



THE LONDON GREEN BELT COUNCIL

Notes 157

July 2010

I must apologise for the delay in producing these 'Notes'. Many members know that my wife Margaret died in March aged nearly 92, and I have been very busy on the consequences of that. I am very grateful for the many messages of sympathy that I have received. I am not often at a loss for words (neither was she!) but we had 62 years of such happiness together that words cannot do justice to everything. We had travelled the world together, visiting 55 countries from Greenland to Antarctica and from Peru to Tibet. At home her main interests were outdoor ones, primarily commons, open spaces, rights of way etc, and she had been a Vice-President of the Open Spaces Society (the country's oldest national conservation society) since 1997. She also represented the OSS on the City of London's Consultative Committee for Hampstead Heath for 8 years. And she attended most Green Belt Council meetings with me from 1985 until 2004 by when she had become too immobilised to continue her many-sided activities, which also included chairmanship of our local amenity society.

The Open Spaces Society valued her work, and her personality, so highly that this month they made me a Vice-President in honour of her memory, a gesture which I appreciate immensely.

Regional Planning, Green Belts, Housing and All That Housing

The safety of green belt is no less liable to be the subject of double-talk in the next few years than it has been in the past. In the last issue of Notes, commenting on Regional Planning and Development Authorities, I said that the system, which I deplored for the power it gave to unelected people many of whom must have development interests at heart, was grinding on, but that it was far too early to say whether it will ever come fully into operation. That was last February and one or two things have happened since then, including the notification to planning authorities by the responsible Minister in the new Government that they can now ignore regional housing targets. This cannot but be welcome because regional planning was imposing great housing burdens on large areas of open space where the local authorities had little non-green belt land to spare. They at least have a breathing space while everyone works out what happens next, but a breathing space does not mean that the problem has gone away, and we and our members must be as alert as ever. There are several aspects of this, but two worth commenting on now are (i) the plain desire of some interests to challenge the legality of the Secretary of State's letter authorising local authorities to disregard regional planning bodies' decisions and (ii) the Government's apparent desire to delegate more power over planning decisions in the name of democracy. That can cut both ways; it does not necessarily strengthen protection of green belt.

As regards the first, some planning lawyers are saying that the advice given in the Secretary of State's letter to planning officers that they can ignore the housing targets imposed by the regional planning authorities might be unlawful as it means ignoring a procedure, i.e. the need for regional strategies, which Parliament has yet to decide. Formal decisions by Parliament to have or not to have regional strategies might, one QC is quoted in Planning as saying, take at least a year to bring about.

It seems to me that there is an element of wishful thinking in the illegality claim; the Minister's letter referred to above would hardly have been issued without any legal advice. This is confirmed by a letter issued to colleagues by the shadow Secretary of State for Communities and Local Government in August 2009 which, in a section headed 'Abolition of Regional Spatial Strategies', includes

We anticipate primary legislation in the first year of a Conservative Government as part of a broader Local Government and Housing Bill., Prior to primary legislation we will consider whether to use the executive powers of the Secretary of State to revoke the Regional Spatial Strategies in whole or in part. We will also publish our draft policy changes and legislation - as part of a necessary process of consultation required in law. This in itself will have the status of 'emerging policy'. Hence, even before primary legislation is passed, local authorities will have the ability to put the brakes on elements of Regional Spatial Strategies which they find undesirable (for example green belt reviews imposed on them by the RSS).

Obviously there is scope for very considerable delay here and, to put it no higher, the local authorities who wanted to save their green belt against mounting pressure from unelected regional bodies with no mandate from the electorate must feel considerable relief.

In an attempt to clarify the consequences of abolishing the Regional Plans, the DCLG Chief Planner issued advice to local planning authorities which included the following:

The Government is committed to the protection of the Green Belt and the revocation of Regional Strategies will prevent top-down pressure to reduce Green Belt protection. Local planning authorities should continue to apply policies of PPG2. As part of their preparation or revision of DPDs, planning authorities should consider the desirability of new Green Belt or adjustment of an existing Green Belt boundary, working with other local planning authorities as appropriate.

