements. Green Belt policy had been consistently supported in appeal decisions relating to land in the vicinity of the appeal site. The non-statutory Aysworth District Plan, now superseded by the Broxtowe Local Plan, had sought to rationalise anomalies of the Green Belt boundaries, but the inclusion of the appeal site within the Green Belt had never been in question. The land occupied by the appellant lay within a narrow and vulnerable part of the Green Belt and was prominent, due to the open character of the adjoining land and the absence of screening. The development, if permitted to remain, would represent the intrusion of a new commercial activity into the Green Belt and would be seen as a precedent for further development, leading to the coalescence of Aysworth with the built-up area on the north-east side of the bypass.

10. Mr Hosker explained that he had been in the building trade for the last 23 years, for the last 8 years as managing director of Anthony Hosker Building and Roofing Contractors Ltd. The company worked within a 30 mile radius of the appeal site and had started as roofing specialists, but as the business grew had diversified and now undertook all aspects of building. When it was formed the company had operated from a yard at Engine Lane, which was about 1,400 sq yds in area and surrounded by residential property. However by late 1981 to early 1982 this yard was proving unsuitable because limited space made it impossible to store reclaimed building materials which the appellants would have liked to buy, and the planning permission for the use of the land precluded the resale of such materials from the site.

11. By 1984 the expansion of the appellants' business was being held back by the limitations of their existing yard. In April 1984 Mr Hosker noted the appeal site and approached the owners with an offer to rent the land, which had been in use for the manufacture and storage of concrete products since 1949. A lease was concluded with the owners, R Whitehead (Concrete) Ltd, and the appellants moved the whole of their business to the appeal site. Subsequently they purchased the Engine Lane yard from the National Coal Board and secured planning permission for residential development which was in hand.

12. The objectives of Green Belt policy are time-honoured; I recognise the Council's concern to protect open Green Belt land separating settlements and accept that they took into account the provisions of Department of the Environment Circular 22/80 in determining to refuse planning permission and to enforce against the use of the site. The Circular makes it clear that the needs of small scale businesses should not be taken as overriding the policy on green belts set out in Circular 42/55. The appellants' business is not a use that would normally be acceptable in the Green Belt. However, I do not agree with the Council's contention that the previous, permitted use of the site is irrelevant, since it must have a bearing upon the impact of the change of use. Although your clients' use of the land is not the same as the previous use, which continues on the adjoining premises retained by R Whitehead (Concrete) Ltd, the difference in appearance between the manufacture and storage of concrete products and the storage and sale of builders materials is one which the casual passer-by might easily overlook. The present use is, in my opinion, no more incompatible with the Green Belt than the previous use and does not extend into previously open country; I therefore see no erosion of the Green Belt in your clients' activities. It is reasonable to assume that if I was to dismiss these appeals the land would revert to its former use or another use within the same class.

13. Your clients, perhaps unwisely, abandoned the option of returning to their Engine Lane yard; it is possible that further research might turn up land as suitable as the appeal site for their purposes. However, I do not think this would be a good reason to dismiss these appeals. Anthony Hosker Building and Roofing Contractors Ltd are a small firm, with 3 full-time employees and 6 or 7 sub-contract workers, of the kind that policies directed towards the generation of employment seek to encourage. The site upon which your clients have established themselves offers them an opportunity of continued growth and development of the retail side of their business, which would be inhibited if they were obliged to relocate. For the reasons that I have already indicated I am not convinced that the development causes demonstrable harm to an interest of acknowledged importance (in this case the Green Belt) and bearing in mind the provision of Circular 14/85 I conclude that it should be permitted. The appeal against the enforcement notice accordingly succeeds on ground (a) and ground (h) does not fall to be considered.

14. Planning permission for your clients' development may be seen as a precedent for future proposals on land between the appeal site and the bypass, but I do not think that the Council should find it difficult to deal with any such proposals on their merits. I consider that conditions restricting permitted development rights and confining use to that for which planning permission is granted would be unduly onerous upon the appellants' business. However, in view of the open surroundings of the site and the introduction of retail trade, I think that conditions requiring the implementation of a landscaping scheme and the provision of car parking space are necessary. I have taken into account all the other matters raised at the inquiry and in the written representations but find nothing sufficient to outweigh the considerations which have led me to my decisions.

#### FORMAL DECISIONS

15. For the above reasons and in exercise of the powers transferred to me, I hereby allow both your clients' appeals, direct that the enforcement notice be quashed, grant planning permission for the change of use of land at Gin Close Way, Awsworth, Nottinghamshire to the storage and sale of builders materials on the application deemed to have been made under Section 88B(3) of the Act and on the application (No 5/07/84/0395/BR) dated 5 July 1984, subject to the following conditions:

1. Within 3 months of the date of this letter a scheme of landscaping shall be submitted for the approval of the local planning authority.
2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following approval of the scheme, and any trees or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
3. Within 6 months of the date of this letter space shall be laid out within the site, in accordance with a scheme to be agreed with the local authority, for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.



16. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

17. Attention is drawn to the fact that an applicant for any consent, agreement, or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused, or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

18. Attention is also drawn to the enclosed Note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

#### RIGHT OF APPEAL AGAINST DECISION

19. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

#### COSTS

20. A further letter concerning your clients' application for costs will be sent as soon as possible.

I am Gentlemen  
Your obedient Servant

*Michael P. Parsons*

MICHAEL P PARSONS DiplArch(UCL) RIBA  
Inspector

ENCS





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## SITE APPRAISAL AND REPORT

**Reference number:** 06/00923/FUL  
**Proposal:** Construct workshop, storage building and office in connection with use of land for renovation, storage and sale of portable buildings  
**Site address:** Awsworth Pallets Gin Close Way Awsworth Nottinghamshire NG16 2TA  
**Officer:** Mr A Rogers  
**Target date:** 28 December 2006

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**Initial notes:**

- Consultations correct? Yes
- Description accurate? Yes
- Red line correct? Yes
- Site notice - displayed correctly – Yes (checked on 23/11/06)
- Drawings accurate & complete? Yes:
- Is FRA required? Yes
- EIA required? No

**Acknowledged:** Spoke to agent on 24 November 2006

**Site visit date:** 23 November 2006

**Building:** See file note pics

**Materials:** N/a

**Boundaries:** 2m high close boarded fencing on highway and NW boundaries of site. Beyond NW boundary is a line of mature trees. SW boundary with concrete manufacturing business is partially open. Palisade fencing on NE boundary.

**Levels:** Slight upward slope towards western corner of site

**Access:** From Gin Close Way

**Vegetation:** None affected by proposal

**Similar development:** None evident at time of visit

**Surroundings:** Commercial – Site is in Green Belt. With SINC beyond northern boundary

**Consultations:**

- Notts CC (Highways) – No objections in principle – TAPA required.
- Notts CC(Planning) – object – not an appropriate use in the green belt. Site is bordered by a SINC – objects unless Council can demonstrate reasons to outweigh the need to safeguard the nature conservation value of this site.

**Councillors & Parish/Town Council**

- Councillor M. G. Wright – no comments received
- Councillor M Brown - no comments received
- Councillor Mrs M. Handley - no comments received
- Greasley Parish Council – No objection providing surface water run-off does not contaminate the Gilt Brook

**Neighbours:**

**Planning history:**

- 02/10358/ENQ - Wood shreading processor - EC
- 79/00070/FUL - USE LAND FOR OPEN STORAGE - REF
- 84/00395/FUL - CHANGE USE TO OFFICE & SALES - REF
- 86/00067/FUL - Continue use of land for open storage - PERC
- 89/00008/FUL - CHANGE USE TO REPAIR AND STORAGE OF WOODEN PALLETS - PERC
- 94/00549/FUL - RETAIN PALLET SALES AND STORAGE UNIT, ERECT

2.4M BOUNDARY FENCE AND SITE PORTABLE TOILET & CANTEEN BLOCKS - PERC

- 94/09034/ADV - RETAIN ONE AND ERECT 2 NO. ADVERTISEMENT BOARDS - PERC
- 06/00923/FUL - Construct workshop, storage building and office in connection with use of land for renovation, storage and sale of portable buildings - PCO
- 93/00903/ENF - Enforcement Enquiry - CLOSED
- 94/00549/ENF - Enforcement Enquiry - CLOSED
- 94/00972/ENF - Enforcement Enquiry - CLOSED

**Proposal:**

Construct workshop, storage building and office in connection with use of land for renovation, storage and sale of portable buildings

**Policy context**

Broxtowe Local Plan 2004

- E1 – Good Design
- E8 – Development in Green Belt
- EM3 – Expansion/Redevelopment of Existing Employment Premises
- E28 - Protection of Floodplains

**Appraisal:**

**History**

Site has a long history of manufacture and outside storage of concrete products and asphalt. In 1984 the Planning Inspectorate allowed an appeal to change the use of half of the site to allow an office and the storage and sales of builders materials (5/07/84/0395). A further application was granted in 1986 to use the remaining half of the site for open storage (5/07/86/0067). Planning permission to use the site for pallet sales, storage and repair was granted in 1989 subject to conditions including a maximum storage height of 5m (5/07/89/0008). In 1995 permission was granted to retain the pallet sales and storage unit plus the erection of a 2.4m high boundary fence and site portable toilet and canteen blocks (5/07/94/0549). According to the agent the pallet business vacated the site approx 6 months ago and is presently vacant with exception of storage building adjacent to highway.

**Proposal**

Application seeks permission to use the site for the storage, renovation and repair of portable buildings. It is also proposed to erect a workshop building measuring 19.2m x 12m with a pitched roof of 7m. This would be situated 5m behind existing storage building. Behind the workshop building it is proposed to erect another storage building of 12.2m x 6.4m with a shallow pitched roof of 6.5m in height. On the opposite side of the site access and adjacent to the boundary with the highway there would be a portable type building of 12.1m x 3.6m for the purposes of providing office accommodation. The workshop and storage building would be constructed in box profiled steel sheeting and the office block in grey coloured plywood.

Since submission the agent has been made aware of the strategic planning objections raised by the County Council on grounds of inappropriate development in the green belt. The agent has subsequently contacted the Council with an enquiry as to whether permission would be required to simply use the site for the storage of portable buildings and removal of the workshop/office/storage buildings from the proposal. The Council's Legal Dept have advised that the earlier consents specifically related to storage/repair and sale of pallets (a sui generis use) and therefore the proposal would require permission for a different sui generis use. I have been back in contact with the County Council since this legal opinion and they have stated that they would still raise objections to the proposal. It is their view that the storage of pallets and portable buildings is materially different in that the buildings, by virtue of their bulk would be likely to have a greater visual impact on the surrounding area and the green belt, even if a height restriction was imposed by condition.

In response to this opinion the agent has requested that the application proceed in its present form.



## Appraisal

In accordance with Government guidance in PPG2 (Green Belts), Policy 1/2 of the Nottingham Joint Structure Plan and Policy E8 of the Broxtowe Local Plan the erection of buildings for a storage purpose does not fall within the definition of appropriate development in the green belt. Despite the longstanding employment use of the site the proposal is contrary to the above policies/guidance and therefore in my opinion be refused. Furthermore, even if the proposed buildings were removed from the scheme, the use of the site for the storage of portable buildings is also likely to be considered as inappropriate on grounds that those structures, by virtue of their bulkier appearance compared to pallets, would have a harmful impact on the open character of the green belt.

On a separate matter, the site is adjacent to Gilt Brook a watercourse that runs close to the northern boundary of the site. According to Environment Agency records the site falls within Floodplain Zones 2 and 3. Their guidelines state that for developments of this nature in these areas the applicant should contact the Env Agency to discuss the scope of the specific requirements of their flood risk assessment. The agent has been informed of this matter, however, no FRA has been submitted. The Env Agency advises that in situations where an FRA is not submitted they would object to the proposal. Accordingly, I am of the opinion that the proposal is unacceptable due to this objection.

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## RECOMMENDATION

**Reference number:** 06/00923/FUL  
**Proposal:** Construct workshop, storage building and office in connection with use of land for renovation, storage and sale of portable buildings  
**Site address:** Awsworth Pallets Gin Close Way Awsworth Nottinghamshire NG16 2TA  
**Officer:** Mr A Rogers  
**Target date:** 28 December 2006

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**Recommendation:** Refuse

Monitor? M = Yes

**Conditions:**

- (1) In the opinion of the Local Planning Authority the proposed development is considered to be unacceptable as it would not represent an appropriate form of development in the green belt as defined by Planning Policy Guidance Note 2: 'Green Belts', Policy 1/2 of the Nottingham and Nottinghamshire Joint Structure Plan (2006) and Policy E8 of the Broxtowe Local Plan (2004).
- (2) The site lies within Floodplain Zones 2 and 3 where there is a requirement for the submission of a flood risk assessment in accordance with the advice of the Environment Agency. No flood risk assessment has been submitted by the applicant and accordingly it is considered the proposal is contrary to Policy E28 of the Broxtowe Local Plan (2004).

