

Barnet Local Plan EIP – Note on Green Belt

Reason for producing this note

On Day 5 (Wednesday 5th October) at the hearing session's, consideration of Matter 5 - Climate Change, Environmental Considerations and Green Belt, Inspector Philpott requested provision of a Note covering the following:

Green Belt note addressing the following matters and, including any resultant proposed modifications:

- Explanation of ECC05(a)(ii) approach in terms of openness, whether development within the vicinity/setting of the Green Belt but outside of the designation can impact openness, and also confirm whether the intention is for openness to be protected more as a characteristic of land rather than Green Belt.
- Potential mapping discrepancies, review policies map.
- Taking account of any corrections of mapping discrepancies, provide accurate individual calculations in terms of net loss or net gain of designated Green Belt and MOL arising from the Plan approach.

The following format has been used in this Note to denote further proposed modifications to the submission version of plan as revised by the proposed modifications listed in EXAM 4.

- ~~Strikethrough text~~ to indicate text proposed for removal.
- Underlined text to indicate additional text.

Background

Green Belt policy set out in the 2021 NPPF has not changed significantly since that included in the first iteration of the NPPF, published in 2012. Paragraph 137 of the NPPF sets out the “fundamental aim” of Green Belt policy, namely “to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

Barnet is one of the greenest London boroughs comprising 28% of its land area designated as Green Belt and an additional 8% Metropolitan Open Land (MOL), Taken together these areas form a large proportion and provide a distinctive character to the Borough that this Local Plan seeks to retain and where possible enhance, whilst achieving sustainable growth. There are several areas of the Borough whose developed extents are defined by the Green Belt, such as Chipping Barnet which is surrounded by Green Belt on three sides. Of particular note is the manner in which the boundary of the Green Belt and MOL is not linear, instead areas wind across the Borough forming spurs and ‘islands’ of Green Belt and MOL amongst otherwise developed areas. This creates specific challenges for the Council when implementing Green Belt / MOL policy and ensuring that the 5 purposes that the Green Belt serves, as defined in the NPPF, continue to be met and can endure into the future. This endurance is important given the fundamental aim of Green Belt policy to prevent urban

sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence.

Openness relates to 4 of the 5 tests for the purpose of Green Belt as set out in NPPF Paragraph 138, these being:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment; and
- d) to preserve the setting and special character of historic towns.

“Openness” is generally taken to mean the absence of built development (see e.g. R (Lee Valley Regional Park Authority) v Epping Forest DC [2016] Env LR 30 at [7]). However, as the Supreme Court made clear in Samuel Smith, see *R (Samuel Smith Old Brewery) v North Yorkshire CC* [2020], the concept of openness is broad. The factors which may or may not be relevant to the “openness” of the Green Belt in any particular case are, therefore, matters of planning judgment. It would be open to a decision-maker to conclude that the visual impact of development within the Green Belt impedes on the openness of the Green Belt.

Paragraphs 147 to 151 of the NPPF set out the process for determining planning applications for proposals affecting the Green Belt. Central to LPAs’ determinations of those applications are questions of “appropriateness” and “inappropriateness”. It is recognised that paragraphs 149 to 151 relate exclusively to development within the Green Belt and therefore that development outside the Green Belt cannot, therefore, be “inappropriate”.

However, consideration should be given to NPPF paragraph 148. Under the section heading “Proposals affecting the Green Belt” (so arguably equally applicable to proposals on sites adjacent to as well as within the green belt), para 148 of the framework states that “When considering **any** planning application, local planning authorities should ensure that substantial weight is given to **any** harm to the Green Belt.” (*emphasis added*)

Considerations

During the hearing session discussion of this policy the Inspector raised questions regarding part (a)(ii) of policy ECC05, in particular the Council’s approach to openness in and around the Green Belt. This part of the policy states:

Policy ECC05(a)(ii)

Development adjacent to Green Belt should not have a significant detrimental effect on the openness of the Green Belt and respect the character of its surroundings.

Para 10.25.4

“This aspiration of improvement and accessibility can be achieved through appropriate development in Green Belt or MOL (as supported by the NPPF and the London Plan). Development adjacent to areas of Green Belt/MOL needs to comply with Policy ECC05 and should respect the character of its surroundings and the visual amenity of these areas. “When assessing the likely impact on the openness of the Green Belt the Council will have regard to the visual impact of a development, its duration and prospects for remediation, as well as the degree of activity such as traffic that is likely to be generated.”

