

Topic Paper: Exceptional Circumstances

1 Introduction

- 1.1 In addressing the matter of amendments to Green Belt boundaries, the National Planning Policy Framework (NPPF) at Para. 140 states that these should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans.
- 1.2 The exceptional circumstances test is a less demanding one than that for very special circumstances, when seeking to determine a planning application for inappropriate development in the Green Belt. This was confirmed in the case of *Compton PC v Guildford BC* (2019), which also determined that exceptional circumstances is a matter of planning judgement, which can also include meeting the need for housing.
- 1.3 The NPPF further states at Para. 141 that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the plan-making authority are required to demonstrate that all other reasonable means for meeting needs have been considered.

2 Assessment of Exception Circumstances

Starting point

- 2.1 The NPPF at Para. 141, states that the justification for releasing Green Belt to meet development need will be assessed through the examination of the authority's strategic policies and whether the strategy:

a) makes as much use as possible of suitable brownfield sites and underutilised land

Spelthorne has exhausted all opportunities to develop brownfield land. The Strategic Land Availability Assessment (SLAA) draws upon a variety of sources and includes sites put forward under the annual Call for Sites exercise, schemes with planning permission or in the planning process (including at pre-application stage), officer review of additional sites through desk-based assessments and site visits, and the Council's own land holdings. The authority is satisfied that there are no further opportunities to meet housing need in full on brownfield sites alone.

b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport

Densities have been optimised as far as possible in quantifying potential yields on SLAA sites without having a significant negative impact on the character of the area. Members have had focused area meetings with officers to review sites and increase densities even further beyond those initially identified, which resulted in around an additional 300 units capable of delivery. The authority is satisfied that there are no further opportunities to optimise densities.

c) 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.

At the early stage of Plan preparation, Spelthorne engaged with its neighbouring authorities to ask whether they have capacity to meet any potential unmet need. Discussions on this matter are included within the Duty to Cooperate Compliance Statement and no authorities were able to assist. Although some were at different stages of plan-making, all were experiencing similar challenges to Spelthorne in terms of meeting their own development needs, given the high figure generated by the standard methodology and their constraints, so had no spare capacity to meet additional need in the wider area.

In light of the above, Spelthorne is considered justified in amending Green Belt boundaries to meet need.

- 2.2 Through the background to preparation of the Local Plan, the question of meeting housing need has been the most discussed between Members and officers. The professional view of officers is that we have exceptional circumstances to warrant amending Green Belt boundaries to meet our need in full. Members in agreeing the draft Plan by a clear majority have accepted this view.
- 2.3 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, stages 1-3) against the benefits of those sites being developed and to the strategy as a whole. The key point is that the release at just 0.7% is very limited and therefore the benefits clearly outweigh the degree of harm. The same position would be unlikely in the event of a much larger release and/or more strategically important Green Belt sites. As such, the Council is focused on releasing only those required to meet our own need and for specific purposes. These are: family homes with gardens, a greater proportion of affordable housing (50% on green field compared with 30% on brownfield), Gypsy and Traveller sites, a replacement community centre with affordable flats above, and a new sixth form college. Two of the Green Belt allocations are also acting as enabling development to fund improvements to sports and recreation facilities on those sites. We consider these developments are vital to the delivery of our Local Plan strategy and provide benefits to the community that outweigh the harm. Furthermore, they could not be delivered in the urban area as it was the Green Belt sites that could offer such benefits. 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 for the most benefit. Without the Green Belt sites, the Plan would largely deliver the status quo in terms of housing delivery, with only allocated sites in the urban area that can achieve planning permission regardless of whether we have an up to date Local Plan in place.
- 2.4 We have reviewed the case for amending Green Belt boundaries for other purposes and consider that Exceptional Circumstances do not exist at this time. The key area considered is employment floorspace. The Preferred Options consultation (began November 2019) included two sites in Stanwell for Green Belt release for employment use. The 2018 Employment Land Needs Assessment identified a relatively small level of employment land needs over the plan period, however at that time, the third runway at Heathrow Airport was being progressed to the Development Consent Order stage and the Council considered that the expansion of the airport and the resulting increase in need for cargo and logistics floorspace could amount to Exceptional Circumstances to justify allocating the two sites for this purpose. Following the Pandemic, Heathrow expansion is currently paused and the view of officers, endorsed by Members, is that the need without expansion is not so great as to outweigh the harm caused by release of these sites. The 2022 ELNA update again identified a relatively low level of need for employment floorspace and this was not felt to be of a significant level to justify Green Belt release as it could be met through re-use of or intensification on existing sites. In consultation with local residents, the collective view was that

