



Office of the
Deputy Prime Minister

Creating sustainable communities

Town and Country Planning (Green Belt) Direction 2005

Final Regulatory Impact Assessment



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CONTENTS

Objectives	5
Background	5
Reason for Government Intervention	6
Consultation	6
Options	7
Risks	7
Costs and Benefits	8
Small Firms Impact	11
Competition Assessment	11
Enforcement, Sanctions and Monitoring	11
Outcome of Public Consultation	11
Implementation	12
Post-Implementation Review	12
Summary and Recommendation	13
Declaration and Publication	13

Final Regulatory Impact Assessment

Title of Proposal: A new Town and Country Planning (Green Belt) Direction

OBJECTIVES

1. The objective is to provide (through a free-standing Government direction issued to local planning authorities in England) greater clarity on the type and nature of planning applications for inappropriate development in the Green Belt that should be referred to the Secretary of State. This should help to achieve a more consistent approach across England in the way these types of applications are handled, with the ultimate objective of ensuring that planning policies for protecting the Green Belt from harmful, inappropriate development are effectively and fairly applied.
2. It is *not* an objective of the new direction to increase the number of planning applications that the Secretary of State calls-in for his own determination. The Secretary of State will continue to use his powers of intervention selectively, and in accordance with his published call-in policy. Nor is it an objective to make it more, or less, difficult for applicants to obtain planning permission for development in the Green Belt. The existing tight controls set out in Planning Policy Guidance Note 2, *Green Belts*, will continue to apply. In this context, the proposed Direction does not introduce, or indicate, any change of policy in respect of inappropriate development in the Green Belt (see below).

BACKGROUND

3. Existing national planning policies on Green Belts are set out in Planning Policy Guidance Note 2 (PPG2), *Green Belts*, (published 1995). PPG2 explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. There is a general presumption against inappropriate development in Green Belts. Such development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.
4. PPG2 makes clear that Green Belt policies in development plans should ensure that any planning applications for inappropriate development would not be in accord with the plan. These exceptional cases should therefore be treated as departures from the development plan, to be referred to the Secretary of State – now under the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
5. The 1999 ‘Departures’ Direction requires certain planning applications which do not accord with the provisions of the development plan, and which the local planning authority do not propose to refuse, to be notified to the Secretary of State. One such category of applications is for:

“any other development which, by reason of its scale or nature or the location of the land, would significantly prejudice the implementation of the development plan’s policies and proposals.”

6. With regard to this category, Circular 07/99 which accompanies the Direction provides the following advice:

“In deciding this question, local planning authorities should consider each case on the facts. Although it is a matter for the local planning authority to determine that a proposed development may cause significant prejudice to the implementation of the development plan’s policies and proposals, this decision must be made lawfully and is subject to review by the courts. Among the matters the local planning authority should take into account are the size of the proposed development, its impact on the area and the type of development.”

7. The Circular then gives a number of examples of the types of development proposal which might significantly prejudice the implementation of the development plan’s policies and proposals, including:

“applications involving inappropriate development in the Green Belt and Metropolitan Open Land in Greater London. Advice on what constitutes inappropriate development is set out in the revised PPG2 “Green Belts” (1995) and RPG3 “Strategic Guidance for London Planning Authorities” (1996).”

REASON FOR GOVERNMENT INTERVENTION

8. The Government gives high priority to the continuing protection of Green Belts from inappropriate development. But it recognises that there is widespread concern about the threats to the Green Belt from development pressures. It wants to ensure that harmful, inappropriate development in the Green Belt remains an exception.
9. Under the current (1999) Departures Direction, local planning authorities have discretion to decide whether or not to refer to the Secretary of State (in practice, to the regional Government Offices in the first instance) planning applications for inappropriate development in the Green Belt, depending on whether or not they consider the proposed development is likely to significantly prejudice the implementation of the development plan’s policies and proposals. Inevitably, this means that there will be some variation between local authorities in the number, size, and type of proposed Green Belt developments that are referred to regional Government Offices for the Secretary of State to decide whether he wishes to call-in the application for public inquiry and his own determination.
10. Whilst the Government believes that most applications for significant inappropriate development in the Green Belt which local planning authorities are minded to approve, are first referred to the Secretary of State, it is concerned to ensure there is greater clarity – for planning authorities and applicants – and consistency in approach in this matter. This should result in clearer, fairer and more robust arrangements for applying Green Belt planning policies.

CONSULTATION

11. Initial consultations were with HM Treasury, DEFRA, regional Government Offices, the Planning Inspectorate and the Small Business Service.

