

**Dacorum Site Allocations DPD
Matters, Issues and Questions**

Matters 2 – General issues

**Submission to Planning Inspector by West Hemel Action Group [WHAG]
Examination of the Dacorum Site Allocations Development Plan document –
October 2016**

Changes Modifications

Q1-Q2

Coverage and approach

Q3-Q10

No comments by WHAG on the above sections.

- 11 Has the principle of removing land from the Green Belt already been established in the CS? If so, does this Plan deviate from principles set out in the CS in this regard?**
- 11a Do the exception circumstances, as required by the NPPF paragraph 83, exist to justify the Plan's proposed revision of the boundaries of the Green Belt?**

National Planning Policy

14. Are there any policies in the Plan that do not accord with the Framework or advice in Planning Practice Guidance?

1. The following comments cover the above three questions – 11, 11a and 14:
2. At para 6.3 the Site Allocations DPD asserts that the principle of removing [LA3] land from the Green Belt has already been established in the Core Strategy (CS). Whilst at 8.29 the CS states that "The Council's own review of the Green Belt boundary has identified some locations where released land will be necessary to meet specific development needs," both the CS and the Site Allocations DPD totally fail to justify why the suggested release is necessary and do not accord with the policies set out in the NPPF including the exceptional circumstances requirement at para 83. Indeed, in his report on the draft CS dated 9 July 2013 the Inspector noted that the Council had not yet undertaken a "comprehensive assessment" of the Green Belt. He further noted that "Without such comprehensive evidence a robust conclusion on the potential for identification of additional housing sites can not be satisfactorily drawn."
3. The flaws found by the Inspector in the original CS were such that he was only prepared to declare it "sound" on the basis that the Council was committed to carrying out a review of the CS within five years of its adoption,

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including in particular a “rigorous and comprehensive” review of the Green Belt.

4. It is therefore clear that there has been no proper consideration that the exceptional circumstances for the alteration of Green Belt boundaries exist. The problems of this approach have been identified by Mr Justice Jay in *Calverton Parish Council v Nottingham City Council* [2015] EWHC 1078 (Admin). At para 58 he notes the danger of the issue of exceptional circumstances falling between two metaphorical stools. He notes that it is difficult for these issues to be addressed at a later stage since adoption of the local plan would be a powerful dictator of subsequent policy. WHAG submits that there is a very clear danger of this coming to pass since adoption of the Site Allocations DPD would concede the principle of removing land from the Green Belt without any regard to the detail and there will not be any or sufficient opportunity to review the principle itself in the forthcoming review of the CS.
5. The principle itself is set out at paragraph 83 of the NPPF and states that once established Green Belt boundaries should only be altered in exceptional circumstances.
6. It is however acknowledged that other pertinent paragraphs of the NPPF cannot be ignored. In particular Para 14 sets out the presumption in favour of sustainable development indicating that local plans should meet objectively assessed needs unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies in this framework indicate that development should be restricted. The restriction on building on land designated as Green Belt is one such specific policy. This is a clear constraint on the sustainable development presumption.
7. Para 47 provides, inter alia, that local planning authorities should use their evidence base to boost significantly the supply of housing ensuring the local plan meets full, objectively assessed needs for market and affordable housing in the area. In this regards it is worth highlighting the Inspector’s findings in his 9 July 2013 report that the Council had failed to undertake a proper assessment of the housing needs of its area and in any event as per para 50 of the Calverton judgement referred to above it would be illogical and circular to conclude that the existence of an objectively assessed need could, without more, be sufficient to amount to “exceptional circumstances.”
8. Para 84 states that when reviewing Green Belt boundaries Local Planning Authorities should take account of the need to promote sustainable patterns of development. This paragraph does not alter the meaning of “exceptional circumstances” which has been held to supply a fetter or brake on development which would, were it not for the Green Belt, otherwise be

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sustainable i.e. Para 84 does not in any way dilute para 83 (see para 19 in Calverton).