the more pressing need was for housing and that the community preferred to see these sites released for residential development over an employment use. This position can be revisited at the 5-year review stage of the Local Plan from adoption to take account of the status of the expansion plans at that time and the sites available to meet need.

- 2.5 The following sections set out the reasons for the conclusion that Exceptional Circumstances exist to amend Green Belt boundaries for these developments.

Housing

- 2.6 Spelthorne has historically under delivered against its housing requirement. The Council previously had an adopted housing target of 166 dwellings per annum through its Core Strategy 2009, however the Objectively Assessed Need figure (OAN) increased substantially through the Strategic Housing Market Assessment (552-757 dpa) and then through the Government's standard method for calculating housing need (currently 618 dpa).
- 2.7 Spelthorne's historic under delivery of housing and a lack of five-year housing land supply was confirmed as having significant weight in the determination of the appeal in January 2022 at the Old Telephone Exchange, Masonic Hall and Adjoining Land in Staines-upon-Thames¹. This appeal was allowed for 206 residential units in a town centre location following a refusal being issued by the Council's planning committee on the grounds of excessive height and lack of parking. It is worth pointing out that we believe the zoning proposals for Staines, whereby certain more sensitive locations in the town such as the riverside and conservation area will have height and density limits, relies on a strategy that overall in the Borough meets our housing need in full. Otherwise, it could be argued we are not optimising densities in a town centre location with good public transport links. We have listened to our communities and consider there to be sound planning reasons for this policy approach to prevent overdevelopment of Staines, to respect the character of certain areas and to balance the distribution of housing growth throughout Spelthorne.
- 2.8 Figure 1 sets out the past delivery of housing against the local housing need figure in Spelthorne. Since the introduction of the OAN calculated through the SHMA in 2015, Spelthorne has struggled to deliver enough homes to meet its needs. This is reflected in the results of the Housing Delivery Test, whereby a score is calculated based on the average delivery of housing against need over a three-year period. Spelthorne scored; 63% in 2019, 60% for 2020, 50% in 2021 and 69% in 2022. This general decreasing trend indicates that the delivery of housing in Spelthorne is worsening and as such Spelthorne faces the consequences of having to produce an annual Housing Delivery Test Action Plan, apply a 20% buffer to its housing supply and also face the Presumption in Favour of Sustainable Development.
- 2.9 Graph 2 shows the delivery of Affordable Housing units in Spelthorne over the past 10 years. Affordable Housing provision in Spelthorne has been inconsistent and is significantly below the proportion previously required in the Core Strategy of 50% overall. Spelthorne is a well-located borough, situated immediately to the south of Heathrow Airport and adjacent to west London. The Borough offers a good quality of life with strong transport links to London. Whilst this has many positive impacts, the desirability of the location does mean that affordability is negatively affected. There is significant pressure on the affordability of housing in the Borough with median house prices being 12.66 times median workplace-based annual earnings (as published in March 2022 from a base date of 2021). As such, there is a strong need for Affordable Housing in the Borough, however past delivery has not been able to address this sufficiently. This is a growing issue in Spelthorne with affordability ratios increasing year on year. Current trends indicate that affordable housing is not being delivered at the required level and therefore the Council must consider how its Local Plan strategy may address this.