**Reasons:**

**Note to applicants:**

**Summary of policies and reasons for decision:**

E1  
E8  
EM3  
E28

**Advertised as a  
Departure:**

Yes

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**Case Officer (initials):** AMR  
**Checked by (initials):**

**Date:** 22 December 2006  
**Date:**

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# Notice of Planning Decision

## Town and Country Planning Act 1990

### **TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010**

### **TOWN AND COUNTRY PLANNING (CONSULTATION) (ENGLAND) DIRECTION 2009**

**APPLICATION REF. NO.:** 5/12/00122/CCR

**APPLICANT:** T & K Gallagher Ltd

**DEVELOPMENT:** Retention of utilities yard, including the siting of portacabin offices, vehicle parking, materials storage and auxiliary inert waste material processing for a temporary period of five years

**LOCATION:** Gin Close Way, Kimberley

Following consideration of an application for the above development as shown on the submitted plans, NOTTINGHAMSHIRE COUNTY COUNCIL, in pursuance of their powers under the above Act, hereby

### **GRANT PLANNING PERMISSION**

for the development in accordance with the application, subject to compliance with the attached conditions and for the following reasons.

**Failure to comply with the terms of this permission may render the development unlawful.**

Date of decision 27 March 2013

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Authorised to sign on behalf of the County Council

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State, in accordance with section 78 of the Town and Country Planning act 1990, within six months of the date of this notice. Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Bristol BS1 6PN. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements (\*) to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

**(\*) The statutory requirements are those set out in section 79(6) of the Town and Country Planning Act 1990, namely sections 70(1)-(3) and 72(1) of the Act.**

(2) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Common Council, or on the Council of the County Borough, London Borough or Country District in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 114 of the Town and Country Planning Act 1990.

(4) The validity of this decision maybe challenged by persons with sufficient interest through a claim for judicial review. Any such claim must be filed with the Administrative Court promptly and in any event not later than three months after the date of the decision. Such claims can be costly and should be pursued as a last resort after all other action has been exhausted. You would be advised to seek professional legal advice before pursuing a claim for judicial review. The full procedures governing the making of such a claim are set out in the Civil Procedure Rules Part 54.

**NOTE:** THIS PERMISSION REFERS ONLY TO THAT REQUIRED UNDER THE TOWN AND COUNTRY PLANNING ACTS AND DOES NOT INCLUDE ANY CONSENT OR APPROVAL UNDER ANY OTHER ENACTMENT, BYLAW, ORDER OR REGULATION.

## **SUMMARY OF REASONS FOR GRANTING PERMISSION**

The application is for the temporary five year use of land for a mixed commercial storage/waste processing operation. The development has been considered against the relevant policies of the Broxtowe Local Plan (BLP) and the Nottinghamshire and Nottingham Waste Local Plan (WLP).

The BLP Proposals Map identifies that the site is situated within the Green Belt. BLP Policy E8 sets out the categories of development considered appropriate to the Green Belt which identifies that the proposal is inappropriate development within the Green Belt when considered against the criteria of this policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. Material considerations relevant to the determination of this planning application include:

- a. The previous use of the planning application site for a mixed storage use;
- b. Central Government policy set out within the National Planning Policy Framework (NPPF) which states that the redevelopment of brownfield sites within the Green Belt can be considered as appropriate development;
- c. Support provided within Planning Policy Statement 10 (PPS10) Planning for Sustainable Waste Management in terms of locating waste facilities on brownfield sites;
- d. WLP Policy W9.1 which encourages the siting of waste transfer stations on industrial land;
- e. BLP Policy EM3 which supports the re-development of existing employment sites.
- f. These material considerations argue in favour of permitting the development within a Green Belt location, subject to acceptable environmental impacts, despite the development being considered as inappropriate in the context of BLP Policy E8.

The environmental effects of the development have been assessed against the environmental protection policies contained within Chapter 3 of the WLP and relevant Government guidance. Subject to the use of appropriate planning conditions, significant adverse impacts would not result. In reaching this conclusion consideration has been given to WLP Policy W3.3 relating to visual impact where it has been shown that the development would not significantly change the visual appearance of the site from the use that is currently authorised; Policy W3.5 and W3.6 where it has been shown that site drainage is satisfactorily thus ensuring that any pollution is adequately controlled; controls relating to the types of waste received at the site would ensure that odour impacts are controlled thus ensuring compliance with Policy W3.7; controls over the activities undertaken on the site including restrictions over the operating hours would ensure that noise emissions are controlled thereby ensuring compliance with Policy W3.9; an appropriate dust management strategy would be put in place to ensure compliance with Policy W3.10; the use of hard surfacing on the site would avoid mud and other detritus entering the highway thus ensuring compliance with Policy W3.11; the



revised site layout ensures that activities are not undertaken within the highest flood risk parts of the site thus ensuring compliance with Policy W3.13; and traffic generated by the site is comparatively low thus ensuring compliance with Policy W3.14 relating to road traffic. The County Council therefore concludes that any potential harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

### **Statement of Positive and Proactive Engagement**

In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

### **SCHEDULE OF CONDITIONS AND REASONS**

#### **Scope of Planning Permission**

1. The development hereby permitted is for the retention of a utilities yard including the siting of portable offices, vehicle parking, materials storage and auxiliary inert waste material processing for a temporary five year period expiring on 31<sup>st</sup> March 2018. At the end of this five year temporary period the use shall cease and the portable office building shall be removed from the site. The site shall thereafter be returned to a condition suitable for its previous use (see informative note 4).

*Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990 and in recognition of the applicant's request that the planning permission only be granted for a temporary duration so as to maintain the development rights permitted by Broxtowe Planning Permission reference 09/00601/FUL.*

2. Unless otherwise required pursuant to conditions of this permission, the development shall be carried out in accordance with the submitted application and supporting information, as amended, and the following plans and documents:
  - a. Planning application forms received by the Waste Planning Authority (WPA) on 14<sup>th</sup> December 2011.
  - b. Design and access statement received by the WPA on 14<sup>th</sup> December 2011.
  - c. Supporting information for a planning application statement received by the WPA on 14<sup>th</sup> December 2011.
  - d. Noise impact assessment received by the WPA on 23<sup>rd</sup> February 2012.
  - e. Flood risk assessment received by the WPA on 17<sup>th</sup> April 2012.
  - f. Site Location Plan received by the WPA on 14<sup>th</sup> July 2011.
  - g. Drawing: Nottingham Site Plan for Gallagher received by the WPA on 6<sup>th</sup> March 2013.
  - h. BWB Letter dated 6<sup>th</sup> February 2013 (flooding assessment) and supporting Drawing No. NTW/2095/W05 Rev. P1: 100 year (+20%) modelled flood depths on proposed layout for Gin Close Way, received by the WPA on 6<sup>th</sup> March 2012.

*Reason: For the avoidance of doubt as to the development that is permitted.*

**Controls relating to permitted waste**

3. Only inert waste shall be imported onto the site. The operator shall inspect all incoming loads upon delivery to the site to ensure that only inert waste is received at the site. Any non-compliant loads including putrescible or potentially odorous wastes contained within incoming loads shall be removed from the waste immediately upon receipt and placed into a sealed airtight storage container/skip for storage. This waste shall thereafter be removed from the site within 72 hours of its delivery.

*Reason: To minimise potential odour emissions in compliance with Nottinghamshire and Nottingham Waste Local Plan Policy W3.7.*

4. Waste materials shall only be stored within the appropriately designated bays as identified on Drawing: Proposed new Morrisons (MRS) North Depot and GRS Recycling Site, Junction 26 M1, Nottinghamshire received by the WPA on 29<sup>th</sup> March 2012.

*Reason: In the interest of visual amenity and to ensure compliance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.*

**Capacity of Site**

5. The maximum amount of waste material accepted at the site shall not exceed 60,000 tonnes per annum. A written record shall be kept by the site operator of the amounts of waste accepted and it shall be made available to the WPA within 7 days of a written request from the WPA.

*Reason: To ensure impacts arising from the operation of the site do not cause unacceptable disturbance to local communities in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

6. There shall be a maximum of 15 visits by lorries (30 movements) each day. Written records shall be maintained of all lorry movements including the time of day such movements take place and registration number. Copies of the lorry movement records shall be made available to the WPA within 7 days of a written request being made by the WPA.

*Reason: To limit lorry movements in line with the application as assessed and in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

**Operating Hours**

7. Except in emergencies to maintain safety at the site (which shall be notified to the WPA within 48 hours of their occurrence), the site shall only be operated in accordance with the time periods specified below.

Operation	Working Hours
Vehicle movements in connection with the delivery of waste including associated loading & unloading.	05:30 to 20:00 seven days a week. Not at all on Bank & Public Holidays.
Operation of screen, crusher and loader in connection with waste processing.	08:00 to 17:00 Monday to Saturday and not at all on Sundays or Bank & Public Holidays.

*Reason: To minimise potential noise disturbances from the operation of the site and to ensure compliance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

### Noise

8. Only plant and machinery which is listed within paragraph 3 of the Noise Impact Assessment report received by the WPA on the 23<sup>rd</sup> February 2012 comprising a Powerscreen 1400, Powerscreen Metrotrak Crusher and JCB 460 Loader shall be operated within the site, unless the details of any new plant/machinery are first agreed in writing by the WPA. Any request to operate additional machinery shall incorporate details of the sound power output of the machinery to be operated.

*Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

9. Measures shall be used to ensure that noise generated within the site is kept to a minimum. Such measures shall include the fitting and use of effective silencers to plant and machinery in accordance with the manufacturers' specifications and recommendations and the regular servicing of plant and machinery.

*Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

10. All reversing warning devices used on mobile plant under the control of the operator shall comprise white noise (broadband) alarms.

*Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

11. Noise levels from site operations shall not exceed a daytime noise criterion of 5dB(A) the existing background noise level after the addition of the 5dB(A) penalty to reflect tonal, discrete or impact noise (as advised in BS4142 :1997) at any residential property. In the event that a complaint is received regarding noise arising from the development hereby permitted which the WPA considers may be justified the operator shall, within 1 month of a request of the WPA, undertake and submit to the WPA for its written approval a BS4142 : 1997 noise survey to assess whether noise arising from



the development exceeds the daytime noise criterion of 5dB(A) above the existing background noise level after the addition of the 5dB(A) penalty to reflect tonal, discrete or impact noise as advised in BS4142 :1997. The monitored noise levels are to be "free-field" carried out at a height of 1.2m to 1.5m above ground level and presented as a Laeq1hour, value. In the event that the noise survey indicates that the levels are in excess of 5dB(A) above background (as corrected by the 5dB(A) penalty to reflect tonal, discrete or impact noise as advised in BS4142 :1997), the submitted survey shall include further measures to mitigate the noise impact so as to ensure compliance with the noise criterion. Any mitigation measures agreed in writing by the WPA shall thereafter be implemented throughout the operational life of the site.

*Reason: To minimise noise impacts arising from the operation of the site, and to protect the amenity of nearby occupiers in accordance with Policy W3.9 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Dust**

12. Dust emissions shall be kept to a minimum and contained within the site. The operator shall take the following actions to ensure that dust emissions are minimised:
- a. The use as appropriate of a dust suppression system throughout all working areas, particularly during periods when processed timber is being deposited and loaded. A suitable and sufficient water supply shall be provided to the site at all times to enable the suppression of dust by water spray;
  - b. The use as appropriate of water bowsters and/or spray systems to dampen the access roads, vehicle circulation and manoeuvring areas;
  - c. The regular sweeping of haul roads;
  - d. The temporary cessation of waste processing during periods of extreme dry and windy weather.

In the event that dust emissions are not contained within the site the operator shall, within two weeks of a written request of the WPA, prepare and submit a mitigation strategy to remedy the nuisance. The mitigation strategy shall thereafter be implemented as approved in writing by the WPA and the mitigation measures maintained throughout the operational life of the site.

*Reason: To minimise disturbance from dust in accordance with Policy W3.8 and Policy W3.10 of the Nottinghamshire Waste Local Plan.*

### **Storage Heights**

13. The maximum storage height of waste materials stored on the site shall be 5m.

*Reason: In the interest of visual amenity and to ensure compliance with Policy W3.3 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Car Parking**

14. The car parking area identified with yellow shading on Drawing: 'Nottingham Site Plan for Gallagher received by the WPA on 6th March 2013' shall be kept free of all obstructions and only be used for its designated purpose.

*Reason: To ensure satisfactory off-street car parking in accordance with Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Oil Storage**

15. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity of all storage containers. All filling points, vents and sight glasses must be located within the bund. There must be no drain through the bund floor or wall.

