

MOTION 5 REFERRED FROM FULL COUNCIL ON 30 JULY 2024

Head of Service:	Justin Turvey, Head of Place Development
Report Author	Ian Mawer, Justin Turvey
Wards affected:	(All Wards);
Urgent Decision?	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 – Motion 5 to Full Council on the 30 July 2024

Summary

The report provides a basis for debate to the motion submitted to the meeting of Full Council on 30 July 2024 in relation to the release of Green Belt through the Local Plan process.

Recommendation (s)

The Committee is asked to:

- (1) Note the motion and take no further action in light of the content of the report.**

1 Reason for Recommendation

- 1.1 To enable the Committee to debate the motion and make a decision.

2 Background

- 2.1 A Motion was submitted to Full Council at its meeting on 30 July 2024, proposed by Cllr Kieran Persand and Seconded by Cllr Bernie Muir, as follows and attached as Appendix 1:

- 2.2 *It is noted:*

- Following changes to the NPPF – it has been clear that it has and will always maintain the need for the protection of Greenbelt land, and that the priority for development should be on brownfield land. (Para. 145 & 146 of NPPF).

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- As identified by the Council – high performing Greenbelt are (but not limited to): Horton Farm; Land Adjoining Ewell East Station; Hook Road Arena; Noble Park.

2.3 *Therefore, we propose the motion for the Council to:*

a. Retain the existing Greenbelt boundaries.

b. Remove all 'high performing' Greenbelt land from the draft Local Plan, as permitted by paragraph 11 of the National Planning Policy Framework.

2.4 At Full Council on the 30 July, this item was referred to the Licencing and Planning Policy Committee as the relevant policy committee to debate the motion.

National Planning Policy Framework (December 2023)

2.5 The NPPF changes in December 2023 clarified that green belt authorities in England do not need to review green belt boundaries. As has been reported to this committee previously, this has always been the case – it is a local decision based on circumstances in the planning authority area when preparing a plan.

2.6 To amend Green Belt boundaries through the plan making process 'exceptional circumstances' must be demonstrated in accordance with the NPPF. It is important to note that national policy does not define what constitutes exceptional circumstances although there is case law that provides guidance on relevant considerations, notably the Calverton Case¹, which at the strategic level for Green Belt release includes:

(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;

2.7 It is important to note that the NPPF must be read as a whole and not extract sections in isolation.

2.8 The Local Plan once submitted will be examined by an independent Planning Inspector appointed by the Secretary of State who will assess the Local Plan against the tests of soundness of the entire framework:

¹ *Calverton Parish Council v Nottingham City Council [2015] EWHC 1078*

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a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

- 2.9 The NPPF (paragraph 11) makes it clear that there is an expectation that Local Plans will meet the housing need established by the governments standard methodology, unless policies in the framework that protect areas of particular importance provides a strong reason for restricting the overall scale, type or development in the plan area.
- 2.10 Green Belt is one of the areas of particular importance identified in the NPPF that can justify not meeting the housing need as identified by the standard method in full. However, the NPPF does not prevent local authorities from releasing Green Belt to meet development needs through the Local Plan process, this decision will be based on local circumstances and the evidence base.
- 2.11 It is important to note that on the 30 July 2024 the Ministry of Housing, Communities and Local Government (MHCLG) published a consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system. This consultation and the proposed response are the subject of a separate report to be considered by this committee. However, the proposed changes, if implemented, will impact the approach taken to Green Belt at both plan making and decision-making stages.

