



Newcastle under Lyme Borough Council
Regulation 18 First Draft Local Plan June 2023

Exceptional Circumstances for Green Belt Release

1. Introduction

1.1 This paper has been prepared in support of the emerging Newcastle under Lyme Local Plan, prepared by Newcastle under Lyme Borough Council (NuLBC). The Local Plan includes a number of proposed housing site allocations, some of which are located in the existing Green Belt. The paper sets out the Green Belt context in the Borough, gives an overview of the site selection that the Council went through and then highlights the exceptional circumstances which are considered to exist which justify the release of Green Belt. The case for Keele village being inset from the Green Belt is also made.

2. History of the Green Belt

2.1 Green Belt is a national policy designation introduced initially in the 1930's around London and then rolled out nationally by a government circular in 1955. There are currently 14 separate Green Belts in England of varying sizes. Green Belt aims to prevent urban sprawl and the merging of settlements, to assist in safeguarding the countryside from encroachment, to preserve the character of historic towns and to assist urban regeneration by encouraging development on derelict and other urban land.

2.2 Green Belt is not a landscape or natural heritage designation, nor is all land within the Green Belt necessarily "green" i.e. undeveloped, greenfield land. For example, it can include existing development, including villages, within it. Its main purpose is to preserve "openness" of the land.

3. Green Belt in Newcastle-under-Lyme

3.1 The Newcastle-under-Lyme Green Belt covers the entire northern half of the authority area and is contiguous with the Green Belt in Cheshire East Council to the north and Stafford Council to the south.

3.2 The Green Belt in Newcastle-under-Lyme forms part of the wider North Staffordshire Green Belt. This was originally defined in 1967 and was then reassessed through the County Structure Plan, however no alterations were made to the boundaries. The North Staffordshire Green Belt Local Plan was adopted in 1983 and included a reassessment of the Green Belt boundary which did result in some boundary changes and outlined new policies for the protection of the Green Belt, with the Newcastle-under-Lyme Local Plan adopted in 2003 setting out new policies for the Green Belt and making a number of alterations to the Green Belt boundary. The Joint Core Strategy (with Stoke on Trent) adopted in 2009 did not alter the Green Belt boundary.

3.3. The Arup Green Belt Part 1 Assessment (2017) provides more details on the evolution of the Green Belt in Newcastle under Lyme.

4. National Planning Context

4.1 Policies in the National Planning Policy Framework (NPPF) point to a sequential approach when deciding which sites should be allocated for development in local plans. The exceptional circumstances test for altering the Green Belt boundary is particularly important because it means that all other reasonable options should be considered first.

4.2 The NPPF sets out the Government's planning policies and how these should be applied, including national policy on Green Belt. Paragraph 137 of NPPF is clear that the Government attaches great importance to Green Belts, with the fundamental aim of this policy being to prevent urban sprawl by keeping land permanently open – this reflects the essential characteristics of Green Belts which are their openness and their permanence.

4.2 Paragraph 140 states that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans (in this case, the Newcastle under Lyme Local Plan). Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

4.3 Paragraph 141 goes on to state that, before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will take into account paragraph 140, and whether the strategy:

- makes as much use as possible of suitable brownfield sites and underutilised land;
- optimises the density of development in line with the policies in NPPF, including whether policies promote a significant uplift in minimum density standards in town centres and other locations well served by public transport; and
- has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.

4.4 Paragraph 142 then makes clear that, where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously-developed and/or well-served by public transport. They should “set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land”.

4.5 This paper will now provide a summary of the “examination of all other reasonable options” that was carried out in preparation of the Local Plan and then goes on to set out the exceptional circumstances which are considered to exist for Green Belt release.

5. Examination of all other reasonable options

5.1 Paragraph 141 of the NPPF specifies how strategic policy making authorities should establish the existence of exceptional circumstances to justify change to Green Belt boundaries.