9. Although sustainable development is not defined in the NPPF, it is widely accepted that it requires a balance between economic, social and environmental factors. Paragraph 152 of the NPPF provides that Local Planning Authorities should seek opportunities to achieve net gains across all three factors but that significant adverse impacts on any of these dimensions should be avoided.
10. Whilst a local authority will no doubt be cognisant of the positive obligation to achieve sustainable development and note that if such development is curtailed that this may cause harm to the economic and social aspects of sustainable development, such an approach misinterprets the thrust of the NPPF as a whole, which is that if net gains to all three factors are not possible, then any impingement on environmental factors will require the identification of exceptional circumstances in order to be justified. As per para 23 in Calverton "Review of Green Belt in the face of sustainable development requires exceptional circumstances. Refraining from carrying out sustainable development, and thereby causing social and economic damage by omission, does not."
11. The NPPF has not in any way amended the "exceptional circumstances" test, the force of which is unquestionable. "Certainly the test is a very stringent one." [Simon Brown LJ in *COPAS v Royal Borough of Windsor and Maidenhead* 2001 EWCA CIV 180 at para 20.]
12. As stated above neither the CS nor the Site Allocations DPD identifies which factors are regarded as sufficiently exceptional to justify the removal of land from the Green Belt. The Council itself admits that a review of the Green Belt is yet to be carried out. They have thereby given a far greater weight to the economic and social aspects of sustainable development than the environmental factors. This is completely contrary to the intention behind the NPPF and government policy.
13. In addition, the need to preserve Green Belt except in "exceptional circumstances" is also supported by current Government policy and statements by Ministers, e.g.:
 1. July 2016 - The new Communities Secretary indicated "the Green Belt is absolutely sacrosanct" and "It was in the Conservative Party manifesto and that will not change. The Green Belt remains special. Unless there are very exceptional circumstances, we should not be carrying out any development on it."
 2. Gavin Barwell, the new housing and planning minister, said most development on the Green Belt is "inappropriate", and "The government is committed to the strong protection and enhancement of Green Belt land."

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Within the Green Belt, most new building is inappropriate and should be refused planning permission except in very special circumstances.”

3. The Ministerial foreword to the National Planning Policy Framework Document of March 2012 published by the Department for Communities and Local Government says: “Our natural environment is essential to our wellbeing, and it can be better looked after than it has been. Habitats that have been degraded can be restored. Species that have been isolated can be reconnected. Green Belt land that has been depleted of diversity can be refilled by nature – and opened to people to experience it, to the benefit of body and soul.”
 4. Green Belt in Planning Practice Guidance (March 2014) – “unmet housing need in a particular area is unlikely to meet the “very special circumstances” test to justify Green Belt development”, and “Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the “very special circumstances” justifying inappropriate development on a site within the Green Belt”.
14. As noted in *Gallagher Homes Ltd v Solihull Borough Council* [2014] EWHC 1283 (Admin), “A prime character of Green Belts is their ability to endure through changes of such policies.” It should be noted that the LA3 Green Belt has existed since Hemel Hempstead was developed as a new town after the Second World War and in conjunction with the Town and County Planning Act 1947. The Council is yet to consider any of the strong reasons against altering the Green Belt boundary, particularly as regards LA3.
15. Dacorum Environment Forum state that the area of Green Belt land between Hemel Hempstead and Pouchen End Lane is even more important from a landscape point of view than the area immediately to the west of the Lane, designated a Landscape Conservation Area, which is less typical of the steep, narrow and intimate fieldscape of the Chilterns.
16. The Environment Agency has just embarked on a project to restore the Bulbourne River which borders the LA3 site. The Bulbourne is an important and rare chalk stream which would be adversely impacted by the contaminated & lower volume water run-off from LA3. The chalk aquifer below has already been recognised as over-abstracted and probably unsustainable as a resource resulting in considerable environmental damage. The river is an important amenity in the area.
17. The open land and the river are important amenities for the residents for the residents of West Hemel Hempstead who WHAG represent. They are the lungs of the area and must not be put at risk.
18. In conclusion, WHAG challenges the legitimacy and the soundness of DBC’s policy of removing the land from the Green Belt in order to escape the restrictions imposed by the NPPF.