Figure 1: Annual Housing Delivery in Spelthorne

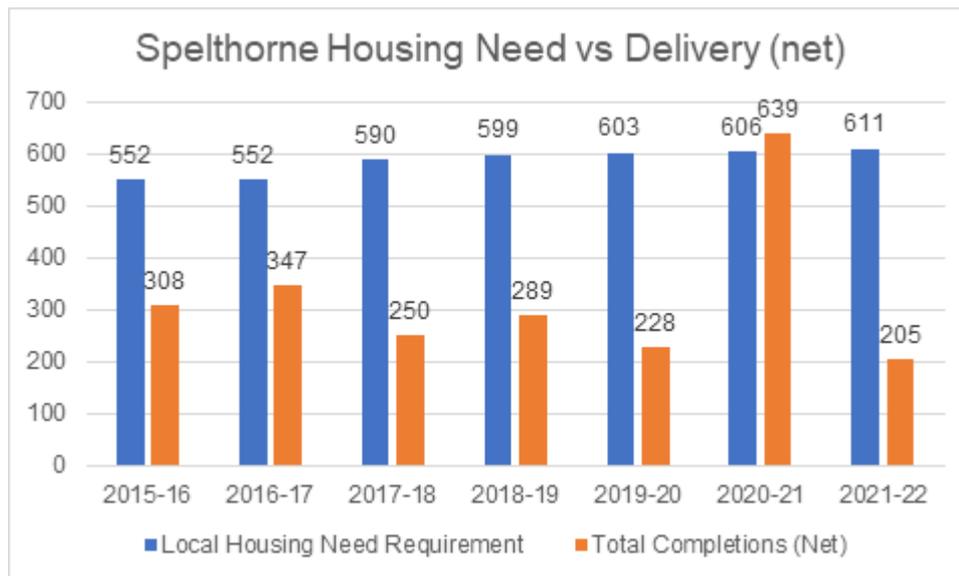
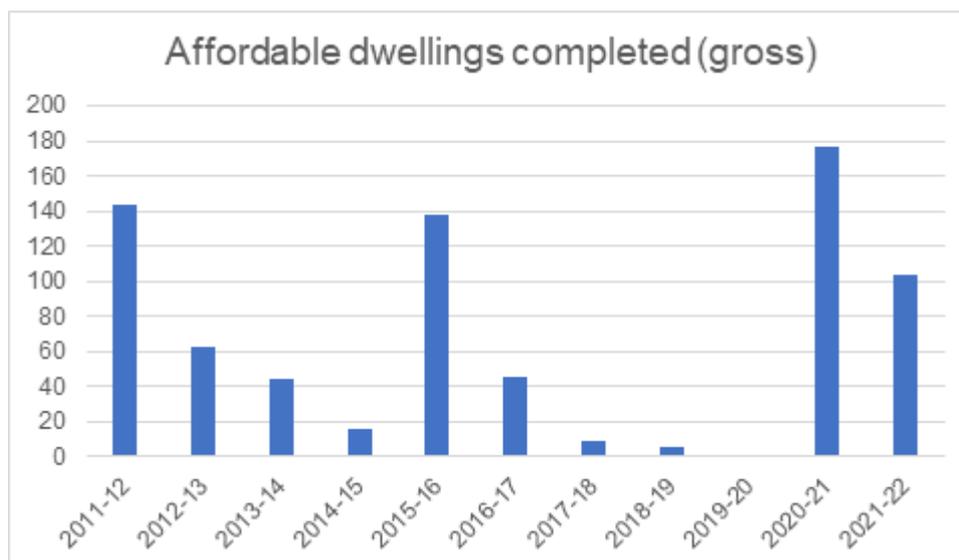