This paragraph relates to the concept of openness that is both visual and spatial as expressed in the NPPG.

Assessing the impact of a proposal on the [openness of the Green Belt](#), where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

Paragraph: 001 Reference ID: 64-001-20190722

During the discussion of this policy at the hearing session the Inspector noted that, as currently drafted, policy ECC05(a)(ii) appears to introduce the concept of the “setting” of a Green Belt that is more common in heritage policy than in policy relating to the Green Belt. The Inspector therefore questioned whether this approach goes beyond national policy since, as currently drafted, the policy indicates that the Council may deem development outside of the Green Belt inappropriate because of a visual impact that occurs both inside and outside of the Green Belt.

Policy ECC05(a)(ii), as explained by paragraph 10.25.4 of the supporting text, is designed to achieve the following aims:

- a. Ensuring that development respects the character and visual amenity of areas surrounding the Green Belt; and
- b. Ensuring that development adjacent to the Green Belt does not impact on the openness of the Green Belt in visual terms.

In terms of the first of these, the policy aim is arguably more properly characterised as a character-based policy, as opposed to a Green Belt policy. However, the policy itself does not conflict with Government policy as set out in section 13 of the NPPF.

Regarding the second aim, on reflection the Council accepts that, whilst development conspicuous from the Green Belt may have an impact on visual amenity, this would not in itself prejudice the purposes of including land within the Green Belt. Accordingly, we acknowledge the Inspector’s concern that policy ECC05(a)(ii), insofar as it suggests that development outside the Green Belt may impact on the openness of the Green Belt, appears to go a step beyond stated national policy.

Further clarification could be added to the supporting text to explain better the importance of maintaining the sense of openness of the Green Belt/MOL and a stronger emphasis placed on the requirements for development proposals to demonstrate how they have met Policy CDH01 – Promoting High Quality Design and supporting text paragraph 6.4.2 (MM131)

The Council will not approve design for new development that is inappropriate to the local context or does not take opportunities to **protect and enhance the environment, character and quality of an area. especially where it fails to reflect local design policies and government guidance on design**” (para 134 of NPPF). High quality design solutions help to make new places that can make a positive contribution to the existing suburban character. Detailed assessment of the impacts of development proposals will be based on a set of criteria that seek to ensure that the local character and existing context are reflected, to deliver high quality design, accessible buildings and connected spaces that are fit for purpose and meet the needs of local residents. Such criteria will be set out in the Sustainable Design **and Development** Guidance SPD following adoption of the Local Plan; this will include reference to maintaining the openness of designated Green Belt and MOL areas.

Justification

The urban interface with the Green Belt for the majority of Barnet is characterised by low rise suburban dwellings with gardens facing onto the Green Belt. This character is intrinsically linked to the openness of the Barnet Green Belt, areas both looking out from the residential areas, and also from within the Green Belt looking back towards the developed area. There is also a requirement by paragraph 145 of the NPPF to “retain and enhance landscapes visual amenity and biodiversity”.

As noted in the judgment Turner vs SS CLG & East Dorset Council 2016 “visual impact is implicitly part of the concept of “openness of the Green Belt”.

This judgment goes on further to state:

“Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness.”

Due to the manner in which the Green Belt and MOL boundaries have been drawn in Barnet, there are areas of Green Belt or MOL that form ‘islands and spurs’ that are almost completely surrounded by developed land. The Green Belt and MOL study (EXAM EB_GI_16) found that these generally performed strongly against the Green Belt purposes and MOL criteria. Only a few adjustments were required to provide a strong and defensible boundary. However, Section 4.8 of the study report provides recommendations/opportunities for the improvement of the Green Belt in Barnet. One of these states:

“Landscape and visual enhancements – using landscape character assessment as guidance, intrusive elements can be reduced and positive characteristics reinforced.”

In order for this to be successfully implemented there needs to be recognition that development at the urban edge of the Green Belt/MOL can impact negatively on the visual amenity and openness for users of the designated areas; particularly if the design of the development is not sympathetic to the character and its surroundings.