12. A public consultation on the proposed Direction was conducted between 18 July and 14 October 2005. An analysis of the responses to the consultation is at paragraphs 49-54 below.

OPTIONS

13. The Government has identified three main options for the proposed new Direction:

Option (i)

14. This option would require all planning applications, regardless of size or potential impact, where the local planning authority were proposing to grant consent for inappropriate development in the Green Belt, to be referred to the Secretary of State for a decision on whether to call-in the application.

Option (ii)

15. This would effectively transfer the existing provisions of the 1999 Departures Direction and accompanying guidance, as far as it relates to inappropriate development in the Green Belt, but into a specific, stand-alone Green Belt Direction. It would require the referral to the Secretary of State (for decision on whether to call-in) of any planning application for inappropriate development in the Green Belt which a planning authority were not proposing to refuse, which by reason of its scale or nature or location, would significantly prejudice the implementation of the development plan's Green Belt policies.

Option (iii)

16. This option would require a local planning authority to refer to the Secretary of State (for decision on whether to call-in) any planning application which it did not propose to refuse for the construction of buildings of more than 1,000 square meters floor space, that were inappropriate development in the Green Belt. In addition, there would be a requirement for any planning application for any other inappropriate development which, by reason of its scale or nature or location would significantly impact on the openness of the Green Belt, to be similarly referred.

Option (iv)

17. This is the 'Do Nothing' option, whereby planning applications for inappropriate development in the Green Belt would continue to be referred to the Secretary of State, at local authorities' discretion, under the existing 1999 Departures Direction.

RISKS

18. The main risk with the current arrangements, and therefore the 'do nothing' option, is that it is likely to result in an inconsistency in approach in the referral to the Secretary of State of planning applications for inappropriate development in the Green Belt. Consequently, some applications may be referred when it is not necessary to do so, while other applications involving potentially more harmful development may not be brought to the Secretary of State's attention before they are approved. It may also lead to greater uncertainty amongst developers and other applicants over the likely, or possible, procedure and timescale for determining their applications, depending on whether or not the proposed development is one that the local planning authority is likely to refer. Overall, the result can be a less certain and less equitable – either actual

or perceived – process and, to some extent, a reduction in the integrity of the planning system in the Green Belt.

19. The principal risk with **option (i)** is that it would most likely lead to a substantial increase in the number of planning applications referred through the regional Government Offices to the Secretary of State for decision on whether to call-in. A large number of these would be for very small-scale developments where very special circumstances had been demonstrated to allow the development, where the impact on the openness of the Green Belt would be minimal, and where matters of no more than local significance had been raised. Such applications would normally not be called-in by the Secretary of State under his current policy on intervention. Referral of these applications may therefore result in an unnecessary use of resources and a potential delay in the grant of planning permission in these cases.
20. **Option (ii)** is unlikely to lead to a substantial extra number of referrals. But it would still leave largely to local planning authorities' discretion which planning applications they will refer to the Secretary of State for decision on whether to call-in. Accordingly, some of the risks involving inconsistency and lack of certainty associated with the 'do nothing' option would still apply.
21. **Option (iii)** would introduce a specific, quantified threshold for the referral to the Secretary of State of planning applications for inappropriate development in the Green Belt. As such, there is some inherent risk in setting the threshold at the right level; too low a threshold could result in a greater number of relatively small developments which would not be called-in under the present call-in policy being referred unnecessarily to the Secretary of State; too high and the Secretary of State may not get the opportunity to see and consider whether to call-in some potentially damaging developments before they are approved, although the second part of the proposed Direction under this option is designed to counter this element of risk. We propose to set the threshold at 'above 1,000 square metres'. This equates roughly to ten new, average-size dwellings, and broadly represents the scale of development around which the potential for significant impact on the openness of the Green Belt starts to grow. It would also be consistent with the threshold that applies in London for Green Belt planning applications that Boroughs are required to refer to the Mayor.

COSTS AND BENEFITS

Sectors and Groups Affected

22. The proposal to introduce a free-standing Green Belt Direction {options (i)-(iii)} will not in any way alter the need for any individual, sector or group to apply for planning permission for development in the Green Belt, nor would it bear on the planning policies that are applied to the determination of such planning applications. Essentially, the proposed Direction will clarify the procedural arrangements for handling this type of application, and will apply with equal force to all sectors and groups. Accordingly, neither costs nor benefits should impact disproportionately on any particular sector or group, though option (i) is likely to have significantly greater resource implications for the public sector in the administration of the procedure under the proposed Direction.

