

Green Belt and Exceptional Circumstances



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Policy Framework (1)

- NPPF 136: *“Once established Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans”.*
- Need for change has to be established through strategic policies. Detailed amendments to the boundaries can be made through non-strategic policies, including Neighbourhood Plans.
- No definition of “exceptional circumstances”. However, NPPF 137: LPAs should *“examine fully other reasonable options for meeting its identified need for development”.*
- In particular: (i) availability of suitable brownfield sites/underutilised land (ii) the optimisation of density standards, particularly in town and city centres (iii) possibilities for neighbouring authorities to accommodate some of the identified need through the duty to co-operate.
- NPPF 138: *“need to promote sustainable patterns of development should be taken into account”*

Policy Framework (2)

- NPPF 139: ensure that any new boundaries are consistent with the development plan’s strategy for meeting identified requirements for sustainable development; identifying areas of safeguarded land, where necessary; and demonstrating that Green Belt boundaries will not need to be altered at the end of the plan period.
- Paragraph 11(b):

“Strategic policies should as a minimum provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or

(ii) any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole”.

*R (Compton Parish Council & Others) v
Guildford Borough Council & others* [2019] EWHC 3242 (Admin)

- Statutory challenge to the Guildford Borough Local Plan. OAN: 10,678 dwellings. Provision for 14,602 dwellings (inc. 6,295 homes in the Green Belt).
- Inspector found exceptional circumstances existed. Relied on a number of factors including: (i) integrated nature of proposals (ii) importance of a headroom in case of slippage (iii) pressing housing need (iv) very serious shortfall in provision of affordable housing (v) meeting Woking's unmet need (vi) contribution of sites to infrastructure and other benefits (vii) sustainability of chosen locations, and contribution to a balanced spatial strategy (viii) lack of adverse impact on openness and purposes of the Green Belt.
- Claim included challenge on the grounds that exceptional circumstances could not exist where more land was released from the GB than was necessary to meet the OAN; and in any event, that the Inspector had not considered the scope for not meeting some of the need in accordance with paragraph 14 of the NPPF.

Key Takeaways from Compton

- Claim dismissed. Useful indications on what is not necessary to demonstrate ECs:
 1. ECs do not need to be extraordinary, and are less demanding than VSC: see also (R(Luton BC) v Central Bedfordshire Council [2015] EWCA Civ 537).
 2. No requirement that GB land be released as a last resort: see also IM Properties Development Ltd v Lichfield DC [2014] EWHC 2240. Although NB NPPF, para. 137.
 3. No need for more than one EC; EC can be found in combination of circumstances of varied natures. No requirement that unlikely to occur elsewhere.
 4. ECs can include general planning needs. Need not irrelevant – and could of itself be sufficient to demonstrate EC depending on the circumstances – although again NB NPPF, para. 137.
- Providing a headroom against slippage can contribute to EC – especially where needed to achieve a sustainable pattern of development and realise site benefits.

Practical implications from Compton

- No new law – but helpful clarity that ECs can include general planning matters including broader spatial objectives.
- Clear Courts very unlikely to intervene in EC judgment. Provides certainty for LPAs/Developers.
- Two stage approach: "Strategic Level" ECs; "Local Level" ECs.
- Checklists? No need to follow "Calverton Checklist" (see Calverton Parish Council v Nottingham City Council [2015] EWHC 1078 (Admin) at [51]). Compton at [72]:

"There will almost inevitably be an analysis of the nature and degree of the need, allied to consideration of why the need cannot be met in locations which are sequentially preferable for such developments, an analysis of the impact on the functioning of the Green Belt and its purpose, and what other advantages the proposed locations, released from the Green Belt, might bring, for example, in terms of a sound spatial distribution strategy."

Thank you for listening

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