If this is not taken into account when assessing development on the edges of the Barnet Green Belt/MOL there is a threat that in the future the concept of openness will be compromised along with the other purposes of the Green Belt/MOL such as checking of unrestricted sprawl, the merging of towns (at least visually) and the ability of the Council to

ensure that the planning positively expectations set out in NPPF paragraph 145, which requires LPAs with established Green Belt /MOL to retain and enhance landscapes and visual amenity, are met. Even if the land itself remains open, the visual impact of development at the edge of the Green Belt/MOL could be detrimental to the openness concept especially in the 'island' areas with the possibility of the area being encircled by visually intrusive development.

Logic and common sense would suggest that the volume and bulk of development that is unsympathetic to the Green Belt/MOL interface has the potential to at least to some extent adversely impact on the openness of the Green Belt and the purposes of the Green Belt designation as set out in the NPPF. The extent to which this is relevant and the weight that might be accorded to it is a matter of planning judgement that will depend on the circumstances and facts of an individual case. Substantial built development within the Green Belt, which has a significant visual impact, could be said to affect the openness of the Green Belt. In visual terms, such development will signal that the undeveloped nature of Green Belt land itself has been eroded. However, development on land adjoining the Green Belt, notwithstanding that it is visible from within the Green Belt, could not be said to have the same effect. Regardless how conspicuous development adjacent to the Green Belt is, it cannot by definition affect the absence of any development on the Green Belt land itself.

The matter of visual amenity has long been associated with the Green Belt PPG2 Paragraph 3.15, under the heading "Visual amenity", stated: "The visual amenities of the Green Belt should not be injured by proposals for development within **or conspicuous from** the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design."

In the judgment *R (Liverpool Open and Green Spaces Community Interest Company) v Liverpool City Council* [2020] EWCA Civ 81 the Court acknowledged that, although local rather than national, the policy position was analogous to situations concerned with national policy for green belts. Policy OE3 of the UDP, under the heading "GREEN WEDGES", states that the City Council will protect and improve the open character, landscape, recreational and ecological quality of the Green Wedges at Calderstones/Woolton and Otterspool and includes a number of measures to follow.

Policy WE2 in Harlow's 2020 adopted local plan that, in addition to green belt land also covers 'green wedges' and 'green fingers' . [Harlow Local Development Plan.pdf](#)

- part 2 of the policy referring to roles of the Green Wedges includes criteria "d) protect existing uses which have an open character; and (e) provide settings which preserve the character of historic/cultural sites and areas;"
- part 3 of the policy Green Fingers at part (c) protect and enhance natural habitats, ecological assets and landscape features; and (d) protect existing uses which have an open character.

Whilst *Samuel Smith* concerned the impact that development within the Green Belt might have on the visual openness of Green Belt land itself, the position where development is outside the Green Belt, but visible from within the Green Belt, remains undecided and untested. Therefore, in order to provide clarity on the intent of Policy ECC05 (a)(ii) and how it can be addressed by development the following modifications are proposed.

Proposed modification to Local Plan paragraph 10.25.4

This aspiration of improvement and accessibility can be achieved through appropriate development in Green Belt or MOL (as supported by the NPPF and the London Plan). Development ~~adjacent to areas of Green Belt/MOL~~ needs to comply with Policy ECC05 and should respect the character of its surroundings and the visual amenity of these areas. When assessing the likely impact on the openness of the Green Belt the Council will have regard to the visual impact of a development, its duration and prospects for remediation, as well as the degree of activity such as traffic that is likely to be generated. Where development is proposed adjacent to the Green Belt / MOL a design led approach as set out in Policy CDH01 is strongly advocated, with a particular focus on visual impact in relation to landscape and local character. Landscape assessments should consider how the development will be viewed from within the Green Belt/MOL including how any intrusive elements impacting on visual amenity can be reduced through design and landscaping options and positive characteristics of the area reinforced.

Proposed modification to Policy ECC05

With regards the wording used in part (a)(ii) of the policy, on reflection the Council accepts that in terms of Green Belt policy the concept of the visual “openness” of the Green Belt is confined to the openness of the land within the Green Belt itself. Therefore, as presently worded, the Council may be viewed as having conflated this with character/landscape considerations more broadly. Accordingly, the Council proposes a further modification to part (a)(ii) of the policy deleting the wording “adjacent to Green Belt” so as to read:

Development ~~adjacent to Green Belt~~ should not have a significant detrimental effect on the openness of the Green Belt and respect the character of its surroundings.