Figure 2: Annual Affordable Housing Delivery in Spelthorne



- 2.10 The Council has identified 0.7% of the current Green Belt for release to address these past issues associated with housing delivery. The Council has identified specific sites to allow for the delivery of an increased number of units overall, with the majority of the Green Belt release sites considered to be deliverable within the first five years of the plan following ongoing engagement with site promoters and landowners. This increased certainty is likely to boost housing delivery in the short term once the Plan is adopted.
- 2.11 In the absence of an up-to-date Local Plan, coupled with a lack of five-year housing land supply, there remains significant pressure on existing Green Belt sites across the Borough. An appeal (Part B)² was allowed in July 2021 at Bugle Nurseries in Upper Halliford for 31 dwellings within strongly performing Green Belt, as assessed by the Council's Green Belt Assessment.³ It was determined that, in the absence of a five-year housing land supply, the addition of 31 dwellings to the Council's housing stock along with affordable housing provision and other local benefits would outweigh the harm to the Green Belt.

- 2.12 Therefore, without consideration of releasing Green Belt that could be suitable to meet housing needs, having been assessed as such as part of a Green Belt Review process, this means that less suitable areas of Green Belt will continue to be under threat.
- 2.13 Green Belt release sites also provide the opportunity to deliver a greater mix of homes including the provision of family housing, which would not be feasible on previously developed urban sites. It was determined shortly after the Preferred Options consultation stage that urban allocations would deliver 97% flats. Urban sites are largely expected to prioritise the delivery of housing through flatted development schemes in order to maximise the efficient use of land and boost densities. Greenfield sites however are not subject to the same constraints and viability issues and therefore offer somewhat of a 'blank canvas' to increase the provision of dwellinghouses.
- 2.14 Due to their less complex viability considerations, greenfield sites i.e. those in the Green Belt, have been viability tested to a level of 50% Affordable Housing. This level will help to substantially increase the level of Affordable Housing provision within Spelthorne. In comparison, viability testing on previously developed urban sites has shown that only a 30% Affordable Housing level is likely to be viable.
- 2.15 Overall, the benefits in terms of housing provision and positive impacts for the community listed in the preceding paragraphs are considered to outweigh the potential harm to the Green Belt.

Gypsy and Traveller sites

- 2.16 The Spelthorne Gypsy and Traveller Accommodation Assessment was undertaken by ORS (Opinion Research Services) in 2018. Over the period 2017-2041 the following need was identified:

Categories	2017-2041
Gypsies and Travellers – meeting planning definition	3
Gypsies and Travellers – unknown	0-7
Gypsies and Travellers – do not meet the planning definition	17
Travelling Showpeople – meeting planning definition	15
Travelling Showpeople – unknown	0-2
Travelling Showpeople – do not meet definition	0

- 2.17 The Authority Monitoring Report (AMR) 2010 to 2022 shows that the existing number of pitches for both gypsies and travellers and travelling showpeople in Spelthorne Borough was established as part of the Gypsy and Traveller Accommodation Assessment (GTAA) carried out in 2006. Since then, no pitches have been lost and no new provision has been made within the Borough. It is imperative that the identified need for those meeting the planning definition is met though our Local Plan. Due to the constrained nature of the borough, it has not been possible to identify any sites within the urban area or any brownfield sites on which to accommodate the pitches or plots. Suitable sites have been identified to meet the needs. The site for fifteen Travelling Showpeople plots is a valuable piece of Green Belt (as set out in the Green Belt Assessment evidence), however the professional judgement of officers, supported by Members, is that meeting the need when no

pitches or plots have been permitted for more than twelve years, makes an overriding case for permitting this type of development on this site.

- 2.18 Our preference would be for the Travelling Showpeople site to remain Green Belt, given its strong performance and the reduced impact on openness compared to a bricks and mortar housing development. It has been known for the need for plots to reduce over time if the Showpeople community disperses or relocates and with the site in private ownership there is the risk that it is removed from the Green Belt and the Council would find it difficult to resist a housing scheme if it were no longer designated. We believe exceptional circumstances only exist for the Showpeople site and not regular homes as there are other available sites for residential that scored better in terms of Green Belt performance and other factors, whereas this was the only site considered suitable for Showpeople. We have indicated this site for release as the advice we were given by an advisory inspector is that it should be removed from the Green Belt if allocated, whether for travellers or the settled community, but we would welcome the opportunity to review this approach with the Inspector at Examination.