*Reason: To protect ground and surface water from pollution in accordance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Flooding**

16. Within the areas of greatest risk from flooding from the Gilt Brook (defined as those areas which would experience flood water depths greater than 300mm and shaded either blue or pink on Drawing No. NTW/2095/W05 Rev.P1: 100 year (+20%) modelled flood depths on proposed layout received by the WPA on 6<sup>th</sup> March 2013), there shall be no external storage of materials or any vehicular parking. The 'grab wagon' parking shall be sited within the centre of the site as detailed on the site plan received by the WPA on 6<sup>th</sup> March 2013.

*Reason: To ensure that site activities are resilient to flooding impacts and do not result in adverse flooding impacts to surrounding land in accordance with Policy W3.13 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **Early Cessation of Temporary Operations**

17. In the event that the use of the site as a utilities yard should cease for a period in excess of three months then, within one week of a written request from the WPA, the site shall be cleared of the portable buildings, all stored waste and recycled materials. The site shall thereafter be returned to a condition suitable for its previous use (see informative note 1).

*Reason: To ensure satisfactory restoration of the site in accordance with Policy W4.1 of the Nottinghamshire and Nottingham Waste Local Plan.*

### **NOTES TO APPLICANT**

1. **The development hereby permitted must be carried out in accordance with the conditions attached to this planning permission and any approved plans and details. Failure to implement the permission in accordance with the planning conditions and approved details may render the development unlawful and could lead to enforcement action and prosecution.**
2. **If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the County Planning Authority in advance of**

**implementing any changes to ascertain whether the proposed changes require any further planning approval.**

- 3. Where appropriate there is a fee payable currently £97 where a written request is made for the discharge of one or more conditions on the same permission or for confirmation that condition(s) on a permission have been complied with. The fee is payable for each request and not for each condition. When submitting a fee, please provide the planning application reference number making cheques payable to Nottinghamshire County Council and send them to the Planning Support Officer in Planning Services at Nottinghamshire County Council, Trent Bridge House, Fox Road, West Bridgford Nottingham NG2 6BJ.**
- 4. For the avoidance of doubt the use of the land prior to the grant of this planning permission is that granted on 15<sup>th</sup> October 2009, reference 09/00601/FUL, being open storage with associated auxiliary repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles with on-site storage to a maximum height of 5m together with the erection of an associated 2.4m high boundary security fence.**
- 5. The Environment Agency advise:**
  - a. Standard rules permit SR2010No12 requires that if the site is located outside Source Protection Zones 1 or 2 all permitted waste shall be stored on hardstanding or on an impermeable surface with a sealed drainage system. The site has an impermeable surface but there is uncertainty as to where surface water drains to. In order to ensure compliance with the above permit condition this needs to be clarified.**
  - b. A permit is required from the Agency under the terms of the Environmental Permitting Regulations 2010 for the proposed sewage discharge to a soakaway from the septic tank. Details of how to apply for a permit are available from the Environment Agency website**
- 6. Your attention is drawn to the Standing Advice from The Coal Authority dated 1<sup>st</sup> October 2008, set out below.**

DN5-7



**IMPORTANT NOTICE: REVISED STANDING ADVICE**

**Town and Country Planning (General Development Procedure) Order  
Planning Application Consultations with the Coal Authority**

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained by contacting the Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)



# BROXTOWE BOROUGH COUNCIL

## NOTICE OF DECISION

### TOWN AND COUNTRY PLANNING ACT 1990

Application submitted by :

Mark Flatman

i Plan Solutions Ltd

PO Box 9170

Loughborough

Leicestershire

LE12 8ZQ

BROXTOWE BOROUGH COUNCIL having considered an application by or on behalf of

Applicant :

File Reference : **09/00601/FUL**

Proposal :

**Change of use from pallet storage, repair and trade sales to open storage with associated auxiliary repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles with on site storage to a maximum height of 5m together with the erection of associated 2.4m boundary security fencing**

Site Address :

**Awsorth Pallets Gin Close Way Awsorth Nottinghamshire NG16 2TA**

as shown on the plans submitted with the application, which application and plans and any relevant correspondence are hereinafter referred to as "the application", HEREBY in pursuance of their powers under the above mentioned Act

## GRANT PERMISSION

for the development in accordance with the application, subject to compliance with the Conditions imposed, and the subsequent approval of all matters referred to in the conditions, for the reasons set out below.

Conditions :

1. The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.
2. No structures, items or vehicles included in this permission shall be in excess of 5m in height or stacked higher than 5m above ground level.
3. Notwithstanding, the details on drawing number NTW/284/003 Revision 1, prior to the commencement of development a plan showing parking spaces and a vehicle turning area shall be submitted to and approved in writing by the Local Planning Authority. The parking spaces and turning area shall be provided in accordance with the approved details, prior to the approved use coming into operation and shall be used for no other purpose for the life of the development.
4. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include planting of soft landscaped areas around the perimeter of the site.
5. The approved landscaping shall be carried out not later than the first planting season following the substantial completion of the development or occupation of the building(s), whichever is the sooner and any trees or plants which, within a period of 5 years, die, are removed or have become seriously damaged or diseased shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority, unless written consent has been obtained from the Local Planning Authority for a variation.

Continued...





6. The palisade fencing shall be colour coated moss green (RAL number 6005) unless a variation is first submitted to and approved in writing by the Local Planning Authority.
7. No unroadworthy caravans, camper vans or similar vehicles shall be stored on the site, or stored for scrap purposes.
8. No repairs or dismantling works shall be permitted on the site to caravans, camper vans or similar vehicles.

Reasons :

1. To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. In the interests of visual amenity and protecting the openness of the Green Belt in accordance with the aims of PPG2 – Green Belts
3. To ensure that the approved storage use does not encroach into areas required for vehicle turning and parking and in the interests of highway safety.
4. No such details were submitted and to ensure that the details are satisfactory in the interests of the appearance of the area and in accordance with the aims of Policy E8 of the Broxtowe Local Plan (2004).
5. To ensure the development presents a more pleasant appearance in the locality and in accordance with Policy E8 of the Broxtowe Local Plan (2004).
6. To ensure that the fencing has an appropriate appearance and in accordance with the aims of Policy E1 of the Broxtowe Local Plan (2004)
7. In the interests of visual amenity and protecting the openness of the Green Belt in accordance with the aims of PPG2 – Green Belts
8. In the interests of visual amenity and protecting the openness of the Green Belt in accordance with the aims of PPG2 - Green Belts.

Summary of policies and of reasons for decision :

It is accepted that the proposal would not accord with Policy E8 of the Broxtowe Local Plan but it is considered that there are very special circumstances such as the previous approved use of the site and the site's long standing open storage history. It is considered that the proposal will pose no additional harm to the Green Belt, than previously approved uses.

**Note to Applicant**

1. This permission relates to the scheme as supplemented by the additional information received on 17 and 24 September 2009.
2. The applicant is advised that drawing number NTW/284/003 Revision 1 is not considered acceptable for the purpose of the condition, because it is insufficiently clear as to the area reserved for vehicle turning, for enforcement purposes.



Authorised Officer

Date: 15 October 2009

Attention is drawn to the notes enclosed



## Report of the Chief Executive

**14/00238/FUL****THE RETENTION OF USE OF LAND FOR TRADE SALES OF CARAVANS, CAMPERVANS AND SIMILAR VEHICLES WITH ASSOCIATED REPAIR TOGETHER WITH THE ERECTION OF ASSOCIATED WORKSHOP, 2 PORTABLE OFFICE BUILDINGS, SECURITY FENCE, ENTRANCE GATES, SECURITY LIGHTING AND ASSOCIATED PLANT  
OAK TREE MOTOR HOMES LTD GIN CLOSE WAY AWSWORTH**

The application is brought before the Committee as the proposal is classed as a departure from Local Plan policies.

1. Details of the application

- 1.1 The application seeks planning permission to retain the use of land for trade sales of caravans, campervans and similar vehicles with associated repair together with the erection of associated workshop, two portable office buildings, security fence, entrance gates, security lighting and associated plant.

2. Site and surroundings

- 2.1 The site is located on Gin Close Way, Awsworth, adjacent to Whitehead Concrete Ltd located to the south of the site and TK Gallagher to the north, which was granted planning permission from Nottinghamshire County Council in April 2013 for "Utilities yard, including the siting of Portacabin offices, vehicle parking, materials storage and auxiliary inert waste material processing". On the opposite side of Gin Close Way are a petrol filling station and a building and timber supplies merchant. The submitted Landscape report considers the immediate area of the site to be "industrial".
- 2.2 The site has an area of approximately 0.49ha and is located within Flood Zone 3a, with the Gilt Brook running along the north west boundary of the site. The site is also located within the Nottingham-Derby green belt.
- 2.3 There are no nearby residential properties which are affected by the operation of the business.
- 2.4 The site is relatively flat and positioned approximately 20cm below the level of Gin Close Way. The site ground is covered with permeable gravel surfacing with tarmacadam surfacing within the Whitehead site to prevent the material spilling onto the public highway.
- 2.5 The site is currently bounded with a 2.4m high palisade fence, with 2m high timber panels with barbed wire above to the rear boundary of the site. To the rear of the site is a belt of mature silver birch trees, which help provide natural screening of views in and out of the site.



- 2.6 Access to the site is off the A6096, Gin Close Way where there is a right turn available into the site. The entrance to the site is not directly onto Gin Close Way, but a shared area with Whitehead Concrete Ltd, which is also the owner of the Oak Tree Motorhomes site.

2.7 Right hand turn into site



Rear boundary fence



Ground cover



From Gin Close Way



Reception/ offices



Workshop building



Adjacent Whitehead Concrete site



Adjacent TK Gallagher site



### 3. Relevant planning history

- 3.1 Manufacturing has been an activity carried out on the whole site since 1927, with concrete manufacturing and storage since 1949. During the 1980s the site was split into 3 sections now known as Whitehead Concrete Ltd, Oak Tree Motorhomes and TK Gallagher. In 1984 an appeal was allowed for the storage and sale of building materials, in which the inspector concluded that this use would be “no more incompatible with the green belt than the previous use” (Whitehead Concrete). In 1986, planning permission was granted to Whitehead Concrete Ltd to continue the use of the land for open storage.
- 3.2 In 1989 permission was granted to retain the use of land for the repair and storage of wooden pallets. This permission included a condition restricting the height of stacked pallets to 5m. In 1994, planning permission was granted on site to retain a pallet sales and storage unit and to erect a boundary fence, portable toilet and canteen blocks.
- 3.3 In 2006, planning permission was refused for the construction of “Workshop, storage building and office in connection with use of land for renovation, storage and sale of portable buildings” as it was considered that the development would not be appropriate development within the green belt and no flood risk assessment was submitted as required for the application. In 2007 planning permission again was refused for the change of use to storage and distribution of portable buildings, due to the lack of a flood risk assessment.
- 3.4 In 2009 planning permission was granted for Change of Use from pallet storage, repair and trade sales to open storage with associated auxiliary repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles with on-site storage to a maximum height of 5m together with the erection of associated 2.4m boundary security fencing on the site to the north of Oak Tree Motorhomes. In December 2011 Oak Tree Motorhomes entered a lease on the site at Awsorth after vacating their previous site in Ashfield. Shortly after, the applicant became aware that the planning permission which had

been granted in 2009 which applied at the TK Gallagher site did not include the site currently under consideration.

4. Policy context

4.1 Broxtowe Local Plan (2004)

4.1.1 Policy E1 of the Broxtowe Local Plan states that planning permission may be granted when development respects the character of the area, is well designed and does not significantly harm the amenity of occupiers of neighbouring properties.

4.1.2 Policy E8 of the Broxtowe Local Plan states that planning permission will not be granted for development in the green belt except where it constitutes appropriate development. This can include the change of use of buildings in the green belt to employment and tourism uses which help diversify the economy.

4.1.3 Policy E33 of the Broxtowe Local Plan states that planning permission will not be granted for lighting schemes unless it is demonstrated that they will use the minimum amount of lighting necessary and that measures are taken to minimise any adverse impacts of light beyond the site.

4.1.4 Policy EM3 of the Broxtowe Local Plan states that permission will be granted for employment uses to redevelop or extend within existing sites provided that the environmental and traffic effects are acceptable.

4.2 Broxtowe Draft Aligned Core Strategy

4.2.1 The Broxtowe Draft Aligned Core Strategy is well advanced in its public examination with the hearing sessions having taken place in October and November 2013 and therefore, in line with government policy, moderate weight can be attached to this document. The Broxtowe Draft Aligned Core Strategy is consistent with Local Plan policies unless otherwise stated.

4.2.2 Policy 1 "Climate Change" states that all development proposals will be expected to deliver high levels of sustainability to mitigate against and adapt to climate change. Policy 1 states that development in Flood Zones 2 and 3 will be considered on a sequential basis.