Amendments to the Green Belt and MOL Boundaries

As part of the Barnet Green Belt and Metropolitan Open Land Study [EB_GI_16] the accuracy and robustness of the existing Green Belt and MOL boundaries, as they appear on the Council’s local data layer were examined. Following this, recommendations were made for appropriate minor realignments along alternative permanent and readily recognisable physical features.

The aim of these realignments is to correct mapping anomalies that have occurred over time and to create a strong defensible boundary for the areas of Green Belt and MOL in Barnet.

The attached tables and maps detail the individual amendments to the Green Belt and MOL boundaries.

For the Green Belt there is a net gain of nearly 5 hectares with a total of 4.973104972 ha proposed for addition.

For the MOL there is a proposed net loss of nearly 1.7 hectares with 1.693302554 proposed for removal.

Conclusion

The ability of the Council to maintain the visual openness of the Green Belt directly relates to its ability to meet the requirements of the NPPF. The proposed revisions to part (a)(ii) of policy ECC05 and supporting paragraph 10.25.4 make clear the application of Green Belt in terms of openness does not apply equally to land lying adjacent to Green Belt as it does to development on land located within the Green Belt itself.

The proposed amendments to the boundary of the Green Belt and MOL will provide accurate, robust and defensible boundaries.

London Borough of Barnet

Changes to the Green Belt.

Individual polygon data produced from ARCGIS showing the map number of the relevant map; the action taken and the resulting change in size. Overall, there is a net gain of nearly 5 hectares.

Map_no	Change	Area - Hectares
8	Add	2.510384587
9	Add	0.232633332
10	Remove	-0.0681247
11	Remove	-0.15376236
12	Add	1.790973575
13	Add	0.058771981
14	Remove	-0.088081497
15	Remove	-0.821850505
16	Add	0.748898735
17	Add	0.199062026
18	Add	0.20502269
21	Add	0.257002749
23	Add	0.10217436
		4.973104972

London Borough of Barnet

Changes to the Metropolitan Open Land

Individual polygon data produced from ARCGIS showing the map number of the relevant map; the action taken and the resulting change in size. Overall, there is a net loss of nearly 1.7 hectares.

Map_no	Change	Area - Hectares
22	Remove	-0.257258813
23	Remove	-0.103366515
24	Remove	-0.065781707
25	Add	0.280572013
26	Add	0.021858075
27	Remove	-0.067452868
28	Remove	-0.28772455
29	Add	0.140183469
30	Remove	-0.004741212
30	Add	0.013043172
31	Remove	-0.823197937
32	Remove	-0.227262711
33	Add	0.018064063
34	Remove	-0.234628094
35	Add	0.409163013
36	Remove	-0.178581525
37	Remove	-0.181816935
38	Remove	-0.064624542
39	Remove	-0.079748948
		-1.693302554

London Borough of Barnet

Green Belt inconsistencies since Reg 19.

Amendments that were indicated to be made as part of the Regulation 19 work undertaken by Blue Fox Technology on behalf of Barnet, were found to be based on erroneous data. The changes were on Maps 19 and 20, where it had been intended to alter the boundary of the Green Belt to match the Borough boundary that had previously been supplied by Ordnance Survey.

Working at a large scale, it was obvious to Blue Fox that the Borough boundary in some places was inaccurate. Blue Fox contacted the Ordnance Survey with examples and it transpired that the boundary being used by Barnet was based on smaller scale mapping and therefore unsuitable for maps at larger scales.

A correct large scale version of the boundary was obtained and it was then found that the boundaries to the Green Belt were accurate and that changes in Maps 19 and 20 were no longer necessary.

Map 23. This map shows a deletion to the the MOL, but there is no separate map to show the addition of the removed area to be redesignated as Green Belt. The tables above do reflect both the alterations.

Metropolitan Open Land inconsistencies since Reg 19.

Map 30.

The green area in the original drawing of Map 30 is inaccurate as it goes over housing and although this error is included in the GIS data, the area covered in green was larger than that in the GIS data. The displayed value is from the GIS data and is shown with a red line.

The blue line on the map shows the addition originally intended created in the GIS data.