5.2 The first consideration is that full use must be made of suitable brownfield and underutilised land. The NPPF does not define “underutilised” land or state whether it is distinct from brownfield land. The Council have interpreted this as prioritising the identification of suitable sites within the urban boundary first, before looking at countryside or Green Belt. This may involve, for example, reassessing existing employment sites to identify whether they are still being fully and appropriately utilised for economic uses. In relation to brownfield land, the approach was to focus first on brownfield sites or mixed sites. Greenfield sites were then identified as a last resort.

5.3 NPPF states that a policy-making authority should have a clear understanding of the land supply for housing within its area and that this can be achieved by producing a strategic housing & economic land availability assessment (SHELAA). This provides an indication of how much land is suitable, available and achievable for housing development. The SHELAA looks at a number of assessment criteria, including physical constraints such as flood risk, topography, access and compatibility with surrounding uses.

5.4 Sites assessed in the SHELAA were identified from a number of sources, including sites taken from earlier SHLAAs, land suggested through the Call for Sites process and by identifying land in public ownership which may be available for redevelopment. As there was no restriction on what type of land could be considered in the initial assessment, the SHELAA included a mixture of locations and land types, including brownfield and greenfield land, sites in the urban boundary and those in the countryside and Green Belt.

5.5 Initially the SHELAA discounted all those small potential “windfall” sites which could not deliver at least five dwellings (in line with national guidance) and those that had an extant planning permission (as these would already be included in the housing land supply as commitments). Through the assessment of the remaining sites’ suitability, availability and achievability, the SHELAA determined whether they could be “deliverable” (i.e. homes could be provided on the site within five years) or “developable” (i.e. those sites deemed suitable for development but where homes could only start to be delivered later in the plan period).

5.6 The SHELAA is not an absolute indicator of land supply as it assesses sites at a high level on a “policy-off” basis. The housing supply provided by the SHELAA was therefore refined using other evidence base studies including the Green Belt Review (Parts 1, 2 &3), Landscape Assessment, Strategic Flood Risk Assessment and the Housing & Economic Needs Assessment to identify housing site allocations within the First Draft Local Plan. Furthermore the SHELAA assessed each site in isolation, whilst the site allocations within the Local Plan considered the possible cumulative impact of development. Thus unsuitable sites had to be sieved out to deliver a final category of those which were considered suitable for allocation.

5.7 The site assessments set out more detailed information on the case for release of individual allocations in light of the Green Belt performance, character and amenity of the site, sustainability and access, and other benefits that weigh in favour of release. The overall rationale for the selection of sites has been those that result in the least harm and the most benefit.

5.8 Further details of the site selection process, giving reasons why particular sites were selected or rejected for allocation can be found in the Site Selection Report which accompanies consultation on the First Draft Local Plan.

Sites within the existing urban boundary

5.9 The number of units that could be delivered on sites within the Urban Boundary was insufficient to accommodate the housing need of the Borough during the plan period and therefore sites within the countryside had to be considered. Indeed, not all of the sites which were identified within the Urban Boundary are “suitable” for allocation. For example, some are in active use or protected for employment development. The development of others could have significant impact on heritage assets or a green space. Others might give rise to highways issues.

Making use of brownfield land

5.10 Suitable previously-developed land was prioritised for development during the site selection process. Whilst there is a perception that there is a large amount of brownfield land available, the Borough does not actually have a great deal of previously-developed land (as evidenced in the SHELAA & the Town Centre Urban Capacity & Regeneration Study), compared with some of the larger urban authorities. Furthermore, much of this land is not necessarily suitable due to the particular constraints typically associated with the development of brownfield sites, such as lack of economic viability and land contamination.

Optimising Density

5.11 The NPPF is clear that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

5.12 During the site selection process and the identification of the housing land supply, density was carefully considered by the Council. This took account of the need to optimise density wherever possible but was also mindful of other considerations, such those set out in paragraph 124 of NPPF. This states that development that makes efficient use of land should be supported, taking into account issues such as local market conditions and viability, the capacity of existing infrastructure and services, including sustainable travel modes, the desirability of maintaining an area's prevailing character and setting (including residential gardens) and the importance of securing well-designed, attractive and healthy places.