4.2.3 Policy 10 "Design and Enhancing Local Identity" states that all development should be designed to make a positive contribution to the public realm, create an attractive, safe and inclusive environment and be adaptable to meet the demands and effects of climate change. The policy also states that development will be assessed in relation to its massing, scale, proportion, materials, impact on the amenity of nearby residents and incorporation of features to reduce opportunities for crime and anti-social behaviour.



#### 4.3 National Planning Policy Framework:

- 4.3.1 The National Planning Policy Framework (NPPF) (2012) contains a general presumption in favour of sustainable development whereby planning permission should be granted unless permitting the development significantly and demonstrably outweighs the benefits. Paragraph 17 outlines 12 core planning principles which should underpin the planning system, including that planning should be plan-led, that high quality design and a good standard of amenity for existing and future occupants should be secured and that developments should be located in sustainable locations and effective use of brownfield land should be made. The NPPF also states that planning should proactively drive and support sustainable economic development to deliver homes, business, industrial units, infrastructure and local places the country needs. The same paragraph emphasises that planning should encourage the effective use of land by reusing land that has been previously developed provided that the land is not of high environmental value.
- 4.3.2 The NPPF also states that the government is committed to ensuring that the planning system does everything to support sustainable economic growth and that local planning authorities should plan proactively to meet the development needs of businesses.
- 4.3.3 Paragraph 80 of the NPPF sets out the purposes of including land in the green belt and paragraphs 87-89 states that development should not be approved for inappropriate development in the green belt except in “very special circumstances”, unless other considerations clearly outweigh the harm caused by the proposed development. Often the construction of new buildings in the green belt are considered inappropriate development, with exceptions including the limited infilling or partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the green belt.
- 4.3.4 The NPPF sets out that development should be avoided in areas at highest risk of flooding, by applying a sequential test to assess available sites for development. If following the sequential test no sites are found to be appropriate, it must be demonstrated by the developer that the benefits would outweigh the flood risk and that flood risk will not be increased as a result of the proposed development.
- 4.3.5 Paragraph 197 states that when determining applications, local planning authorities should apply the presumption in favour of sustainable development.

#### 5. Consultations

- 5.1 The occupier adjacent to the site at Whitehead Concrete has submitted a letter in support of the application. The letter states that the land was surplus to requirements and became very overgrown and unsightly. The owner of Whitehead Concrete also owns the land at Oak Tree Motorhomes and is the landlord of this site. The current occupier took over the site in 2011 and was under the misapprehension that the 2009 permission granted applied to the

entire site. In addition to the jobs created for the business, the supporter also states that Oak Tree Motorhomes also provides rental income to Foulds Investments Ltd. The site has been used for business purposes since 1927 and the applicant has improved the appearance of the site.

- 5.2 One member of the public has objected to the application. The grounds for objection are that the business has been trading without permission for a couple of years and that planning laws are there to be abided with. They also consider the site entrance is unsafe when vehicles are entering the site.
- 5.3 Broxtowe Borough Council's Environmental Health Officer has no objections or observations to planning approval being granted to retain the current use of the site.
- 5.4 Nottinghamshire County Council Highways have noted that the application is retrospective and that the site trades satisfactorily without any highway concerns. As a result there are no highway issues to consider.
- 5.5 The Environment Agency has no objections to the development subject to the development being in accordance with the mitigation measures as outlined in section 4 of Technical note (hydraulic modelling) NTW/2095/TN1 and layout as shown in drawing NTW/2095/W01-P3.
- 5.6 Nottinghamshire County Council Planning and Rural Environment departments have been consulted on the application but have not provided any response.
- 5.7 To advertise the application, a site notice was posted on Gin Close Way and an advertisement was placed within the Nottingham Evening Post.
- 5.8 The consultation period for the application expires on 16 July 2014. Any additional comments received in time will be reported at the Development Control Committee.

## 6. Appraisal

- 6.1 The application seeks retrospective planning permission to retain the use of land for trade sales of caravans, campervans and similar vehicles with associated repair, together with the erection of associated workshop, two portable office buildings, security fence, entrance gates, security lighting and associated plant. Planning permission for change of use from pallet storage, repair and trade sales to open storage with associated auxiliary repair and trade sales of pallets, sheds, fencing materials, portable buildings, building materials and caravans, camper vans and similar vehicles with on-site storage to a maximum height of 5m together with the erection of associated 2.4m boundary security fencing had been granted at the site next to the application site in 2009 (no TK Gallagher). The main issues to consider with the application are whether the development is considered "appropriate development" within the green belt and flooding issues on the site.

- 6.2 As well as the change of use, several structures have been erected on the site, which require planning permission. The supporting statement explains that the size, colour and location of the buildings have been considered so to have a minimal impact on the appearance of the site and surroundings.
- 6.3 Structure A is the office and reception building positioned on the North East boundary of the site. The building has a flat roof with a height of 2.96 metres, length of 17.065 metres and width of 7.41 metres. This building is of a similar height to the motorhomes on site and of a colour to blend in with the vehicles on sale.
- 6.4 Structure B is a temporary portacabin located to the rear of the workshop which is used as a staff rest area. The cabin has a flat roof with a height of 2.66 metres, length of 5.95 metres and width of 3.3 metres. This structure is not highly visible to members of the public and has limited impact on the openness of the green belt
- 6.5 Structure C is a brick service cabinet located to the far north-east corner of the site. The cabinet has a width of 1.125 metres, length of 1.8 metres and height of 1.67 metres. The cabinet is constructed of red brick with a concrete lid and timber doors. The cabinet is not of a significant height and is well screened by the boundary fencing. The materials used are appropriate for the structure and location of the development. This structure is not considered to be significantly harmful to the openness of the green belt.
- 6.6 Structure D is a steel workshop used for the maintenance of the vehicles for sale. This building has a width of 14 metres, length of 18.58 metres and an apex roof with a height of 5.25 metres. This structure is the largest one on the site and is constructed of steel. Attached to the rear of the workshop is a washing bay with platform which is not visible from Gin Close Way. This structure is coloured brown and blends in relatively well with the trees to the rear of the site.
- 6.7 Structure E is a storage container located to the rear (south-west) of the workshop. This container has a width of 3 metres, length of 9.6 metres and height of 2.45 metres.
- 6.8 The applicant states that the structures on site are of a relatively temporary nature and they would be willing to remove the buildings on the site following the ceasing of occupation. In order to protect the visual amenity of the area, it is considered appropriate to condition the removal of the buildings after 10 years, unless a formal application is made to extend this time limit.
- 6.9 Surrounding the site is a green 2.4 metre high palisade fence. This type of fencing is often used for sites requiring security and is often found at schools and industrial sites. This type of fencing is considered to be acceptable for this site and does not harm the openness of the green belt in this location, due to its colour and appearance. To the north-west rear boundary a timber fence with barbed wire has also been erected to provide additional privacy and security. Immediately behind this is a belt of mature trees, which provides



extensive natural screening of the site. Therefore it is not considered that the fencing is detrimental to the openness of the green belt

- 6.10 Surrounding the site are 7 lamp posts with flood lights attached. These lamp posts range from 6.33m to 6.53 metres high. A flood light is also attached to the fencing on the south-east (front) boundary. The site is not near residential property and therefore will not have an impact on residential amenity. The supporting Design and Access statement for the application states that the lights are controlled by sensors, working only when natural light fades. The Landscape and Visual Assessment has included photographs of the site at night to indicate the impact the light has on the area and in relation to the surrounding businesses such as the petrol filling station. This level of light is considered to be acceptable and in accordance with Policy E33 of the Broxtowe Local Plan (2004).
- 6.11 As part of the application a landscape and visual assessment has been submitted. The site is located within the Erewash Valley which is assessed as having medium landscape sensitivity. In this the assessment quotes the Greater Nottingham Landscape Character Assessment (2009) with recommended landscape action *“Ensure that further built development does not affect the character of the valley and suitable mitigation measures are put in place for larger developments, such as woodland planting to soften and screen it”*. This advice has been followed at the site with the retention of the trees to the rear north-east boundary.
- 6.12 The Landscape and Visual Assessment report concludes that when comparing the photographs of the site before the arrival of Oak Tree Motorhomes, and after the relocation of the business, the current use has no greater visual influence than the previous use for the storage of concrete manufacturing products and is no more visible from the open green belt to the west of the site. It concludes that the introduction of the floodlighting at night has been identified as only having a visual impact locally on Gin Close Way, where seen in context with the street lighting and opposite petrol station. The applicant has made an effort to improve the appearance of the site, supported by photos of the site before occupation. It is considered that this has had a positive impact on the visual amenity of the area.
- 6.13 Whilst outside storage is not classed as an appropriate use in the green belt, reference has to be made to the Inspector's decision from the 1984 appeal where it was considered that the storage and sales of building materials was acceptable at this site, taking into account the previous use of the site. The guidance of the NPPF states that appropriate development in the green belt can include the partial redevelopment of previous developed site, providing that the development would not have a greater impact on the openness of the green belt and the purpose of including land within it. Although motorhomes are on the site, these are easily removed and the structures on site are of a temporary nature and not considered to be any more harmful than the development on adjacent sites, which are also in the green belt. It is considered that the buildings and use, both individually and collectively, have no greater impact on the openness of the green belt and the purpose of including land within it than the previous uses. Therefore it is considered that

the development accords with the last bullet point of paragraph 89 of the National Planning Policy Framework.

- 6.14 A sequential test has been submitted as part of the application as the site is within Flood Zone 3a. The sequential test submitted is considered to be acceptable and there are no alternative sites within a suitable distance of the development which would be appropriate. The sequential test submitted identified 37 potential sites/plots of land with access to the M1 between junctions 25 to 28. Of these 37 sites, 4 had potential, however restrictions by other local planning authorities prevented the use of these sites for the sale of motor homes.
- 6.15 The hydraulic modelling, submitted with the application, indicates that the primary source of flooding on the site is from the Gilt Brook, which flows south along the western boundary before entering a culvert to the south west, which then discharges into an open watercourse south west of the site towards the sewage treatment works. The flood risk at the Oak Tree Motorhomes site is slightly less than the TK Gallagher site, which was granted similar planning permission in 2009, due to the slightly elevation position.
- 6.16 The use of the site for offices, storage and sales is classed as “less vulnerable” development under the National Planning Practice Guidance (2014) when considering the flood risk of a development. The guidance states that “less vulnerable development” is appropriate for Flood Zone 3a. The buildings required for the operation of the site have also been positioned in areas of the site of lower flood risk, as illustrated by the hydraulic modelling submitted with the application.
- 6.17 Throughout the preparation of the application, the Environment Agency has been consulted by the applicant, agent and consultants, BWB. The Environment Agency do not object to the development, subject to the development being in accordance to the mitigation measures outlined in the technical note and drawing submitted with the application.
- 6.18 Access into the site is off the A6096 Gin Close Way, where a right hand turn is available into the site and has been in use for a number of years. Therefore it is not considered that the proposed development would result in any highway safety issues. Nottinghamshire County Council have no highway safety concerns to the proposal.
- 6.19 The application states that as a result of the development, 22 full time employees are employed at the site, most of whom are local residents. The business on site also provides an income to the owner of Whitehead Concrete Ltd, who is situated adjacent to the application site.

## 7. Conclusion

- 7.1 Whilst the development is on a site within the green belt it is considered that, due to the previous use of the site for concrete manufacturing and storage, the use of the site as proposed is no more harmful to the openness of the green belt than previous uses. This has also been the opinion of an Inspector

of a previous appeal at the site when considering the storage and sale of builders materials.

- 7.2 The development, whilst not in accordance with saved Broxtowe Local Plan Policy E8, does adhere to policy contained within the National Planning Policy Framework, specifically paragraph 89, which is more up to date than Local Plan policies. Therefore greater weight can be attached to the policies of the NPPF rather than the more out of date Local Plan policies.
- 7.3 Policy EM3 of the Broxtowe Local Plan states that it is an aim of the Council to encourage existing business to develop in Broxtowe and that permission for employment uses will be permitted provided that the environmental and traffic effects are acceptable.
- 7.4 The site is within Flood Zone 3a, however the buildings are located in areas of the site which are at a lower risk of flooding and positioned a minimum of 40 metres from Gin Close Way, where the land level is higher and located within Flood Zone 1.
- 7.5 Taking the above into account, it is considered that the flooding issues on site are not significant enough to warrant the refusal of the application. While the development is in the green belt, taking into account paragraph 89 of the National Planning Policy Framework and material considerations such as the employment benefits the development creates, previous appeal decision, the permission granted in 2009 on the adjacent site and previous use of the land, the development is no more harmful to the openness of the green belt than any previous development on site and is considered to be acceptable.

