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August 2012

The London Green Belt Council

Notes

For many more years than anyone cares to remember, these Notes have been compiled by our Vice-President, Ronald Smith. I think it is true to say that they are the most valued thing that the London Green Belt Council does. Our heartfelt thanks go to Ronald for all the work he has put into Notes over the years. Although we still rely on his advice and experience for many things, he is no longer right at the centre of the action. He has, as a result, been finding himself less well placed to compile Notes, so we have agreed that in future I will put Notes together, but he will continue to supply some of the material as appropriate.

Keston Countryside Day

On Sunday 8th July 2012, Ray and Maureen Liffen, Edward and Christine Glynn and I staffed a LGBC stall at the Keston Countryside Day near Bromley. We thought it was well worth attending. The weather was poor and we understood from the organisers that a lot of exhibitors had pulled out on account of the weather. However, the sun did come out about the time the event started and a good number of visitors came. Even so, there were a couple more showers during the afternoon - a particularly heavy one just as we were wanting to pack up.



We had a good spot for our stall. At first it seemed that we were rather on the edge of things but, as people started to arrive, we realised that we were the first stall people saw when arriving from the direction of the main part of Keston village.



We had conversations with various people about the Green Belt, which hopefully have left them with a better idea of what it might or might not do to help them in their own particular planning battles. We also had a chance to meet the Vice-chair of the Bromley Council Planning Committee.

All in all, taking part in events such as this does seem to be a good way of publicising the Green Belt and LGBC in particular – and would be something worth repeating .

London to Birmingham High Speed Rail Link (HS2)

Altogether, five applications for judicial review of the Government's proposals for HS2 have been given leave to proceed and will be the subject of a hearing in the High Court starting on 3rd December. The five cases will be heard together and the hearing is expected to last about two weeks. In view of the potential damage HS2 would cause to the Green Belt, LGBC has supported the judicial review application by the group called HS2 Action Alliance with donation of £300.



Third Runway at Heathrow Airport

There are suggestions that the Government will revisit its decision not to proceed with the proposal for a third runway at Heathrow Airport. The proposal would involve extending the airport northwards on to land which is almost entirely Green Belt. In the past, the Government has sometimes argued, when supporting HS2, that it was an alternative to a third runway at Heathrow. While that never seemed convincing, the threat now arises that we may have both.

Proposed Football Stadium at St Paul's Cray



One of the topics we were able to discuss with local residents at the Keston Countryside Day was a Proposed Football Stadium at St Paul's Cray. I think the letter we wrote on this application is self explanatory:

‘The London Green Belt Council opposes this application for a major development on Green Belt. As the applicants acknowledge, the amount of building involved is such as to render the development inappropriate in the Green Belt and the issue is whether or not very special circumstances exist to justify departure from normal Green Belt policy.

‘The need for the application is said to be to provide

Cray Wanderers with a ground suitable for them to be admitted to the football league. For a middle of the road team in the Ryman Isthmian League to reach League 2 would require several steps up and, with due respect to the club, there is insufficient assurance that it will happen to justify the loss of this valuable piece of Green Belt.

‘We are concerned at the view which, if represented correctly in the Planning Statement, you or your colleagues appear to have taken in the course of pre-application discussions; namely that:

The characteristics of the site are such that the purposes of including the land in the Green Belt will not be adversely affected by the proposal and the purposes and objectives of the Green Belt policy are respected.

‘We cannot see what ‘characteristics of the site’ could lead to that conclusion. Two of the five purposes of including land in the Green Belt, set out in the National Planning Policy Framework[NPPF], para 80, are:

to check the unrestricted sprawl of large built-up areas;

to assist in safeguarding the countryside from encroachment;

and paragraph 79 makes clear that an essential characteristic of the Green Belt is openness. ‘The site in question is ordinary open countryside which would completely lose its openness if the proposed development went ahead. It is true that it is close to the built up area, adjoining it at the southern end. This, however, only increases its importance. If Green Belt land adjoining the built up area is developed, the Green Belt has immediately failed in its purpose of preventing urban sprawl.’

Section 106 Obligations

The Government is consulting on changes to the rules for varying obligations undertaken in Section 106 agreements. The consultation closes on 8th October, so changes could come into operation about the end of the year.

As things stand, a developer who has entered into a Section 106 agreement may seek to renegotiate the agreement with the planning authority. If agreement on changes cannot be reached, and 5 years have elapsed since the Section 106 agreement was entered into, a formal application to vary the agreement may be made, which is then decided by an inspector.

It is proposed that for agreements entered into before 6 April 2010, developers would be able to make a formal application without waiting for the five year period to end. The proposal would thus apply to a limited number of agreements which can already be identified. Agreements entered into on or after 6 April 2010, including future agreements would not be affected. It would thus be of no practical effect from 6 April 2015 as, by then, any agreement to which it could apply would be eligible under the 5 year rule anyway.

It is alleged that there are a substantial number of planning permissions containing agreements entered into prior to 6 April 2010, which are not being implemented because changes in the general economic situation mean that the burden of the agreement is making the development non-viable. The date, 6 April 2010, has been chosen because the rules relating to Section 106 agreements changed on that day. Since then, obligations undertaken in agreements must only cover what is necessary to make the development acceptable, must be directly related to the development and reasonable in scale and kind. It is considered that such obligations are more likely to be essential to making the development acceptable and hence less likely to be negotiable.