5.13 With this in mind, the Council have maximised density wherever it was felt appropriate to do so (for example in the most sustainable locations) but have not assumed a high density is appropriate for every site if this would have an adverse impact on the surrounding character or would create a disproportionate amount of new housing in an area (in relation to existing services).

5.14 Therefore, rather than applying a blanket density multiplier for all sites, the potential capacity of each allocated site was identified by first estimating the net developable area of the site (taking account of necessary infrastructure such as roads, areas of habitat etc.) and then applying other considerations. These other considerations included the location of the site in relation to access to public transport and other services, density of the surrounding area, potential effect on landscape, the setting of heritage assets etc.

5.15 Keeping the density to a moderate level also facilitates a wider range of dwellings, including larger, lower density homes, to provide greater choice within the housing market. In relation to brownfield land, however, the Council took the view that the density of development should be maximised as much as possible to reduce the need to allocate more greenfield land. Generally speaking the economic viability of brownfield sites is also improved by increasing the density of development.

6. Discussions with Neighbouring Authorities

6.1 Throughout the preparation to date of the Local Plan, the Council has actively engaged with adjoining authorities and other Duty to Co-operate consultees (please refer to the Duty to Cooperate Compliance Statement for more information). All adjoining authorities have been asked if they could consider taking any of Newcastle under Lyme's housing requirement. In response, no Councils have offered to meet any of Newcastle under Lyme's needs.

6.2 In view of the NPPF advice that local authorities work jointly with neighbouring authorities to meet any development requirements that cannot be met within their own boundaries, it should be noted that whilst Newcastle under Lyme shares a housing market area with Stoke, owing to the city's 35% uplift in housing requirement (as one of the 20 most populated cities or urban centres in England), significant demands have been placed on its own urban land supply for housing.

6.3 It's also important to recognise that any redistribution of development outside the Borough boundary, would also be likely to reduce the delivery of much needed affordable or special housing needs for residents of Newcastle under Lyme.

7. Reasonable Options Conclusions

7.1 As is set out above, the site allocation process focussed first on sites within the urban boundary and on brownfield sites before considering sites in the countryside/Green Belt and greenfield sites. Newcastle under Lyme has a limited amount of brownfield land and of this total supply, even less could be considered appropriate for redevelopment. Nonetheless, wherever a brownfield site was assessed to be suitable, this land has been allocated.

7.2 Density has also been optimised as much as possible and the average density achieved on all proposed site allocations is high. It must be recognised, however, that the scope for maximising density is limited by the prevailing character of the area. A balance was considered to be necessary to avoid the increase in density starting to negatively impact on the character of the area, especially as the Borough does not have many locations which naturally suit very high density development.

7.3 The lack of brownfield and other suitable land within the urban boundary has resulted in the need to consider sites beyond the urban boundary. Much of the non-Green Belt land outside the urban boundary is also unsuitable for development, due to topography, natural heritage and other constraints, including flood risk and accessibility.

7.4 Discussions with neighbouring authorities has concluded that no other authority was able to accommodate any of Newcastle under Lyme's housing needs, particularly given the challenges faced in meeting their own needs.

7.5 The Council considers that it has examined all other reasonable options for meeting its identified need for development as required by Paragraph 141 of the NPPF. The assessment of all other options did not identify sufficient suitable land to meet needs. It was therefore considered necessary for Green Belt land to be proposed for development, especially where this land met the expectation of NPPF paragraph 142 and was relatively free of other constraints.

8. Exceptional Circumstances

8.1 Having been satisfied that the requirements of NPPF Paragraph 141 had been met, the Council went on to consider the exceptional circumstances for Green Belt release. There is no formal definition or criteria on what constitutes exceptional circumstances however there are a number of legal judgements which assist in determining what may constitute an exceptional circumstance.