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19. It is clear that the required exceptional circumstances as regards LA3 do not exist. The Planning Inspector in 2013 found that the Council had not gone as far as it should have done in exploring the potential for some of the borough's needs to be met in the areas of neighbouring local planning authorities, in particular St Albans City and District Council (paras 5,9,10 and 11 of the preliminary findings and para 25 of the report.)

20. It is not understood how the principle of removing land from the Green Belt can be accepted when the availability of alternative suitable sites has not been adequately examined, the particular special and unique environmental characteristics of each allocation have not been considered, when there has not been adequate public consultation, and the principle of which flies in the face of planning policy.

Q13-18

WHAG has no comments on the above questions.

16. Has sufficient regard been paid to infrastructure and flood risk? Are any of the infrastructure providers or the Environment Agency opposed to the principle of the development of any of the allocated sites? If so should these sites be deleted from the Plan?

Please see comments made in Matters 9 about the above points, which are set out below for convenience.

Should the policy reflect the developer of the site will only be required to carry out upgrading of the drainage infrastructure directly related to the site?

- 1 WHAG consider that any potential developer should be required to do more than just upgrading of site specific drainage infrastructure.
- 2 The existing site already suffers from poor drainage as demonstrated by regular flooding on the existing land and surrounding areas (see picture and link to video below of recent flooding in lower end of LA3 and adjacent Winkwell area).

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Figure 1 View of field in SE corner of LA3, looking west – March 2016

Link to Video on WHAG facebook page, showing flooding along Chaulden Lane – March 2016:

<https://www.facebook.com/316081781856132/videos/768375386626767/>

- 3 The proposed addition of 900 properties to LA3 will inevitably add strain to the existing drainage infrastructure in an area that is already prone to flooding. With additional development on LA3 the water that currently does drain through the land, would no longer be able to do so as a result of hard landscaping.
- 4 The above applies to rainwater drainage but the same principles apply to all forms of drainage, where historically there have been a number of problems.
- 5 As a result, there will need to be significant upgrades to the existing surrounding drainage infrastructure (rainwater and sewage) to accommodate these additional drainage demands, as well as the site specific drainage.

17. Have the highway authority accepted that the scale and location of development in the Plan will not cause significant problems?

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Transport and roads:

- 1 DBC commissioned a Transport Study in July 2015 by the consultants, Jacobs (*Hemel Hempstead transport model update – 2031 scenario testing - Ref. ver 4 dated 10th July 2015*). This stated that ... “in full traffic demand conditions in the AM period traffic levels [in their model] grow relatively quickly to form queues at key locations... congestion builds from 08.00 to 08.15. Following this point the network reaches gridlock... In the PM period, traffic levels increase more gradually than in the am period... at 16.30 queues have started to form but... still running smoothly... [Once the model] reached 17.00... the queues have become much more severe. Following this point the network reaches gridlock... *The current road network would be unable to cope with the full level of proposed development.*” [Italics – WHAG]
- 2 The Core Strategy 'resolves' this gridlock by assuming an arbitrary 15% reduction in traffic flows without demonstrating
 - (1) that the underlying model data is sound;
 - (2) how this 15% reduction in traffic is achieved; or
 - (3) what the probability and impact is of the risk that gridlock will occur under this assumption.
- 3 LA3 is a large swathe of land on the western boundary of Hemel Hempstead. The location of the site means that the vast majority of traffic, which we estimate could be in the region of 1500-2000 vehicle journeys per day, will be heading from west to east towards central Hemel Hempstead, on roads which are already nearing capacity. The only planned access points are to the eastern boundary of the LA3 site as it is not practical to build any to the North, South or West. This is illustrated in the diagram below.
- 4 Though the desire to promote non-car modes of transport is laudable the reality of the location and realistic public transport support are such that the new estate will be largely dependent on private car access to facilities of the town and more widely for travel to work and social activities. The context does not properly reflect the likely impact of the additional car use from the estate.