Concern about Government Policy on Green Belt

There has been another flurry of articles in the Daily and Sunday Telegraph suggesting that the Prime Minister and the Chancellor of the Exchequer were considering removing land from the Green Belt to allow development in the hope that it would kick start the economy.

I drafted a letter to the Editor pointing out that there were already many sites with planning permission not being developed for economic reasons and that something needed to be done to remove the economic barriers. Just granting more planning permissions would not help. I also pointed out the difficulties a change in policy would cause for local authorities already working against tight deadlines to produce plans in accordance with the NPPF. However before I could send the letter, the paper reported that Government spokesmen had made clear that Government policy not to interfere with the Green Belt would remain as set out in the Coalition Agreement and the NPPF. They referred to initiatives to facilitate both big infrastructure projects and house building. So my letter will remain a draft. One wonders where these rumours arise. Developers trying to chip away at the Green Belt, perhaps – or just journalists with nothing much to write about in August after the Olympics were over?

CPRE has produced a new briefing paper detailing the current threats to the Green Belt and is urging the Government to honour their commitment to protect the Green Belt and be prepared to call-in cases where a local planning authority is minded to allow development of Green Belt unnecessarily. The paper can be seen on the CPRE website www.cpre.org.uk (specifically <http://www.cpre.org.uk/media-centre/latest-news-releases/item/3019-government-needs-to-honour-pledge-to-protect-the-green-belt>)

Cedric Hoptroff

Ronald Smith writes:

So here I am, in future mainly concentration on the items obtained from the Press and Case reports. But before I start on those I must comment on the reply obtained by our President to a letter about the quality of landscape not being a consideration in the green belt and complaining of the omission from the latest guidance of all reference to the fact, which had been a key to green belt policy from the beginning. The Minister, replying to our President, wrote 'The London Green Belt Council has expressed concern that the Framework does not specify that the quality of landscape is not relevant to the inclusion of land within a green belt, or its continued protection. This is because the 'purposes of green belt are clearly set out at paragraph 80 of the framework (and do not include the quality of the landscape). Therefore there was no need to have additional explanatory text.' I was horrified to read this and I can't help feeling that it was a deliberate attempt to prepare the way for step-by-step relaxations in future. The new planning guidance, then just issued, does indeed set out the purposes of the green belt, but omitting about ten words to save space can hardly be a convincing explanation.

Planning decisions

So now I turn to case decisions and the like. They do not strike me as notably different from in the past, and I think the Planning Inspectorate deserves praise for its attempt to keep some sense in the system. In the following examples I include a month and date at the end, where we have it, so that you can judge for yourselves whether the recent and no-so-recent cases are really all that different.

1. An Inspector has upheld an enforcement notice ordering the closure of a farm centre in north London green belt, and finding no special circumstances to justify its retention. It had been developed to provide family fun and education at a farm in a conservation area. It kept goats, pigs, sheep, chickens, turkeys, ducks, wallabies, snowy owls and storks. It received 46,000 visitors over 11 months in 2011. The inspector decided that fences, car parking and animal and bird enclosures detracted from the site's openness.
2. A site in Essex green belt, also intended for popular amusement, was refused by the local authority and there was an appeal. The site contained (wait for it) earth tracks, jumps, bunds and barriers, portable buildings used as offices, a store and canteen, a materials area, portable toilets, a shipping container forming a bridge, a footbridge, a raised viewing platform for spectators, a car park, and banner signs. The inspector concluded that the aim of the green belt was to prevent urban sprawl by keeping land within such areas permanently open. The appellant argued that its cessation would displace 3700 users, and that the nearest available alternative was 50 miles away. The inspector was not impressed and the appeal was dismissed. (Appeal ref APP/J1535/C/11/2152653 - decision issued 05.03.2012)
3. How many jaguars do you own? The use of a barn in Bristol green belt has been rejected. The site held 50 cars and members of a club could store up to two each. The inspector said that all this would increase the use of the site for selling cars. (reported May 2012)
4. The number of marina proposals seems to have increased substantially in the last few years, and there is a tendency to elaborate them more and more. But where green belt is concerned, the planning inspectors have been fairly firm. This one was on green belt near Worcester and concerned the Worcester and Birmingham Canal. The inspector said that it would encroach on the countryside by introducing buildings, engineering operations, and mass boat storage on currently undeveloped rural land. He acknowledged that the scheme had many points in its favour but they did not amount to proving a demonstrable case for a marina on this scale in this area. (Appeal ref APP/H1840/A/11/2162708 - decision issued 16.03.2012)
5. Green belt boundaries are intended to be permanent.... This concerned the demolition of a house at Iver Heath and the erection of two detached houses. There had been much previous argument, which I need not go into, about exactly where the green belt boundary was, and whether the houses would encroach on to it. The inspector goes into all this and concludes 'the current proposals map leads me to a conclusion that is at odds with the interpretation which was accepted in 2007. Nevertheless, on the basis of both the 1999 proposals map and the 2011 proposals map and 'accepting the fact that green belt boundaries do not alter with time (unless expressly considered by the S/S (my underlining), there remains evidence that the boundary did follow a slightly different line. After considering several general green belt points, the inspector concluded that the development should be refused.