### **Recommendation**

**Committee is asked to RESOLVE that planning permission be granted subject to the following conditions:**

- 1. The development shall be carried out in accordance with the mitigation measures as outlined in section 4 of the Technical Note: Hydraulic Modelling NTW/2095/TN1 received by the local planning authority on 17 April 2014 and drawing numbered NTW/2095/W01-P3 received by the local planning authority on 20 June 2014.**
- 2. The development shall be carried out in accordance with drawings numbered A-004, B-001A, B-002A, B-003 B, B-004 received by the local planning authority on 29 May 2014.**
- 3. The structures identified as A, B and E on drawing numbered A-003B hereby approved shall not remain on the site after 31 July 2024 and the site left in a tidy condition to the reasonable satisfaction of the local planning authority unless consent for a further period of time has been granted before that date.**
- 4. No repairs to or dismantling of caravans, campervans or similar vehicles shall be carried out except within the workshop (structure D).**



**Reasons**

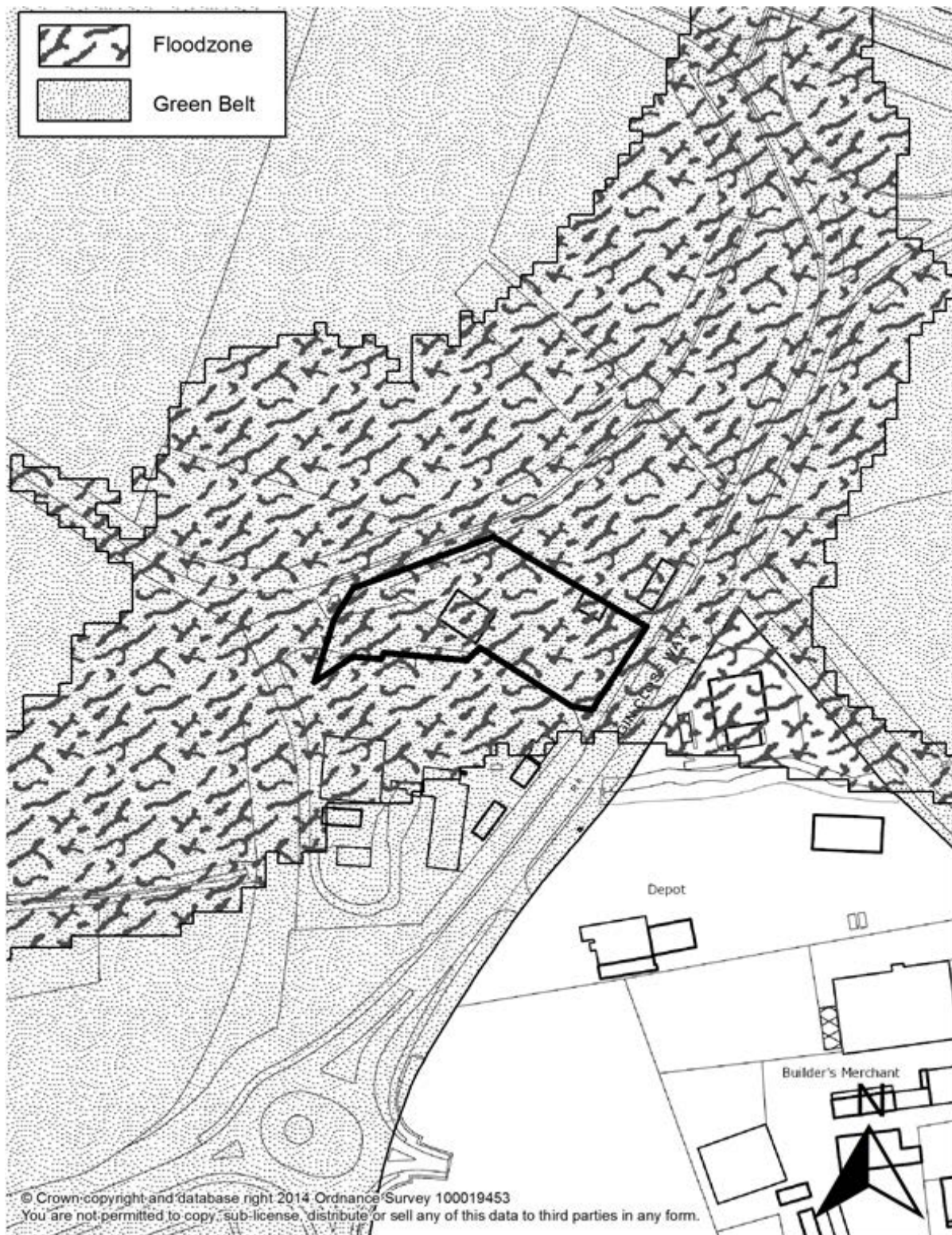
1. To ensure the issue of potential flooding is adequately addressed.
2. For the avoidance of doubt.
3. The buildings are of a temporary nature and their appearance is likely to deteriorate with time to the detriment of the visual amenities of the area and in accordance with Policy E1 of the Broxtowe Local Plan (2004).
4. In the interests of visual amenity and to protect the openness of the green belt in accordance with Policy E8 of the Broxtowe Local Plan (2004) and the aims of the National Planning Policy Framework (2012).

**Note to applicant**

The Council has acted positively and proactively in the determination of this application in line with the guidance contained within paragraphs 186 and 187 of the National Planning Policy Framework and in seeking amendments during the consideration of the application.

Background papers

Application case file

**Oak Tree Motor Homes Ltd, Gin Close Way, Awsworth**

The retention of use of land for trade sales of caravans, campervans and similar vehicles with associated repair together with the erection of associated workshop, 2 no. portable office buildings, security fence, entrance gates, lighting and associated plant.

Development Control Committee 16 July 2014  
**Chief Executive's Department**

Scale: 1: 2,500



Judgments

# Calverton Parish Council v Nottingham City Council and others

*Town and country planning - Conservation area - Development plan - Claimant Parish Council of enclave within Green Belt applying to quash aligned core strategies adopted by defendants as part of development plan - Whether defendants failing to consider whether housing numbers should be reduced to prevent release of Green Belt land - Whether defendants failing to apply national policy - Whether defendants' sustainability appraisal failing to satisfy relevant requirements - Planning and Compulsory Purchase Act 2004, ss 39 (2), 113 - Environmental Assessment of Plans and Programmes Regulations 2004, SI 2004/1633*

[2015] EWHC 1078 (Admin), CO/4846/2014, (Transcript: DTI Global (A DTI Global Company))

JAY J

24 MARCH, 21 APRIL 2015

21 APRIL 2015

R Turney for the Claimant

M Ellis QC and A Graham-Paul for the Defendants

R Honey for the Interested Parties

Public Access Scheme; Nottingham, Broxtowe and Gedling Borough Councils; Walker Morris LLP, Leeds

JAY J:

## INTRODUCTION

[1] This is an application brought under s 113 of the Planning and Compulsory Purchase Act 2004 ("the Act") to quash, in part, the Greater Nottingham - Broxtowe Borough, Gedling Borough and Nottingham City - Aligned Core Strategies ("the ACS"), adopted by the Defendants in September 2014. The ACS is part of the development plan for each of the three Council's areas.

[2] Broxtowe Borough and Gedling Borough are contiguous with the outer boundary of the city of Nottingham, and substantially comprise Green Belt. The Claimant is a Parish Council within Gedling Borough and may be described as an enclave within Green Belt. Two Interested Parties have intervened in these proceedings: they own land at Toton, which is within Broxtowe Borough and technically, Green Belt. Although Toton is some distance away from the city boundary, it may fairly be characterised as within the main built-up area of Nottingham.

[3] Development within Green Belt is never without controversy. It is clear from the "Chronology of Events", namely App 1 to the witness statement of Alison Gibson dated 11 November 2014, that a strategic review of the Nottingham-Derby Green Belt has been on the table for some time. The precise concatenation of events is not relevant to this application. The ACS was subject to independent review by a planning Inspector, Ms Jill Kingaby, and examination hearings took place in 2013 and 2014. On 24 July 2014 the Inspector published her report, approving the ACS with modifications. The Claimant's advisors identified what were considered to be legal deficiencies in the report, but notwithstanding its contentions the ACS was adopted by the three Councils on various dates in September 2014.

[4] The Inspector's report and the ACS will require more detailed exposition subsequently. At this stage, it is appropriate to turn to the relevant legislative framework. I will focus now on the legislative provisions relevant to Grounds 1 and 2; Ground 3 raises a discrete point, and will be addressed subsequently.

## THE STATUTORY SCHEME

[5] I was taken to all the relevant provisions of the Act. Some of these explain the status of the ACS as a local plan, included in the local development documents which form part of the development plan for each of the three Council's areas (see, in particular, ss 15, 17 and 38). I will concentrate on the statutory provisions which bear on the issues between the parties.

[6] Section 19(2) of the Act provides:

"In preparing a development plan document or any other local development document the Local Planning Authority must have regard to -

(a) national policies and advice contained in guidance issued by the Secretary of State;

...

(h) any other local development document which has been adopted by the Authority;"

[7] Section 20 provides for independent examination by the Secretary of State's Inspector. Pursuant to s 20(5):

"The purpose of an independent examination is to determine in respect of the development plan document -

a) whether it satisfies the requirements of section 19 . . . ;

b) whether it is sound;"

[8] The definition of the adjective "sound" is not to be found in the Act itself but in national policy - the latter being "guidance issued by the Secretary of State" for the purposes of ss 19(2)(a) and 34, and to which regard must be paid.



[9] Miss Morag Ellis QC for the Defendants placed particular weight on s 39 of the Act, which provides:

"SUSTAINABLE DEVELOPMENT

1) This section applies to any person who or body which exercises any function -

b) under Part 2 of this Act in relation to local development documents;

...

2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development"

[10] I agree that this confers a positive obligation on the Councils, but its limitations need to be understood. "Sustainable development" is not a concept which is defined in the Act, in which circumstances the enlightenment which is required may only be found in national policy.

[11] Section 113 confers powers on this court to intervene if satisfied "that a relevant document [including a development plan] is to any extent outside the appropriate power". It is common ground that the jurisdiction of this court on this statutory appeal is akin to Judicial Review. The Court of Appeal has explained on a number of occasions (see, for example, *Blythe Valley BC v Persimmon Homes (North East Ltd) and another* [2009] JPL 335) that whether a development plan complied with national policy guidance was largely a matter of planning judgment with which the court should be slow to interfere, subject always to that guidance being properly understood.

NATIONAL POLICY

[12] Relevant national policy is located in the National Planning Policy Framework ("the NPPF"), published by the Department for Communities and Local Government in March 2012. I was taken to the National Planning Policy Guidance finalised in March 2014. This is referred to in the Inspector's report, but in my view does not significantly supplement the NPPF.

[13] "Sustainable development" is not expressly defined in the NPPF, but light is nonetheless thrown on it. The effect of para 6 of the NPPF is that the substantive policies set out elsewhere in this national policy, interpreted and applied compendiously, amount to the Government's view of what sustainable development means. On one view, it represents a balance between three factors - economic, social and environmental - which are admittedly not necessarily complementary (see para 7). On another, if certain environmental factors are identified, then their weight must be assessed and these factors constitute a restriction or brake on what would otherwise be sustainable development. The NPPF is not worded with fine legal precision (it is a policy, not a commercial contract), but some further assistance is given by para 14, which provides:

"At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- Local Planning Authorities should positively seek opportunities to meet the development needs of their areas;

- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole, or

- specific policies in this framework indicate development should be restricted."

[14] This last aspect is footnoted as follows:

"For example, those policies relating to sites protected under the Birds and Habitats Directive (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, heritage coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion."

[15] I agree with Miss Ellis that development which meets objectively assessed needs is presumptively sustainable, but I would add that the preposition "unless" is drawing attention to a policy constraint. That approach is reinforced by the footnote.

[16] The parties are agreed that para 47 of the NPPF is another important provision. It provides:

"To boost significantly the supply of housing, Local Planning Authorities should:

- Use their evidence base to ensure that their local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this framework, including identifying key sites which are critical to the delivery of the Housing Strategy over the plan period;

- Identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% . . . .

- Identify a supply of specific, developable sites for broad locations for growth, for years 6 - 10 and, where possible, for years 11 - 15;

...

[17] The subordinate clause, "as far as is consistent with the policies set out in this framework", is arguably slightly more generous (in terms of favouring sustainable development) than the "unless" in para 14 of the NPPF, but ultimately nothing turns on this. It should be emphasised, though, that para 47 does not create a statutory duty (cf s 39(2) of the Act); it

constitutes policy to which regard must be had.