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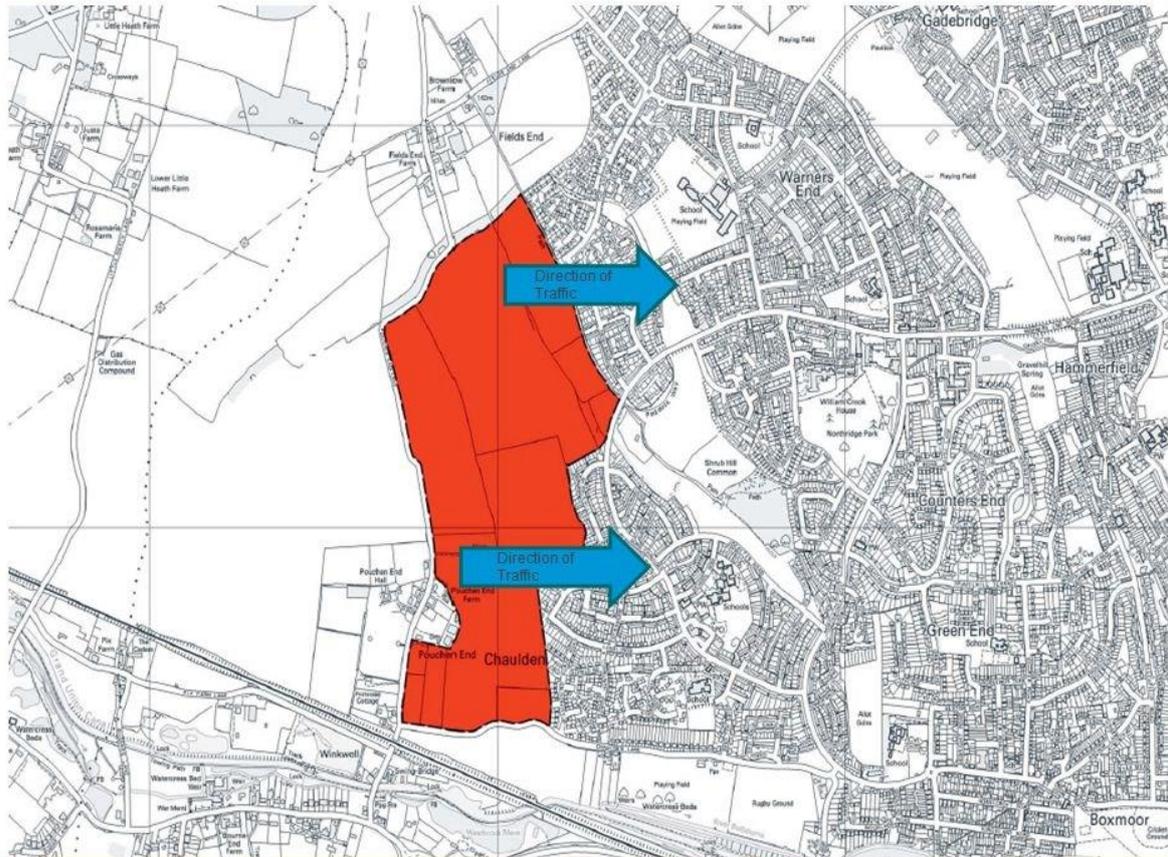


Figure 2 Map showing direction of travel of the majority of traffic from LA3

- 5 Local arterial roads A41 and A4251 and other key local routes are already clogged, resulting in stationary traffic in rush hours. The larger natural traffic flows are towards M25/London via A41/A4251 or eastwards to Maylands Industrial area, this being the largest area for employment in Hemel Hempstead. The incremental and cumulative impact of the proposed development is severe and no effective mitigation proposals have been published.
- 6 Emergency services would be unable to penetrate as far as LA3 or indeed much of Hemel Hempstead during either morning or evening rush hours, based on the above Jacobs report.
- 7 In addition, the proposed LA3 development, and specifically the current proposed location of the travellers' site down Chaulden Lane (along the southern boundary of LA3), would result in this already busy and dangerous road, used as a "rat run" to the A41 and from there to the M25, becoming busier and more dangerous. This road, in places, is single lane with passing places outside the 30 mph zone, while within that zone it is often reduced to single lane by the cars parked alongside

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the regularly-used playing fields. This will further restrict emergency access, over and above those regularly reported at present.

- 8 In conclusion, the fact that DBC are not considering any additional road infrastructure to cope with the extra traffic means that LA3 fails in this respect alone of being a viable site for development.

End of document