Race Equality Assessment

23. See comments in paragraph 22. The proposed new Direction will not have an impact on race equality.

Health Impact Assessment

24. The proposed Direction would have a marginal and indirect beneficial impact on health, in that it should help to preserve the openness of Green Belts by strengthening the application of strict development controls on Green Belt land. This land can provide benefits in terms of opportunities for access to the open countryside and for outdoor sport and recreation, for urban populations.

Rural Considerations

25. The proposed Direction would specifically affect the process for determining certain planning applications for development in the countryside designated as Green Belt. The countryside so-designated can range from urban fringe to rural in nature. However, the new Direction will not change existing planning policies in relation to rural areas or the Green Belt. Its impact on rural areas should therefore be marginal in relation to the existing situation (where certain planning applications for development in the Green Belt may be referred to the Secretary of State under the 1999 'Departures' Direction).

Breakdown of Costs and Benefits

Option (i)

Economic:

26. There are no obvious economic benefits from this option, though it would provide the greatest level of clarity and certainty for local planning authorities and applicants in the way their application is likely to be processed.
27. There would be substantial administrative resource costs, in particular, for the regional Government Office planning teams, in terms of the number of applications referred under this option that would need to be considered for possible call-in by the Secretary of State for his own determination. There may also be some additional time costs for some applicants resulting from small potential delays while their applications are referred to the regional Government Office for consideration.

Environmental:

28. The benefits of this option are that it potentially provides the greatest protection against inappropriate development in the Green Belt being granted planning permission without the Secretary of State's knowledge.
29. There would be no environmental cost.

Social:

30. There are no specific social costs or benefits from this option.

Option (ii)

Economic:

31. We would expect any economic benefits and the administrative and time costs under this option to be broadly neutral, in comparison with current arrangements for referral under the 1999 Departures Direction, though relative costs may vary to some degree between individual local planning authorities, depending on how they are applying the current Departures Direction in respect of Green Belt cases.
32. There would be some small benefit derived as this option would provide some additional clarification and, potentially, a greater degree of consistency in the handling of these applications.

Environmental:

33. Environmental benefits in terms of improved protection for the Green Belt would be broadly neutral, in comparison with current arrangements.
34. There would be no significant environmental cost.

Social:

35. There are no specific social costs or benefits from this option.

Option (iii)

Economic:

36. The general benefits of option (iii) are that there would be greater clarity for local authorities and developers, and a more consistent approach in the handling of these planning applications, whilst also retaining a degree of discretion for local authorities. However, we would expect any economic benefits and the administrative and time costs under this option to be broadly neutral, in comparison with current arrangements, but with some local variations, depending on current approaches taken by local planning authorities.

Environmental:

37. There should be environmental benefits from option (iii) through strengthened protection to the Green Belt. This option should ensure that the Secretary of State has the opportunity to consider whether to call-in the more significant and potentially more harmful applications for inappropriate development in the Green Belt.
38. There would be no environmental cost.

Social:

39. There are no specific social costs or benefits from this option.

Option (iv) – ‘Do Nothing’

Economic:

40. There would be no specific economic costs or benefits, though the current potential for inconsistency and uncertainty over which planning applications would be referred to the Secretary of State would remain.

Environmental:

41. There would be no specific environmental costs or benefits.

Social:

42. There are no social costs or benefits.
43. **Overall**, the potential differences in costs between the various options are difficult to quantify, given the likely variation in approaches currently adopted by different local authorities. The Government therefore invited (through the public consultation) comments or indications from local authorities in particular of how the various options might affect the number and proportion of cases that are referred to the Secretary of State for decision on whether to intervene under his current call-in policy. See paragraph 52 below for a summary of the responses to this issue.

SMALL FIRMS IMPACT

44. With the possible exception of option (i), none of the options were expected to have any significant impact on small firms. It was thought that option (i) could have some additional impact on small firms, as it would result in applications for relatively small-scale, inappropriate development in the Green Belt being referred to the Secretary of State for decision on whether to call-in before planning permission can be granted. This would lead to potentially longer decision times in some cases, and may therefore have some potential cost implications. However, it is unlikely that many of these small-scale applications would be subsequently called-in by the Secretary of State under his current call-in policy.
45. However, through the public consultation we conducted soundings with small business representative organisations to ascertain their views on whether they believe their members may be adversely affected by this proposal. The only small business representative response received was from the Country Land and Business Association (CLA), which expressed some concern that the Direction would have an adverse impact on small and medium sized firms in the Green Belt who wished to expand or modernize. However, this concern was principally based on a belief that the Direction would result in increased referrals to the Secretary of State, based on an explanatory comment in the draft accompanying Circular. This is a misunderstanding of what the Circular says, and we intend to remedy the text in question. We do not believe that the new Direction will lead to any significant increase in referrals of planning applications from small/medium businesses, when compared with the current arrangements under the 1999 Departures Direction. We have consulted with the Small Business Service who are content with this approach.