[18] Section 9 of the NPPF deals with "Protecting Green Belt Land". A fundamental aim of Green Belt policy is to prevent urban sprawl. Under para 80 of the NPPF, the Green Belt serves five purposes, one of which is explicitly environmental - "to assist in safeguarding the countryside from encroachment". Paragraphs 83 and 84 are particularly relevant, and provide:

"83 Local Planning Authorities with Green Belts in their areas should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, 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.

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."

[19] Paragraphs 83 and 84 are, clearly, complementary provisions. Mr Richard Turney for the Claimant is entitled to emphasise the second sentence of para 83. The review process referred to in para 84 cannot ignore that sentence. On the other hand, I agree with Miss Ellis that the review process must consider "sustainable patterns of development" - eg the desirability of an integrated transport network. During any review process, the *consequences* for sustainable development must be carefully considered. The second sentence of para 84 is not altogether clear. On the face of things, it might well be argued that it appears to reinforce the need to protect the Green Belt, but in my view it is capable of being interpreted slightly more broadly. The *consequences* for sustainable development may require revision of the Green Belt. Nonetheless, I do not readily agree with Miss Ellis that para 84 throws any light on the meaning of "exceptional circumstances" within para 83, or should be taken as somehow diluting this aspect. Sustainable development embraces environmental factors, and such factors are likely to be negatively in play where release of Green Belt is being considered. The second sentence of para 83 supplies a fetter or brake on development which would, were it not for the Green Belt, otherwise be sustainable; but in deciding whether exceptional circumstances pertain regard must be had to the whole picture, including as I have said the *consequences*.

[20] "Exceptional circumstances" remains undefined. The Department has made a deliberate policy decision to do this, entrusting decision-makers with the obligation of reaching sound planning judgments on whether exceptionality exists in the circumstances of the individual case.

[21] Paragraph 150ff of the NPPF deal with "Local Plans". Paragraph 151 reflects s 39(2) of the Act. Paragraph 152 is material and provides:

"Local Planning Authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate."

[22] I read this provision as making clear that the identification of "exceptional circumstances" (although not expressly mentioned) is a planning judgment for the Local Planning Authority. However, net gains across all three of the dimensions of sustainable development may not always be possible. In these circumstances, the impingement on environmental factors will require the identification of exceptional circumstances in order to be justified ("significant adverse impacts on any of these dimensions should be avoided"), and - to the extent that this cannot be achieved - must be ameliorated to the extent possible.

[23] I appreciate that s 39(2) of the Act imposes a positive obligation to achieve sustainable development, and that if such development is not carried out then there would be harm to the economic and social dimensions which form part of this concept. However, I do not accept Miss Ellis' submission that the issue boils down to the balancing of three *desiderata*. Review of Green Belt in the face of sustainable development requires exceptional circumstances. Refraining from carrying out sustainable development, and thereby causing social and economic damage by omission, does not.

[24] Paragraph 182 of the NPPF explains the meaning of "sound":

"The local plan will be examined by an independent Inspector whose role is to assess whether the plan has been prepared in accordance with the duty to co-operate, legal and procedural requirements, and whether it is sound. A Local Planning Authority should submit a plan for examination which it considers is 'sound' - namely that it is:

- *Positively Prepared* - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable developments;
- *Justified* - the plan should be the most appropriate strategy, when considered against a reasonable alternative, based on proportionate evidence;
- *Effective* - the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priority; and
- *Consistent with National Policy* - the plan should enable the delivery of sustainable development in accordance with the policies in the Framework."

[25] The phrases "consistent with national policy" and "in accordance with the policies in the Framework" reflect earlier language; and, ultimately, ss 19 and 34 of the Act.

THE ACS

[26] Within the ACS, aspects of Policy 2, "The Spatial Strategy", and Policy 3 "The Green Belt", are under challenge. As I have said, the Inspector approved the ACS with modifications, and the version in the bundle contains the Inspector's input. I will examine the ACS in its final, modified form.

[27] Policy 2 states that a minimum of 30,550 new homes will be provided for between 2011 and 2028, with the majority in the main built-up area of Nottingham. Paragraph 2 of Policy 2 refers to a "settlement hierarchy" of growth, with the main built-up area of Nottingham being at the top of the tree, and "Key Settlements" at the third tier. Calverton is specified as a "Key Settlement", with up to 1,055 new homes. It is common ground that the building of these homes will require a revision of the existing Green Belt boundary. These "Key Settlements", and other "Strategic Locations" which are marked on the ACS with an asterisk, "will be allocated through Pt 2 Local Plans". On the other hand, "Strategic Allocations", including the Interested Parties' land at Toton, and land at Field Farm, are available for development from the date of adoption.

[28] Policy 2 also sets out the justification for the approach taken. I have had regard to para 3.2.10, but will focus for the purposes of this Judgment on the Inspector's Report.

[29] Policy 3 deals with the Green Belt. Save for the "Strategic Allocations" already considered, the policy contemplates that the detailed review of Green Belt boundaries, to the extent necessary to deliver the distributions in Policy 2, will be undertaken in what is described as "Part 2 Local Plans". A sequential approach will then be deployed, prioritising the use of land which is not currently within Green Belt. To the extent that adjustment of any Green Belt boundary is required, regard will be had in particular to its statutory purposes.

[30] Paragraph 3.3.1 is clearly germane:

"The Nottingham-Derby Green Belt is a long established and successful planning policy tool and is very tightly drawn around the built-up areas. Non-Green Belt opportunities to expand the area's settlements are extremely limited and therefore exceptional circumstances require the boundaries of the Green Belt to be reviewed in order to meet the development requirements of the Aligned Core Strategies in Part 2 Local Plans."

[31] It is clear from this that the Defendants appear to have had regard to the criterion of "exceptional circumstances". The issue raised by Mr Turney's submissions is whether the approach taken properly engaged with it.

#### THE INSPECTOR'S REPORT

[32] The proceedings before the Inspector were lengthy and complex, and a mass of evidence - only some of which is before the court in these proceedings - was supplied. It is unnecessary to dwell on the proceedings, save to pause to consider a number of points advanced by Mr Turney during his oral argument.

[33] Before and during the course of the proceedings, the Inspector appears to have formulated, with the assistance of the parties, the main issues arising in relation to each of the elements of the ACS policy. Thus, as regards "the Spatial Strategy and Housing Policy":

"The main issues are:

i. whether the local context, vision and spatial objectives set out in Chapter 2 of the ACS objectives are appropriate, locally distinctive and provide a sound basis for planning the area over the next 15 years; whether Policy 2, the spatial strategy, follows logically from the local context, vision, and spatial objectives, and is sound (ie positive, justified, consistent with national policy and capable of delivery); and

ii. whether appropriate provision is made for new housing in the three Local Authority areas, having regard for the requirements of the NPPF and taking account of the proposed numbers, the phasing and distribution of housing, affordable housing, and provision for gypsies and travellers, and other groups."

A number of specific questions were then posed, which I have borne in mind.

[34] As for "Green Belt":

"The main issue is: whether the spatial strategy and Policy 3 of the ACS are consistent with the fundamental aim and purposes of Green Belts as set out in the NPPF, and whether the proposals for alterations to Green Belt boundaries are underpinned by the quick review processes and justified by exceptional circumstances.

#### Questions

The Councils contend that, having objectively assessed the full need for housing across their areas and reviewed their strategic housing land availability assessments, some alteration to Green Belt boundaries is required to accommodate the growth in housing and associated development. Is there substantive evidence to counter this argument?

The ACS is founded on a two-stage review of Green Belt boundaries: (i) strategic assessment to find the most sustainable locations for large scale development around Greater Nottingham and define a limited number of strategic allocations for growth, and (ii) a detailed examination of individual sites and settlements suitable for sustainable growth with precise boundaries being established in subsequent development plan documents. Given the commitment of the Local Authorities to produce core strategies and consequent, more detailed development plan documents, what precisely is wrong with this two-step approach reviewing the Green Belt? Will it delay the development process unreasonably as some suggest?"

Mr Turney criticised both the formulation of these questions and the Defendants responses to them, and I have had regard to both.

[35] On 23 October 2013 the Inspector sent a note to the parties which said, amongst other things "Having reviewed all the evidence in respect of housing requirements for the full plan area, I consider the Policy 2: the Spatial Strategy which states that 'a minimum of 30,550 new homes will be provided for' is sound".

[36] Mr Turney made much of this, in support of a submission that the Inspector came to a conclusion on the issue of soundness before addressing the Green Belt and environmental considerations which were plainly relevant to that issue. I will revert to this alleged criticism in due course.

[37] The Inspector's report is quite lengthy, and it would unnecessarily overburden this Judgment if I were to set out every single relevant passage. I will therefore focus on what is key, reassuring the parties that I have borne in mind the entire document.

[38] The key passages in the Inspector's report include the following:

"29 Local Plans should meet the full, objectively assessed needs for market and affordable housing in their HMA, as far as is consistent with other policies set out in the NPPF. This requires an initial assessment of 'need' based on likely demographic change over the plan period . . . .

40 . . . I consider that the significant boost in housing supply, to which paragraph 47 of the NPPF refers, is absolutely necessary to reverse the long-term, upward trend in real house prices associated with undersupply and the growing numbers of people, notably young adults and families, who find suitable housing unaffordable.

41 Even though a boost in Greater Nottingham's housing provision as envisaged may not on its own reduce higher house prices significantly, it should make a positive contribution to balancing the mismatch between supply and demand/need . . . a failure to encourage overall house building would only restrict further the availability of affordable, as well as new market, housing . . . .

45 I have taken account of the Court of Appeal judgment for '*Hunston*'. I have noted the Councils' observation that, whilst the judgment pronounced on the interpretation of the first two bullet points in paragraph 47 of the NPPF, the planning decision did not directly consider the question of the soundness or otherwise of a development plan. The issue in dispute was whether, in advance of the area-wide balancing of the many facets of sustainable development which are needed to secure a sound local plan, a s 78 Inspector could or should take account of policy constraints when deciding what was the relevant figure for 'full, objectively assessed needs'.

48 Nevertheless, the *Hunston* judgment importantly sought 'a definitive answer to the proper interpretation of paragraph 47' of the Framework. The judgment is clear that the full objectively assessed needs for housing in the area have to be the starting-point when assessing the adequacy of housing supply . . . . The approach to housing need assessment which the judgment supports is not therefore different to that supported by the PPG, which as explained above, I have fully considered in examining in the ACS.

47 Policy 2 of the ACS states that 'a minimum' of 30,550 new homes would be provided, which wording should encourage and not impede the provision of additional housing. In looking to meet the needs, the councils have assumed that fewer houses will be developed on windfall sites than in past, once an up to date local plan underpinned by regularly reviewed SHLAAs is in place. However, if windfalls continue to come forward at the same rate as in the past, this should not be perceived as a negative factor as the aim is to boost the supply of new housing. Proposed change *Mod 3*, reinforces the essential point that the councils will adopt a proactive and positive approach to the delivery of new housing.

48 Proposed new paragraph 3.2.6a, *Mod 6*, includes a commitment to review the ACS's future housing projections, based on the 2011 Census data and expected in 2014, show that the Councils' assumptions underpinning its planned housing provision are no longer appropriate. *Mod 17* sets out the process and timing for initiating such a review. The NPPF expects local plans to meet their full needs for housing, 'as far as is consistent with the policy set out in the Framework'. Subsequent sections of my report address policy for the distribution of housing across the authorities, policy for protecting the Green Belt, for environmental and infrastructure planning, among other things. These confirm that delivery of the minimum housing numbers should be feasible. I agree with the Councils that there should be no insurmountable constraints to meeting the fully objectively assessed need for housing.

49 I conclude that the overall level of housing provision proposed by the ACS is justified and consistent with national planning policy. The proposed changes are necessary to reflect the Councils' commitment to keep the local plan under review and to ensure that the planned level of housing remains sound.

...

67 Understandably, there is considerable amount of local opposition to the prospect of development here in the Green Belt [in the context of Field Farm]. However the work which has been done to identify the site and will continue to take it forward has been undertaken by the Council as a democratically elected local planning authority. It considers that it has made its decision in the best interests of the Borough and its people, particularly those who now or in the future will need a home of their own. Having regard to the housing requirements and limited availability of alternative sustainable sites, the Councils' decision to allocate this site in the ACS meets the exceptional circumstances requirement as set out in the NPPF for the alteration of Green Belt boundaries. Field Farm's inclusion as a strategic allocation in the ACS is justified.

...

70 ... I share the Councils' view that the potential for land at Toton to help meet the requirements for housing and mixed use development in Broxtowe Borough constitutes the exceptional circumstances needed to remove the land from the Green Belt. Its potential to maximise the economic benefits from the proposed HS2 station reinforces the Councils' case for changing the Green Belt boundary at Toton.

...