We were concerned that the last sentence suggested that LPAs should review Green Belt boundaries every time there was a plan revision and wrote to the Chief Planner to raise our concern. The reply, in a letter dated 21 July 2010 from Alan Scott, reaffirmed the commitment to the Green Belt and concluded:

There was no intention on our part to suggest that Green Belt boundaries should be revised whenever any development plan document is revised. As you will have noted, the previous sentence of the Question 22 answer said: 'Local planning authorities should continue to apply policies in PPG2.' It was clearly the expectation that any decisions on Green Belt would be made in the context of PPG2 policy which, as you point out, emphasises the permanence of Green Belt. However, it might have been better to say something like: 'Local planning authorities should ensure that the extent and location of their Green Belts remains appropriate. The local plan process will provide opportunities to consider, in consultation with other local planning authorities, whether any review is necessary.'

If the opportunity arises when the wording of Green Belt policy is being streamlined, we will try to eliminate any ambiguity on the point.

Members may find this useful to quote if faced with an argument that LPAs should review Green Belt boundaries every time there is a plan revision.

As regards the general question of delegating more planning powers to local authorities, that can be a mixed blessing and we must try to ensure that there is at some stage a clear statement from Ministers that it must not involve the weakening of green belt protection. It is equally important in my view that the powers of the planning inspectorate are not weakened. Although everyone can disagree with particular decisions, my own conviction, having read countless decisions, is that overall the inspectors have been of immense help in protecting green belt. But that, of course, depends on their having a firm enough policy basis on which to balance the conflicting considerations which they face. Weakening that would put us back about 40 years. Where the basis of policy and delegation is vague, local authorities could be under very great pressure from development interests to give in, and some would do so. Delegation would not mean only decisions in favour of green belt, as some members seem to assume.

To finish this on a lighter note, I am sure I have seen, but cannot now find, a report of an appeal decision by the planning inspectorate in favour of allowing a dog kennel on green belt instead of within the precincts of the house in question. I am not a dog lover and the prospect of (with some slight exaggeration) millions of dogs barking happily away at green belt fills me with dread.

Community Right to Build

Another new Government initiative which emerged shortly before these Notes went to press is a 'Community Right to Build'. This would apparently give 'communities' (whatever that means) the right to build anywhere, including in Green Belt, without planning permission. The details of how this might work are sketchy at present but it is worrying and will need watching.

Natural England / CPRE Report on 'Green Belts, a Greener Britain'

In the last issue of Notes, I set out at some length the recurring efforts we had made in the past to wean Natural England away from its flawed view of green belt, particularly as regards its repeated assumptions that scenic quality is a factor in its designation and protection. At that time a joint CPRE / Natural England committee was about to publish the report entitled as above. It is a long one (139 pages including appendices), and Peter Rogers produced a summary which was circulated with the papers for our June meeting. The CPRE participation seems to have worked wonders in giving Natural England a more correct view of the situation. But Natural England's previous view had lasted a number of years and we must watch out to make sure that it does not creep back in, for example, talks or representations by their senior executives.

To compare with the above (they do not seem to be in conflict) members might like to have on record the following extract from a Liberal Democrat letter sent to our Secretary last January:

- 1. We will amend planning guidance to insist on English Nature's Natural Green Space standards being incorporated into Local Development Frameworks to provide a range of spaces, from local small areas to large sub-regional sites - helping to encourage the expansion of protected green areas.*
- 2. We will introduce a special designation comparable to SSSI to allow the protection of allotments and other green spaces of particular value to the health and wellbeing of local people. Criteria could include local food production, green space used by or accessible to an urban population or special historic or community interest - helping to protect additional areas of green land, particularly in urban areas.*
- 3. We will reverse the loss of local control through Labour's Planning Act and radically reform planning law and guidance to introduce the concept of landscape-scale planning - this is an holistic approach to planning which considers biodiversity, local economies and agriculture, eco-tourism, geodiversity and the health and social benefits of the environment. This would, amongst other things, facilitate the protection, management and expansion of green belt and green spaces of particular value to local people as multifunctional areas which encourage both access and biodiversity.*
- 4. We will incentivise development on brownfield land by equalising VAT on new build and renovations on a revenue-neutral basis to remove the current disincentive to repair existing properties'.*

One never knows when a quotation may come in handy, especially when we now have a coalition government whose separate elements seem to be in accord on the main issues here. The letter was signed Debbie Enever, Liberal Democrat Policy Officer, and dated 12th January, 2010.