Community use

- 2.19 The two sites for community use (Ashford Community Centre and the Sixth Form College in Sunbury) were put forward through the Local Plan preparation stages for consideration to be released from the Green Belt, rather than a specific need identified then a suitable site sought. In that respect, they are more opportunistic but nevertheless beneficial to the strategy and the Council's corporate priorities.
- 2.20 Ashford Community Centre (AT1/012) is owned by Spelthorne Council and is in need of replacement. In doing so, the Council in its asset management capacity also wishes to build affordable flats above the new centre on the same site. Whilst a replacement building is not inappropriate development in the Green Belt, releasing the site from this constraint would give greater opportunity for a larger scheme than can deliver an improved size and layout for the community centre, more affordable housing units and overall contribute to meeting housing need. During the Task Group deliberations on the sites proposed for release from the Green Belt to meet the shortfall in supply once brownfield sites had been exhausted, one potential allocation was removed from consideration. This site was put forward around the same time and therefore brought the supply back to the level of meeting our need again. The impact and benefits of allocating this site are analysed in more detail in the Draft Local Plan Site Allocations – Officer Site Assessments but it is considered that exceptional circumstances exist to outweigh the harm.
- 2.21 For the Sixth Form College (HS1/012b), this site was raised by the promoters of the neighbouring site that is also indicated for allocation and officers advised that it be put forward formally through the Local Plan process. The methodology of assessing need for further education facilities by Surrey County Council is different to that for primary and secondary provision as it is recognised that there are more options for travelling further afield but the proposal was supported by Surrey County Council⁴. Spelthorne is not well served by sixth forms to existing schools and preference is given to existing students although some secondary schools do not have their own sixth form. Plus there are no longer any separate further education institutions since Spelthorne College closed in Ashford. This means many Spelthorne students travel out of borough to Brooklands College in Weybridge and Strodes College in Egham. As well as inconvenience to local students, this also adds vehicle trips to the highway network, including Walton Bridge and Staines Bridge which are the main crossing points for these colleges respectively and can experience peak time congestion. The new college would be adjacent to Bishop Wand CofE Secondary School, which does have a sixth form, but would not be affiliated with it and would be run under the 'free school' model. A small amount of enabling development by way of a residential scheme is proposed, which ensure the college could be delivered viably and contributes to overall housing supply. No other sites were put forward by landowners or promoters for an education use and it is considered that the benefits to the community amount to exceptional circumstances to outweigh the harm to the Green Belt.

Further assessment of the impacts and benefits of releasing this site can be found in the Draft Local Plan Site Allocations – Officer Site Assessments within the evidence base.

- 2.22 Other Green Belt release sites for housing include community benefits by investing the proceeds of the residential scheme into improvements to the sports facilities. These are Ashford Sports Club (AT1/002) and Staines and Laleham Sports Club (RL1/011). These sites contribute to the housing supply so as discussed above we consider a case for exceptional circumstances to release them has been made but the additional community benefit to improving sports facilities weighed in favour of their selection for allocation.