98 The NPPF seeks a significant boost in the supply of housing, and this is not required to occur only in the first five years of a plan. The first bullet of paragraph 47 expects local plans to meet their full, objectively assessed needs 'as far as is consistent with the policies set out in this Framework'. Although The Court of Appeal judgment (*Hunston*) quotes protection of the Green Belt and land in an area of outstanding natural beauty or national park as examples of such policies, I see no justification to look only at land-use designation policies. The NPPF includes a range of other policy matters requiring local plans to be aspirational but realistic, to take account of relevant market and economic signals, and be effective and deliverable.

99 In this case, I am satisfied that the prospective build rates for each five year tranche do not represent an attempt to suppress house building in the early years or rely on past poor economic conditions to justify low housing targets. The proposed build rates are supported by convincing evidence on the operation of housing markets ... As the Councils argued, however, significantly increasing the supply of sites in the early years would not necessarily speed delivery, would require the release of additional Green Belt land contrary to national policy, and could delay progress on some of the more challenging regeneration sites.

...

*Issue 2 - Whether the Spatial Strategy and Policy 3: the Green Belt are consistent with the NPPF and whether the approach to making alterations to the Green Belt is justified.*

110 ... In order to meet the housing requirements of 30,550 new homes and achieve sustainable growth with supporting infrastructure, jobs and services, I accept the Councils' judgement that future development will have to extend beyond Nottingham's main built up area.

111 The NPPF continues the well-established planning policy of protecting Green Belt land. The Green Belt boundaries are drawn tightly around Nottingham, and to promote development beyond the Green Belt's outer edge would extend travel to work and for other purposes in an unsustainable fashion. Areas of safeguarded land exist in Gedling Borough, but these are unlikely to meet all the plan area's development requirements outside the main built up area. I agree with the Councils that the exceptional circumstances required for alterations to Green Belt boundaries exist.

...

113 The evidence base was criticised as being too dated, related to a different search for more substantial extensions, and not subject to adequate public consultation. However, I accept that the Green Belt and settlement pattern are largely unchanged since 2005/6 ... Ashfield District Council I am advised, assessed all possible sites against the five purposes of including land in the Green Belt enabling the least valuable sites to be identified. Even if the assessment of the ACS area was more strategic, I consider that sufficient investigation of the characteristics of potential sites for developments of differing sizes was carried out ...

114 The ACS envisages a two-staged approach to altering Green Belt boundaries, with the precise boundaries for individual sites to be released from the Green Belt being established in the Part 2 Local Plans. The NPPF does not directly support this approach, probably because it expects a single local plan for each authority in contrast to the previous preference for a core strategy followed by more detailed development plan documents. Newark and Sherwood and South Staffordshire with adopted plans were cited as authorities which had used the two-stage approach taken by the Greater Nottingham Councils.

...

116 I have considered the arguments that a more rigorous assessment could have been carried out of the inner urban edge of the Green Belt, before sites which would only result in long-distance commuting were selected ...

117 Regarding the risk of coalescence of Kimberley, Whatnall and Nuthall, I consider it appropriate that the Part 2 Local Plan should assess the impact of any new development at this more detailed level, having regard for the aim and purposes of the Green Belt ...



118 I strongly support the view that, with a two-stage review process, the ACS should give more direction to Part 2 Local Plans to emphasise that Non-Green Belt sites have first preference, and that sites to be released from the Green Belt must have good sustainability credentials. A sequential approach should secure an effective policy consistent with national policy, and this would be achieved with main modification *Mod 18* . . . ."

#### RELEVANT JURISPRUDENCE

[39] The Court of Appeal in *St Albans CC v Hunston Properties Ltd and another* [2014] JPL 599 endorsed a two-staged approach to the application of para 47 of the NPPF. The first stage is to reach a conclusion as to the "full objectively assessed needs for market and affordable housing". This is a purely quantitative exercise. The second stage involves an exercise of planning judgement (in relation to development control or the formation of a local plan, as the case may be) as to whether the policy constraints in the NPPF carry the consequence that the objectively assessed needs should not be met. The issue in *Hunston* was whether "very special circumstances" existed (see paras 87 and 88 of the NPPF), but in my judgment the position must be the same in a case involving a local plan.

[40] At para 10 of his judgment, Sir David Keene said this "The Framework does not seek to define further what 'other considerations' might outweigh the damage to the Green Belt, but in principle there seems no reason why in certain circumstances a shortfall in housing land supply might not do so".

[41] The two-stage approach underwent further examination in *Solihull Metropolitan Borough Council v Gallagher Estates Ltd and another* [2014] EWCA Civ 1610. In that case, Laws LJ endorsed the conclusion of Hickinbottom J that "Paragraph 47 requires full housing needs to be objectively assessed, and then a distinct assessment made as to whether (and, if so, to what extent) other policies dictate or justify constraint". Mr Turney placed particular reliance on para 36 of the judgment of Laws LJ. There, he said:

"The fact that a particular site within a Council's area happens not to be suitable for housing development cannot be said without more to constitute an exceptional circumstance, justifying an alteration of the Green Belt by the allocation to it of the site in question. Whether development would be permitted on the sites concerned in this case, were they to remain outside the Green Belt, would depend upon the Council's assessment of the merits of any planning application put forward."

[42] Mr Turney sought to turn this through 180 degrees, and submitted that the fact that a particular site happens to be suitable for housing development cannot, without more, constitute an exceptional circumstance justifying an alteration of the Green Belt. I agree with Mr Turney insofar as this goes, but in my view there is not a precise symmetry here. The issue in *Solihull* was whether land could be allocated to Green Belt; in other words, the point was addition, not subtraction. The mere fact that a particular parcel of land happens to be unsuitable for housing development cannot be a Green Belt reason for expanding the boundary. In a case where the issue is the converse, ie subtraction, the fact that Green Belt reasons may continue to exist cannot preclude the existence of countervailing exceptional circumstances - otherwise, it would be close to impossible to revise the boundary. These circumstances, if found to exist, must be logically capable of trumping the purposes of the Green Belt; but whether they should not in any given case must depend on the correct identification of the circumstances said to be exceptional, and the strength of the Green Belt purposes. In the present context, one needs to continue to bear in mind para 10 of *Hunston* (see para 39 above), and to draw a distinction between, on the one hand, suitability without more, and on the other hand, suitability *and* availability. Suitability *simpliciter* cannot logically be envisaged as an exceptional circumstance (here, the second sentence of para 36 of *Solihull* applies); suitability *and* availability may do, subject to the refinements discussed below.

[43] Miss Ellis placed particular reliance on the decision of Patterson J in *IM Properties Development Ltd v Lichfield District Council* [2014] EWHC 2440 (Admin), [2014] PTSR 1484. This case was decided after the first instance decision in *Solihull* and before the case reached the Court of Appeal. Patterson J observed that the only statutory duty was that contained in s 39(2) of the Act (see para 97 of her judgment). At paras 99 and 100 Patterson J said this:

"99 Here, the release from the Green Belt as proposed in Lichfield which is seen by the Defendant as consistent with the town-focused spatial strategy. The further releases have been the subject of a revised sustainability appraisal by the Defendant. That found that no more suitable alternatives existed for development.

100 The principal main modifications endorsed by the Defendant expressly referred to the Green Belt review and to the supplementary Green Belt review as informing the release of Green Belt sites. They contained advice as to the relevant test that members needed to apply. Both documents were available to the decision-making committees and were public documents. Ultimately, the matter was one of planning judgement where the members had to consider whether the release of Green Belt land was necessary and, in so determining, had to be guided by their statutory duty to achieve sustainable development."

[44] "Necessary" may be seen as broadly synonymous with "the existence of exceptional circumstances". Mr Turney submitted that these passages are both *obiter* and inconsistent with *Solihull*. It is unnecessary for me to reach concluded views about this. My preference would be to express the point made in the final sentence of para 100 slightly differently: the issue is whether, in the exercise of planning judgment and in the overall context of the positive statutory duty to achieve sustainable development, exceptional circumstances existed to justify the release of Green Belt.

#### THE CLAIMANT'S GROUNDS

[45] Mr Turney has advanced three grounds on behalf of the Claimant, namely:

- (1) Failure to consider whether housing numbers should be reduced to prevent release of Green Belt land;
- (2) Failure to apply national policy in considering the release of Green Belt land;
- (3) Failure to comply with the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA Regulations").

#### THE CLAIMANT'S GROUNDS DEVELOPED

[46] As I indicated during oral argument, it seems to me that Ground 2 is logically prior to Ground 1. They are, in any event, inextricably intertwined. Accordingly, I will take these together. Although advanced under a different statutory regime, it also seems to me that Mr Turney's third Ground interacts with his earlier Grounds.

[47] The primary thrust of Mr Turney's submission, both in oral argument and in his written Reply, is that the Inspector adopted a circular approach. The evidence demonstrates that she considered the 30,550 figure for new housing, and concluded that it was sound, before paying any attention to the environmental and Green Belt constraints. This is borne out by the note the Inspector sent to the parties (see para 35 above), and indeed her examination of Policy 2 in her report. At no stage, so the submission runs, did the Inspector properly consider whether the meeting of objectively assessed needs would be consistent with national policy; and, if so, to what extent. Furthermore, the formulation of the main issue assumed that objectively assessed needs should be met: hence the circularity. Put another way, the "exceptional circumstances" are defined as the requirement to meet the objectively assessed needs.

[48] On Mr Turney's argument, the use of the term "insurmountable constraints" in para 48 of the Inspector's report shows that proper regard was not paid to the question of "exceptional circumstances"; the two terms or concepts cannot be readily assimilated the one to the other. Accordingly, the Inspector's approach violated para 47 of the NPPF and a proper application of the two-stage test stipulated by the Court of Appeal in *Hunston*.

[49] Mr Turney advanced two further, specific submissions. First, he contended that the hierarchical approach underpinning both the Inspector's report and the ACS itself suggests there were no exceptional circumstances. Secondly, Mr Turney advanced a methodological attack on the two-stage process, namely Pt 1 and Pt 2 of the Local Plan. The application of this two-staged process meant that exceptional circumstances were ignored or sidelined: on the one hand, they were not properly considered within Pt 1 (because the assumption was that the review of the Green Belt boundary would be left over to Pt 2); on the other hand, when Pt 2 is reached there would be no room for considering exceptional circumstances, because any later development plan document would have to accord weight to the ACS. The die has been cast. In support of this submission, Mr Turney drew on the

Inspector's analysis of the position relating to Field Farm, where exceptional circumstances were considered. Without prejudice to his submission that this analysis was also flawed (and he made the same point as regards the Interested Parties' land, where exceptional circumstances were found), his contention was that a similar approach both could and should have been consistently applied throughout.

#### ANALYSIS AND CONCLUSIONS ON GROUNDS 1 AND 2

[50] I agree with Mr Turney that 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 para 83 of the NPPF. No recourse to what I called during oral argument the "mantra" of planning judgment could save a decision from a successful s 113 challenge in such circumstances.

[51] In a case such as the present, it seems to me that, having undertaken the first-stage of the *Hunston* approach (sc assessing objectively assessed need), the planning judgments involved in the ascertainment of exceptional circumstances in the context of both national policy and the positive obligation located in s 39(2) 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.

[52] Although it seems clear that what I have called an ideal approach has not been explicitly followed on a systematic basis in the instant case, it is a counsel of perfection. Planning Inspectors do not write court judgments. The issue which properly arises is whether the Inspector's more discursive and open-textured approach, which was clearly carried through into the ACS, was legally sufficient.

[53] It is clear from (i) the formulation of the main issues; (ii) the frequent references in the Inspector's report to the need to protect the Green Belt; and (iii) the several references to "exceptional circumstances", that the Inspector had in mind the broad contours and content of para 83 of the NPPF. It is indisputable that she had regard to *Hunston* and the need for a two-staged approach, with the ascertainment of the objectively assessed need being the "initial" stage (to adopt the epithet used by the Inspector). The main issues might have been expressed with slightly more focus and precision, but I do not accept that their formulation somehow dictated, or pre-judged, the outcome. Further, the Inspector's note dated 23 October 2013 needs to be read in context: although her reference to the 30,550 housing figure being "sound" is somewhat ambiguous, the note read as a whole indicates that the Inspector had not yet reached a conclusion about Green Belt matters. I read the note as indicating that the Inspector had reached the provisional conclusion which we may now discern at para 48 of her report.

[54] Paragraphs 40 and 41 of her report indicate that the Inspector considered that the need for additional housing supply was acute, both generally and in this particular area. Paragraph 48 of the report indicates that in the Inspector's view the 30,550 figure was both feasible and deliverable, although at that stage she was stating in terms that consistency with other NPPF policies would be considered later in the report. Thus, *pace* Miss Ellis' skeleton argument and submissions, I do not read the last sentence of para 48 of the report as containing any finding about exceptional circumstances. We see such a finding at paras 67 and 70 (in relation, respectively, to Field Farm and the Interested Parties' land at Toton), and at para 110ff. The "insurmountable obstacles", or their absence, relate to matters of feasibility and deliverability. Even if I am wrong about this, and para 48 is to be read as a harbinger of para 111, it seems clear that what the Inspector must be taken to have meant is that the reason why the obstacles were surmountable was that exceptional circumstances existed.