The General Permitted Development Order (GDPO)

Developers have discovered that changes to GDPO made in 2008 have opened the way to extensions of some houses in large grounds much bigger than would have been allowed under PPG2 if a planning application had to be made. The problem is explained in an annex to the minutes of the meeting on 23 June 2010 which are circulated with these 'Notes'. The Chairman has written to Ministers asking that this loophole be plugged.

The Green Belt Way

Members may be interested to know that a new long distance path (over 220 miles) has been established through the Green Belt all round London. This has been a long term project for Sean Davis and details of the route can be found on his website: www.greenbeltrelay.org.uk/route1.htm or on the Long Distance

Walkers Association website www.ldwa.org.uk Mr. Davis also organises an annual charity relay run all round the London Green Belt.

Other Planning Decisions.

1. Disproportionate addition to original property. The appellant had a 1953 bungalow which had had a conservatory added in 1994 . He wanted a 'front hall and wet room' added to the ground floor and to remodel the roof so as to provide two bedrooms and a bathroom. He argued that under the General Permitted Development Order 1995 he could extend the property by more than the 35 sq.m. set out in the local plan policy. The inspector rejected the proposal as it would create a chalet bungalow and raising the ridge height by more than 1 m would increase the bulk and mass of the property. This would conflict with Para 3.4 of PPG2 as regard effect on the openness of the area concerned. Although the property could be extended level under permitted development rights, there was no clear indication that the appellant wanted to do this. The appeal was dismissed.

2. The Secretary of State has overruled the inspector and dismissed the appeal against refusal of the Strategic Rail Freight Interchange (SRFI) between Radlett and St Alban's. Unlike the inspector, he decided that the emerging proposal for a smaller SRFI at Colnbrook would do less harm to the green belt than the one at Radlett, notwithstanding that it would be in a strategic gap between Slough and London.

3. Fencing and Gates. A hotel in Burnham, Bucks, wanted to erect, for additional security, steel railings and gates 2m high and extending about 40m along the side and front of the building. It was in green belt where building was inappropriate unless it fell within limited defined categories. The appellant claimed that planning permission for the construction would be within the terms of the General Permitted Development Order 1995, as amended. The inspector said that it was not for her to decide that, but the fence would be of stark, utilitarian appearance in the semi-rural street scene and would diminish the openness of the green belt, which PPG2 says is its most important attribute. As for the appellant's claim that it was needed in order to overcome car crime, she said that there was no substantial evidence that the proposal was the only way that the site could be made more secure. She dismissed the appeal.

4. In dismissing an appeal against refusal of a development of nearly 200 houses on green belt adjoining Leighton Buzzard, the Secretary of State stated specifically that he 'affords less weight to the housing figures set out in the East of England Plan than formerly'. He added, however, that even giving them the former weight, he would have dismissed the appeal.

5. Retention of Existing Fence at Reduced Height of 1.875m. The fence, in green belt near Fulmer, Bucks, would be about 190m long would interfere with the sense of openness of the green belt and would therefore conflict with PPG2. The visual impact would be made worse by the addition of trellis along the top 'introducing an inappropriately fussy and incongruous suburban feature'. The appeal was dismissed. [I found the inspector's report rather confusing. The development proposed is as described in the heading to this section. The report does not say what the height is at present or whether the reduced height includes the trellis or not. Moreover his final paragraph says that permission has been granted for a fence of lesser height and that it is contended that the additional height is needed for security. So he seems to be talking about an increase in height to an existing fence and at the same time to a reduction in height to 1.875m. However, I included the item to show that the green belt impact is taken very seriously both by the local council (S.Bucks DC) and by the inspectorate]

Comment In selecting some of the above items, I have chosen what some people would regard as relatively minor issues, though we all know that such issues can arouse strong feelings locally. But I cannot help wondering whether we shall soon be faced with arguments that the complexity and cost of the appeal process in such cases should be reduced or eliminated, either by some simplification of process or, I am sure from some quarters, by the elimination of green belt considerations entirely. Members might let us know what they think. My own view is that there may be room for some simplification, but that we must firmly oppose any proposal to weaken or eliminate the green belt consideration.

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