8.2 In the case of Calverton Parish Council v Nottingham City Council [2015] EWHC 1078 (Admin), ("the Calverton case"), Mr. Justice Jay set out five considerations that ought to be addressed to ascertain whether 'exceptional circumstances' exist to justify releasing land from the Green Belt for development. Paragraph. 51 of the judgment states that:

"... the planning judgements involved in the ascertainment of exceptional circumstances in the context of both national policy and the positive obligation located in section 39(2)5 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.”*

8.3 Taking account of these considerations (& the detailed points raised within Section 4 of the Green Belt Review Part 3), the Council considers that there are exceptional circumstances which justify release of Green Belt sites for development. . They are as follows:-

8.4 **Acuteness/intensity of the Objectively Assessed Need:** The housing requirement figure of 358 dwellings per annum (358dpa) has been derived using the standard methodology for calculating housing need. This is the Government’s preferred method to identify housing need unless exceptional circumstances exist to justify another approach. The Government see the figure this produces as a starting point and, whilst there is scope within the guidance to increase the requirement if certain circumstances exist, the Council do not have any evidence to suggest that the requirement should be any lower than this.

8.5 The housing need may be even greater if the need for affordable housing was to be met in full and in order not to constrain economic growth. Whilst the Council considers that its current requirement of 358dpa is appropriate, this further demonstrates the intensity of the need for housing delivery.

8.6 The identified housing requirement, which is acknowledged as a minimum, and the continuing failure to deliver enough homes (now measured through the Housing Delivery Test which imposes sanctions on local authorities who fail to meet housing targets), including enough affordable homes, means that the Council is under a great deal of pressure to provide enough land to meet identified needs.

8.7 The Council has identified a need to allocate 69 hectares of employment land to provide for future requirements. The requirement for new employment land is considered essential in order to attract new business growth to the area, which currently suffers from a lack of good quality, large, accessible, fit for purpose sites and premises. Further consideration will be given to the merits of establishing (a) strategic employment site(s) – more detail on this is available via the Strategic Employment Site Assessment Report.

8.8 **Constraints on supply/availability for sustainable development:** This note has shown that the supply of suitable, available and achievable non-Green Belt land is insufficient to meet identified development needs. This is due to a number of factors including the inherent lack of a large supply of brownfield land and other physical and economic constraints such as topography, flood risk, transport infrastructure, landscape and constraints on viability due to low land value and the cost of infrastructure. All of these lead to the need to consider the release of Green Belt land with development potential.

8.9 **Difficulties in achieving sustainable development without impinging on Green Belt:** Without the release of Green Belt for development, all development would need to take place within the existing urban area or the countryside. It is not considered that there are enough suitable sites within these areas. Without Green Belt release, as there is a need to meet the housing requirement, there may be pressure to accept development in less sustainable locations which, in other circumstances, would not be supported. This could be on open space and playing fields, on

more isolated countryside on the edges of urban areas or on countryside which may have greater landscape or heritage value than Green Belt. The development of such sites may actually cause more harm and be less sustainable than development on Green Belt.

8.10 Taking the case of Keele, in order to provide for the University's growth ambitions and bolster its role as a centre of excellence, research, teaching and scholarship and boost innovation-led high value employment growth, new housing will be required to accommodate the needs of both academic and non-academic staff, research staff and those working at the science and business park.

8.11 The preferred approach for housing at this location, rather than at alternative sites across the housing market area, is primarily a result of the unique opportunity that exists to form a new community where housing and employment growth is directly aligned. It would also make a significant contribution to the borough's unmet housing need and work to demonstrate that opportunities have been positively sought to meet the borough's development needs, as required by national policy.

8.12 Furthermore, Keele presents a location-specific opportunity to target knowledge-economy/research & development-based businesses, through the expansion of the existing Science and Business Park. Evidence from the SHELAA identifies the opportunity to capitalise on available greenfield sites within the Green Belt close to the university to create a residential community in a location that would support strong interface with the University. This has the potential to provide housing in an accessible location to both support the growth of the university and contribute a significant amount of homes towards Newcastle's overall requirement, including making provision for a variety of family and affordable housing.