COMPETITION ASSESSMENT

46. The proposed Direction would have no implications for competition as it would apply with equal force across all business sectors.

ENFORCEMENT, SANCTIONS AND MONITORING

47. The proposed Direction will apply to local planning authorities. An authority which fails to properly comply with the Direction will leave its officers and members open to the usual range of sanctions that may be applied in such cases.
48. The Office of the Deputy Prime Minister will put in place with the regional Government Offices arrangements for monitoring the number of applications that are referred under the proposed Direction, and the number that are subsequently called-in by the Secretary of State.

OUTCOME OF PUBLIC CONSULTATION

49. The key outcome of the consultation is that 43% of respondents expressed clear support for the proposed new Direction based on option (iii), with a further 20% expressing qualified support, or at least saying they had no objections. If those respondents who did not express a clear view on the proposal are excluded, three-

quarters were in favour to some degree (or had no objection), with half expressing clear support.

50. With regard to the proposed criteria for referral (see paragraph 16 above) as set out in the draft Direction, the views were rather more varied. Nonetheless, the majority – 29 respondents – of those expressing a clear view agreed with the proposed criteria, with 23 not agreeing. A further 8 respondents expressed qualified support, or at least did not object. Amongst local authorities, the balance of opinion was a little clearer with 14 agreeing with the proposals (and a further 5 agreeing to some degree, or not objecting), with 6 saying they did not agree.
51. The most favoured alternative was option (i) with 10 respondents (12%) saying they preferred this approach.
52. Those local authorities responding did not believe there would be any significant resource implications for them through implementing option (iii). Two or three authorities mentioned that option (i) would have resource implications.
53. A small number of other respondents did raise concerns about the potential adverse impact that the proposed Direction could have on their businesses or business sectors. These concerns were largely based on fears that the Direction would lead to more applications being referred to, and possibly subsequently called-in by, the Secretary of State, resulting in further delays in the planning process. However, these fears appeared to arise from a possible misunderstanding of either certain aspects of the proposed Direction and accompanying draft Circular to local authorities, or of existing national planning policies that will not be changed by the Direction.
54. Just a few respondents commented directly on the Partial RIA. One comment was that the RIA did not properly reflect that the Green Belt often contained small businesses which may need to modernize or expand. Another concern was that option (iii) would result in more minerals developments in the Green Belt being called-in and that the RIA didn't reflect the additional costs and delays that would result.

IMPLEMENTATION

55. If agreed, the new Green Belt Direction would be issued to planning authorities as part of an explanatory ODPM Circular, towards the end of November 2005. It would then be for planning authorities whose areas included designated Green Belt land to apply the Direction from a commencement date expected to be towards the end of 2005.

POST-IMPLEMENTATION REVIEW

56. Over the first two to three years following the issue of the new Direction the ODPM will monitor with the regional Government Offices whether it is resulting in the appropriate referral of planning applications for inappropriate development in the Green Belt.

SUMMARY AND RECOMMENDATION

57. Whilst varying views were expressed by respondents to the consultation draft, overall, there was a broad level of support for the new Green Belt Direction with option (iii) being the most favoured option. We have not seen any evidence to suggest that the new Direction based on option (iii) would have any significant resource implications, compared with the current arrangements operating under the 1999 'Departures' Direction. Whilst concern was expressed by some business interests about the new Direction potentially causing further delays in the processing of planning applications and in obtaining planning permission, we believe these concerns are misfounded and relate more to the application of Green Belt planning policy and the Secretary of State's call-in criteria.
58. We believe a new Green Belt Direction based on option (iii) will provide greater clarity on the type and nature of planning applications for inappropriate development in the Green Belt that should be referred to the Secretary of State. It should ensure that the more significant development proposals and those which are potentially the most harmful to the Green Belt, are subject to further scrutiny before they can be approved.
59. Against these benefits, it is not possible to quantify any additional costs. However, we remain of the view that only option (i) would result in any significant increase in resource costs. Options (ii) and (iii) should be broadly cost-neutral in comparison with the 'do nothing' option.
60. **Our recommendation, therefore, is that a new Green Belt Direction based on option (iii) in the consultation paper, should be issued to planning authorities.**

DECLARATION AND PUBLICATION

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed by the Minister responsible

Baroness Andrews OBE
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

Date 18 November 2005

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