[55] Field Farm and Toton are separately addressed because these sites were allocated in the ACS as land suitable for immediate development. The Inspector was considering specific sites, not strategic areas the precise delineations of which would require subsequent analysis and review. The key sentence in para 67, "having regard to the housing requirements and limited availability of alternative, sustainable sites", contains in these circumstances a logically coherent reason for holding that exceptional circumstances existed. Mr Turney sought to persuade me that the issue of limited availability could not sensibly add to the issue of objective assessment of need, but I cannot agree; this was a free-standing factor which was clearly capable of amounting to an exceptional circumstance. Additionally, an examination of all the reasoning contained within paras 63 - 67 of the report reveals that the Inspector paid regard to the purposes of the Green Belt, the nature and quality of the proposed impingement, and the issue of sustainability. As for the latter, this Green Belt was drawn close to the City boundary and it would have been difficult to have undertaken sustainable development beyond the outer boundary of the Green Belt. This was an issue which, albeit hardly decisive, was properly taken into account - it is referred to specifically in para 84 of the NPPF. All these factors were properly assessed in determining the existence of exceptional circumstances.

[56] A similar approach underpins the Inspector's broader consideration of the Spatial Strategy and Policy 3 within the ACS. The formulation of the issue, "whether the approach [in the ACS] to making alterations to the Green Belt is justified", is a reference to paras 47, 83 and 86 of the NPPF. At para 110, the Inspector accepts the Defendants' contention that the acuteness of the need is such that some intrusion into the Green Belt (and its consequent revision) will be required. Paragraph 111 may be quite brief but, read both in isolation and in conjunction with the remainder of the report, makes clear that the Inspector is continuing to ask herself the same sorts of questions that she posed, and answered, at paras 63 - 67 of her report: viz (i) limited availability; (ii) the location of the Green Belt in relation to the main built-up area of Nottingham; and (iii) sustainability (to which para 86 of the NPPF relates, in particular). Footnote 26 to her report (relating to the first sentence of para 111) is a legally accurate statement of the position under paras 47, 83 and 86 of the NPPF. It follows that the core conclusion in the first sentence of para 111 of the report - that exceptional circumstances exist - cannot be successfully impugned. Albeit with less than complete precision, I consider that the Inspector has, at least in legally sufficient terms, followed the sort of approach I have set out under paras 19, 21, 22 and 43 above.

[57] I agree with Miss Ellis that Mr Turney's submissions go too far, and tend to the very circularity he seeks to identify in the Inspector's report. Specifically, his submissions are in danger of according excessive weight to para 83 of the NPPF, by stacking up a series of objections to sustainable development which came close to being insurmountable.

[58] As for Mr Turney's separate point about the two-staged approach adopted by the ACS, I agree that, in principle, there is a danger of the issue of exceptional circumstances falling between two metaphorical stools. If, for example, exceptional circumstances were not properly considered at Stage 1, it would be difficult for the issue properly to be addressed at Stage 2. Although s 19(2)(a) of the Act would no doubt continue to apply, the ACS would be a powerful dictator of subsequent policy, particularly in circumstances where Stage 2 is only concerned with the detail, and not with the principle.

[59] The question arises of whether the flawed approach I have just outlined was, in fact, the approach adopted by the Inspector. In my judgment, it was not. As the Inspector correctly observed, a two-staged approach is not impermissible in principle although it is not expressly authorised by the NPPF. The Inspector recognised that there were some weaknesses inherent in such an approach (see paras 116 and 117), but these were manageable. In my judgment, the key point is that the Inspector was able to reach an evidence-based conclusion as to the presence of exceptional circumstances at the first stage, and that she was not in some way adjourning the matter over for substantive consideration at Stage 2. Further, in modifying the ACS so as to achieve a sequential approach to site release (with Green Belt release occurring, as it were, last) the Inspector was achieving an overall state of affairs which, as she put it, "should secure an effective policy consistent with national policy" (para 118). Not merely was this a legally tenable approach, it was in my judgment both sensible and appropriate in the circumstances of the instant case. I would not go so far as to hold that para 118 of the report directly applied para 83 of the NPPF, and somehow satisfied the touchstone of exceptional circumstances; but what it did was to bring about an outcome which has the strong tendency to protect the Green Belt and its purposes. For example, to the extent that release of Green Belt land would be required, the first candidate for release would be land nearer the inner boundary. The sequential approach was, therefore, a factor to be taken into account.

[60] I agree with Miss Ellis that in relation to the Pt 2 Local Plan exercise it would remain incumbent on the Defendants to act consistently with national policy, in line with ss 19(2)(a) and 34 of the Act.

[61] I am far from convinced that Mr Turney's first ground really adds to his second. The complaint is that consideration was not given to a figure lower than 30,550, such that revision of the Green Belt might not be required. It is of course correct that the majority of the new housing will not be built on Green Belt land, from which it follows that removing several thousand homes from the aggregate figure could well lead to the consequence that no Green Belt release would be required. However, the issue for the Inspector was whether the release of some Green Belt land was justified, having regard to the objectively assessed need. The Inspector concluded that it was, applying paras 47, 83 and 86 of the NPPF. If it was not justified, the Green Belt boundaries would have remained as before. It was not incumbent on the Inspector to "salami-slice" the objectively assessed need further, and to consider some hypothetical lower number. Such an obligation would only have arisen if meeting the whole of the objectively assessed need was not justified, because

exceptional circumstances did not exist to amount to that justification.

[62] Given these conclusions, the Interested Parties do not need to succeed on their separate submissions directed to the particular attributes of their land at Toton. However, I accept the submissions of Mr Richard Honey for the Interested Parties that his clients' land may be separately considered. First, the subject land is a co-ordinated, mixed-use site, and the Claimants in these proceedings are not challenging those aspects of the ACS which cover employment and transport. Secondly, detailed consideration was given at paras 68 - 76 of the report to whether exceptional circumstances existed to justify the revision of the Green Belt to accommodate this particular mixed-use site. Given that the Interested Parties' site was both highly sustainable and on built-up land, albeit within Green Belt, the robust conclusions appearing at para 70 of the Report are hardly surprising.

[63] It follows that, despite the clarity and force of Mr Turney's submissions on his primary grounds of appeal, I cannot accept them.

### GROUND 3

[64] By this Ground the Claimant seeks to challenge the Defendants' sustainability appraisal dated June 2012, which it is submitted failed to satisfy the requirements of the SEA Regulations. The general principles are not in dispute: the SEA Regulations provide the framework for development consent decisions to be subject to an assessment of their environmental effects, in line with the purposive interpretation mandated by the SEA Directive (2001/42/EC) (see, for a detailed exposition, *Walton v Scottish Ministers* [2012] UKSC 44. [2013] 1 CMLR 858. [2013] PTSR 51).

[65] Regulation 12 of the SEA Regulations provides:

#### "PREPARATION OF ENVIRONMENTAL REPORT

12(1) Where an environmental assessment is required by any provision of Part 2 of these Regulations, the responsible authority shall prepare, or secure the preparation of, an environmental report in accordance with paragraphs (2) and (3) of this Regulation.

(2) The report shall identify, describe and evaluate the likely significant effects on the environment of -

(a) implementing the plan or programme; and

(b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme."

[66] Schedule 2 to the SEA Regulations identifies the matters which, so far as may be relevant, ought to be included in the report.

[67] The jurisprudence governing the application of reg 12 is not substantially in dispute. I am able to draw heavily on paras 19 and 20 of Mr Turney's Skeleton Argument. The following propositions emerge from the decisions of this court in *Save Historic Newmarket v Forest Heath District Council* [2011] JPL 1233 and *Heard v Broadland DC* [2012] Env LR 233:

- (1) It is necessary to consider reasonable alternatives, and to report on those alternatives and the reasons for their rejection;
- (2) While options may be rejected as the Plan moves through various stages, and do not necessarily fall to be examined at each stage, a description of what alternatives were examined and why has to be available for consideration in the environmental report;
- (3) It is permissible for the environmental report to refer back to earlier documents, so long as the reasons in the earlier documents remain sound;
- (4) The earlier documents must be organised and presented in such a way that it may readily be ascertained, without any paper chase being required, what options were considered and why they had been rejected;
- (5) The reasons for rejecting earlier options must be summarised in the final report to meet the requirements of the SEA Directive;
- (6) Alternatives must be subjected to the same level of analysis as the preferred option.

[68] In *City and District of St Albans v SSCLG* [2009] EWHC 1280 (Admin) Mitting J quashed the relevant policies because reasonable alternatives to them were not identified, described and evaluated before the choice was made.

[69] Section 7 of the Sustainability Assessment, "Developing and Appraising Strategic Options", is at issue. This purported to consider reasonable alternatives in line with the SEA Directive and the SEA Regulations. Three options were specifically considered, namely (1) what was described as the "high growth" option, entailing 71,700 new homes, (2) the "medium growth" or ACS option (based on a figure of 52,050 homes - which differs from the eventual ACS figure substantially, although nothing appears to turn on this), and (3) a "low growth" option based on what was described as past house building rates (41,888 new homes). The sustainability assessment analysed each option. It concluded that the high growth option secured more housing than was necessary, and was unlikely to be achievable in any event. As for the medium growth option:

"[It] would provide housing in line with the Regional Plan. Its impacts would be similar to that of Option 1 without such positive and negative impacts on the corresponding SA objectives, given that less housing would be provided, but it would meet the needs of the local population, and would allow for more limited in-migration to the planned areas. This level of growth would have a positive impact on the housing and health SA objectives but a negative impact on heritage, environment, bio-diversity and GI, landscape, natural resources and flooding, waste, energy and climate change and transport SA objectives."

[70] As for the low growth option:

"[It] proposes housing growth below that of the Regional Plan. This is only a minor positive impact on the housing SA objective, as less housing will be provided. All other SA objectives either have a negative, neutral or unknown score. Constraining housing supply would have a negative impact on health as this could exacerbate homelessness. This level of housing provision would not meet the needs of the local population (using the 2008 based housing projections); out-migration would also be unlikely. The impact on sensitive land or sites would be less, hence the lower negative scores for heritage, environment, bio-diversity and GI, landscape, natural resources and flooding, waste, energy and climate change and transport SA objectives. There would also be a negative impact on the employment SA objective as this scenario would constrain the labour force. No further mitigation is put forward and is set out for the first two appraisals."

[71] On my understanding, Mr Turney advances two related submissions on the Sustainability Assessment. First, he submits that no consideration was given to an option which, in terms, entailed no impingement on existing Green Belt land (in which circumstances no Green Belt review would be required). Secondly, criticism is made of the manner in which the low growth option was examined, in particular in the context of the implications for the Green Belt. In regard to both submissions, Mr Turney took issue with para 22 of Miss Gibson's witness statement, which provides:

"The quantum of development allowed for in this lower, below trend assessment of housing provisions was broadly equivalent to the level of housing provision possible without requiring development in the Green Belt, according to the Councils' strategic housing land availability assessments. (DDB8 demonstrates how this is worked out) and the sustainability consequences described would be the same."

[72] Mr Turney submits that reaching down into Miss Gibson's witness statement entails an impermissible "paper chase", particularly when one factors in the need to bring into consideration the calculations contained within DDB8.

[73] In his written submissions Mr Turney took issue with other passages in Miss Gibson's witness statement which indicate how the evidence base for the Sustainability Assessment was assembled. Mr Turney did not press these points in oral argument, and in my judgment they relate to matters of such minutiae that they cannot properly advance the gravamen of the Claimant's third ground.

[74] I cannot accept Mr Turney's submissions on his third ground. Pages 116 and 117 of the Sustainability Assessment do expressly consider the consequences of not reviewing the boundaries to the Green Belt, and the consequent advantages and disadvantages. In my judgment, having regard to para 22 of Miss Gibson's witness statement does not entail an impermissible paper chase: this is admissible, expert evidence which explains the context of the low-growth option within the Sustainability Assessment. This is the option which did not involve incursion into the Green Belt. Furthermore, I take Miss Ellis' point that there were district-specific sustainability assessments within the scope of the overall exercise: see for example, pp 82 and 87 - 142 in relation to Broxtowe Borough Council. Ultimately, it was for the Defendants in the exercise of their collective planning judgement to identify which "reasonable alternatives" needed to be considered, and in my view the approach taken simply cannot be impugned in these proceedings for error of law.

#### CONCLUSION

[75] This appeal brought under s 113 of the Planning and Compulsory Purchase Act 2004 must be dismissed.

*Appeal dismissed.*