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3 Motion Clauses

- 3.1 It is important to note that the only way Green Belt boundaries can be amended is through the Local Plan process. The two criteria detailed in the motion are not compatible with each other, for the reasons below:
- a) *Retain the existing Greenbelt boundaries* – this criterion prevents the amendment of the boroughs green belt boundary as currently defined through the local plan process. As written this criterion wouldn't enable any change to be made to the borough's green belt boundaries, no matter how minor (for example making an amendment to the boundary so that it reflects the curtilage of a property).
 - b) *Remove all 'high performing' Greenbelt land from the draft Local Plan* – this criterion would appear to allow the amendment of the boroughs green belt boundaries for development so long as higher performing areas of Green Belt are protected and therefore contradicts A above.
- 3.2 The core aim of Green Belt, as defined in National Planning Policy is to 'prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'.
- 3.3 The council's published Green Belt Assessment looks at all Green Belt in the borough, breaks it down into 53 land parcels and assesses them all against the first four of the five green belt purposes set out in national planning policy, notably:
- 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;
 - d) to preserve the setting and special character of historic towns;
- 3.4 The council's Green Belt Assessment identifies that there are some lower performing parcels of Green Belt in the borough, some of which are being promoted for development through the Local Plan process, including areas of previously developed land that could be released from the Green Belt to enable comprehensive redevelopment to be undertaken.
- 3.5 It is important to note that additional evidence base is being prepared to support the next iteration of the Local Plan. In the absence of a fully complete evidence base, this motion, if carried, may pre-determine the content of the Local Plan. This approach increases the risk of soundness issues being identified with the Local Plan during the Examination phase undertaken by a government appointed Planning Inspector.

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4 Summary

- 4.1 The National Planning Policy Framework must be read as whole and does not prevent local authorities from reviewing their Green Belt boundaries through the Local Plan process, where justified and necessary.
- 4.2 The criterion detailed in the motion are contradictory, with one preventing any amendment to the Borough's Green Belt Boundary and the other appearing to be supportive of the inclusion of 'non high performing' Green Belt through the Local Plan.
- 4.3 In the absence of a fully complete evidence base, this motion, if carried, will pre-determine the content of the Local Plan which is likely to cause issues for the soundness of the Plan which will be explored following the submission of the Plan at the Examination stage.
- 4.4 In accordance with the Local Development Scheme approved by this committee, a fully evidenced Regulation 19 Local Plan will be presented to this committee in November 2024. If this committee does not agree to the content of the Local Plan or wishes to make changes to it the time to do that is when the Local Plan and full suite of supporting evidence base is available to consider. It is therefore recommended that this motion is not supported.

5 Risk Assessment

Legal or other duties

- 5.1 Equality Impact Assessment
 - 5.1.1 None arising from this report
- 5.2 Crime & Disorder
 - 5.2.1 None arising from this report
- 5.3 Safeguarding
 - 5.3.1 None arising from this report
- 5.4 Dependencies
 - 5.4.1 None arising from this report
- 5.5 Other
 - 5.5.1 None arising from this report

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6 Financial Implications

- 6.1 The motion if carried, could lead to increased costs for the authority when the local plan is at the examination stage due to the increased risk that the inspector will require additional work to be undertaken, the inspector will recommend that the plan is withdrawn or find the plan unsound.
- 6.2 **Section 151 Officer's comments:** Should additional costs arise; the Committee would need to divert resources within its budget envelope to fund them.

7 Legal Implications

- 7.1 The motion if carried, would be predetermining the spatial strategy of its local plan in the absence of a full evidence base. This increases the risks for the authority at the Local Plan examination stage that this Council's Plan may not be held to be 'sound' when a government appointed planning inspector will assess the plan against the four tests of soundness.
- 7.2 **Legal Officer's comments:** Further to paragraph 2.6 above, Members should note that reference to the Calverton Case is as follows - (*Calverton Parish Council v Nottingham City Council [2015] EWHC 1078*),

8 Policies, Plans & Partnerships

- 8.1 **Council's Key Priorities:** The Local Plan will contribute towards delivering the Council's Vision and priorities identified in its Four-Year Plan.
- 8.2 **Service Plans:** The Local Plan is included within the current Service Delivery Plan.
- 8.3 **Climate & Environmental Impact of recommendations:** The Local Plan will play a key role in implementing our Climate Change Action Plan,
- 8.4 **Sustainability Policy & Community Safety Implications:** The Local Plan itself has a key role in delivering sustainable development.
- 8.5 **Partnerships:** None.