Unmet housing need in the wider area

- 2.23 Following Regulation 19 and reviewing the responses received, we have further assessed our position on whether we are able to help meet unmet need in the wider area. Currently, it is only Elmbridge Borough Council that has asked us to assist in this regard. They are at a similar stage in Plan preparation, having consulted at Regulation 19 in Summer 2022. Their strategy proposes to meet around two thirds of its objectively assessed housing need on brownfield sites alone without releasing Green Belt due to the adverse impacts that would arise from such a loss and further impacts on highways and other infrastructure. Spelthorne made representations to their Regulation 19 consultation, advising that we considered this approach to be unjustified and in light of a previous preferred option to release Green Belt, supported by a case for Exceptional Circumstances. Elmbridge commented in representation to our own Regulation 19 consultation that we could release more Green Belt to assist in meeting their unmet housing need (see Duty to Cooperate Compliance Statement).
- 2.24 A strategy that released a larger quantum of Green Belt to meet our own need and potentially the unmet need in the wider area was considered at Issues & Options (the first Regulation 18 consultation) but was discounted due to the impact such a loss would cause, not only to the strategic importance of the remaining Green Belt but other adverse impacts. The selected option taken forward to Preferred Options (the second Regulation 18 consultation) was a more balanced approach of releasing a smaller amount of Green Belt, maximising use of brownfield sites and progressing a masterplan for Staines upon Thames (see The Journey of our Plan topic paper). Brownfield sites have been fully exhausted both through the Plan and through subsequent additional urban sites that came forward after Preferred Options, meaning the remainder of our need would be met through Green Belt release. Our submission version of the Local Plan comprises a reduced number of sites (0.7%) than at Preferred Options (1.6%) as further brownfield sites were identified. It is Elmbridge's view that some of those omission sites that did not progress from Preferred Options to Regulation 19 could help meet their unmet housing need, which would deliver up to 1500 homes.
- 2.25 We have used those omission sites as the basis for further assessment of whether we have capacity to assist Elmbridge, rather than an unspecified quantum of Green Belt, as these would represent a more credible option than additional brownfield sites when this source has been exhausted or other Green Belt sites when these were discounted earlier in the process. Additional analysis has taken place to review the impacts of including these omission sites in terms of their impact, together with the proposed allocations in our Plan, on transport, other infrastructure, character, distribution of development across the Borough and whether they would deliver additional benefits over meeting housing need. This is to consider whether they would align with our spatial strategy on a cumulative basis (see Spatial Strategy topic paper). We also conducted a Sustainability Appraisal of this option. Furthermore, officers from the two authorities had a meeting in October 2022 to discuss our respective constraints and agree on additional work on this subject. The evidence of this further work will be included in a specific topic paper on our Duty to Cooperate engagement with Elmbridge and within the Duty to Cooperate Statement of Compliance.

2.26 The conclusions Spelthorne has drawn from this work is that due to the additional impact of delivering further homes above the amount to meet our own need would have a negative effect on our Borough, contrary to Para. 11 of the NPPF. Exceptional Circumstances do not exist that would outweigh the harm. In any case, Elmbridge’s strategy will be assessed through examination of their own Local Plan but Spelthorne’s position is that their strategy is not sound and their reasons for not releasing any Green Belt to help meet their own need have not been fully evidenced.

3 Conclusion

3.1 In conclusion, we consider the sites identified in our Local Plan for release from the Green Belt are pivotal to the delivery of our strategy and that the substantial benefits outweigh the harm resulting from amending Green Belt boundaries and any other harm.

Development type	Reasons for Exceptional Circumstances
Housing	<ul style="list-style-type: none"> • Insufficient brownfield land to meet need in full • Chronic under delivery in past years • Provides family homes with gardens • Higher affordable housing provision (50% instead of 30% on brownfield) • Sites selected are the least ‘harmful’ in Green Belt terms and deliver the most benefit to outweigh the harm
Gypsy and Traveller sites	<ul style="list-style-type: none"> • Historic under provision of sites to meet identified need • Benefits of meeting that need outweighs harm to the Green Belt • No brownfield sites available • Sites selected for their suitable location, particularly with access to the strategic road network and minimal disruption to the community from the movement of vehicles
Community uses	<ul style="list-style-type: none"> • Site specific community uses that meet local need • Deliver benefits to sports & recreation facilities and education that outweigh the harm of releasing these sites (all deliver on meeting housing need too)

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