8.13 **Nature and extent of harm to Green Belt (or those parts of it which would be lost):** The Green Belt Review parts 1, 2 & 3 which informed the Local Plan, assessed the potential harm to the Green Belt (which it split into parcels for the purposes of the study) if it were to be developed. The review firstly made an assessment of each parcel against each of the five purposes of the Green Belt and whether it continued to perform strongly against these. Decisions regarding release were made against the spectrum of evidence but in Green Belt terms, the lower performing Green Belt parcels had the greatest potential to be considered for release.

8.14 **Extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced:** Paragraph 142 of NPPF states that ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land should be set out. Central Government Planning Policy Guidance expands on this and provides a number of suggestions on how this may be achieved. For example, through the provision of new or enhanced green infrastructure, woodland planting, new or enhanced walking and cycling routes and so on.

8.15 In a similar vein, paragraph 145 states that once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

8.16 In due course, consideration will be given to setting out a number of mechanisms by which any impact of development on the existing nature and character of an area could be mitigated, including the need to carefully consider landscaping and boundary treatments. This may also include provision for securing developer contributions from planning obligations & identifying potential opportunities for enhancing these sites and improving access to them.

8.17 All of these recommendations can be incorporated into additional site specific planning guidance in the Local Plan.

Green Belt Villages

8.18 With regard to the Green Belt status of Keele Village, the NPPF, paragraph 144, states that “If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as conservation area or normal development management policies, and the village should be excluded from the Green Belt”. The Council appointed Ove Arup to prepare a study (Green Belt Village Study) which has looked at the case for the suitability of washed over villages in the Green Belt. The outcomes of the study, using a consistent and robust methodology suggest that there is the case to ‘inset’ Keele village from the Green Belt.

9. Conclusion

9.1 In the draft Local Plan the Council sets out a number of proposed Green Belt releases for which it believes that a good case for ‘exceptional circumstances’ can be made. The case is guided by the principle of creating ‘sustainable patterns of development’ as set out in the NPPF. A key point is that the release of Green Belt is limited when measured against the total area which will remain and therefore it is argued that the benefits in the weighing exercise clearly outweigh the degree of harm.

9.2 This note demonstrates that, in Newcastle under Lyme, the overall supply of housing land to meet both the requirement and provide a 5 year housing land supply together with a flexibility allowance, can only be satisfied by the exceptional release of land from the Green Belt in accordance with the NPPF and PPG.

9.3 In reaching this position, officers have balanced the harm caused by the principle of Green Belt release and the impact on individual sites (through the Green Belt assessments Parts 1, 2 & 3) against the benefits of those sites being developed and to the strategy as a whole.

9.4 Two decades have also passed since changes were last made to the Borough’s Green Belt, so the emerging Local Plan presents a timely opportunity for this planning designation to be reassessed in the context of attaining the most sustainable form of development up to 2040.

10. Going forward

10.1 The strategic level exceptional circumstances case will continue to be linked to the wider evidence base including the proposed spatial strategy, the approach to meeting housing and employment needs within the Borough, the reasonable alternatives for delivering growth (as assessed through the Sustainability Appraisal) as well as the conclusions drawn from the Green Belt review and site assessments.

10.2 A case will also need to be made for site specific exceptional circumstances to release particular parcels from the Green Belt. Furthermore, NuLBC will as well look to set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.

10.3 The Plan, at Regulation 19 stage, will consider whether it is necessary to identify areas of safeguarded land between the urban area and the Green Belt, to meet longer-term development

needs stretching well beyond the Plan period. If land is identified as safeguarded land, it is not allocated for development at the present time.

10.4 Small changes may also be made to the boundary of the Green Belt to amend minor anomalies, for example where the original Green Belt boundary no longer follows the edge of the built up area.

10.5 Following the adoption of the Local Plan, a large proportion of the land area of the Borough will remain in the Green Belt. Land remaining in the Green Belt will continue to be strictly protected from inappropriate development, such as most forms of housing and employment development, in accordance with national policy.