

GREEN BELT: THE GOLDEN RULES

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WHEN DO THE GOLDEN RULES APPLY?

- The Golden Rules apply to *“major development involving the provision of housing”* on land within the Green Belt (i.e. not just grey belt proposals) (NPPF para 156)
- But for grey belt proposals, meeting the Golden Rules is required to avoid being inappropriate development (NPPF para 155)
- NPPF definition of *“major development”*:
“For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.”

WHAT DO THE GOLDEN RULES REQUIRE?

3 Strands:

- A. Affordable housing which reflects either:
 - (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or
 - (ii) until such policies are in place, the policy set out in paragraph 157; and
- B. Necessary improvements to local or national infrastructure; and
- C. The provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Strand A: Affordable Housing – (i) as per AH policies produced under NPPF 67-68 or (ii) where not in place, AH policy in NPPF para 157

- Limb (i): Green Belt specific AH requirements. To:
 - (a) Be set at a higher level than that which would apply to land which is not within the GB; and
 - (b) Require at least 50% affordable, unless this would make the development of these sites unviable (when tested in accordance with NPPG on viability)
- Expectation is at least 50%

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Strand A: Affordable Housing – (i) as per AH policies produced under NPPF 67-68 or (ii) where not in place, AH policy in para 157

- Limb (ii): AH policy in NPPF para 157:
 - *“15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default”*
 - *“The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability”*

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Strand A: Affordable Housing – (i) as per AH policies produced under NPPF 67-68 or (ii) where not in place, AH policy in para 157

- Limb (ii): AH policy in NPPF para 157
 - Guidance: the highest existing AH requirement means *“the highest requirement that the LPA could seek in line with its existing policy. For example, (a) if a policy is framed as “up to 30%” then the uplift is applied to 30%; and (b) if a policy is framed as “30% subject to viability” then the uplift should be applied to 30% regardless of viability”*
 - Guidance: *“site specific viability assessment should not be undertaken or taken into account”*. Gov to review (may be exception in future for large sites or PDL)

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Standard example: Court Lane (APP/H2265/W/24/3346228)

- 57 dwellings and children's day nursery
- Proposal originally offered 40% affordable housing as per development plan. Increased to 50% following amendments to NPPF on basis of NPPF para 157
- Inspector accepted this as compliant with part A of the Golden Rules

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Interesting example: Wilton Park (APP/N0410/W/24/3348677)

- 95 assisted living units and 75 bed care home (use class C2)
- Dev plan did not require any AH for C2. LPA argued should be 50% as per NPPF para 157 (default cap of 50% *"in the absence of a pre-existing requirement for affordable housing"*)
- Rejected by Inspector who found existing requirement for C2 was zero (*"the fact that the SPD did not extend the 40% requirement to Use Class 2 was a conscious, evidence-based decision at the time it was produced, and thus itself constitutes part of the Council's affordable housing policy"*)
- Query correctness of this approach and whether reflects underlying policy intention of amendments to NPPF...

WHAT DO THE GOLDEN RULES REQUIRE – STRAND A?

Another interesting example: Land at Landon Road, Basildon (24/00762/OUT)

- Outline permission sought for up to 250 homes on a Green Belt site near Basildon
- The LPA has resolved to grant the permission in accordance with officer advice

- Increased AH offer of 45% found to be acceptable:

“Whilst this is less than the 50% required within paragraph 157, given that the length of time that the application has been in the system for and that the application has ‘crossed the paths’ of both the 2023 and more recent 2024 versions of the NPPF, officers consider that the 45% affordable housing offer is in keeping with the ethos of the 2024 NPPF ‘Golden Rules’ which requires enhanced levels of affordable housing and is therefore acceptable.”

WHAT DO THE GOLDEN RULES REQUIRE – STRAND B?

Strand B: Necessary improvements to local or national infrastructure

- Nothing in guidance about this
- Hard to see how this adds anything to existing requirements
- Eg Wilton Road:
 - *“The Appeal Scheme would satisfy the infrastructure criterion through Community Infrastructure Levy contributions and through the s106 agreement, which contains an NHS contribution to deliver necessary improvements to accommodate the new population”*

WHAT DO THE GOLDEN RULES REQUIRE – STRAND C?

Strand C: Provision of/improvements to publicly accessible green spaces

- NPPF para 159: green space proposals *“should contribute positively to the landscape setting of the development, support nature recovery and meet local standards for green space provision where these exist in the development plan. Where no locally specific standards exist, development proposals should meet national standards”*
- Key points from guidance
 - Available for public use free of charge and within limited time restrictions
 - Plus necessary infrastructure eg footpaths/bridleways
 - Must consider how green space proposals *“can contribute to the priorities for nature recovery set out within the relevant Local Nature Recovery Strategies”*
 - Consider conditions or planning obligations, plus CIL to fund provision/improvements

WHAT DO THE GOLDEN RULES REQUIRE – STRAND C?

- Points arising from Wilton Road:
 - Courtyard garden to be made publicly accessible via s.106
 - Flexible approach in that link with another planning permission – s.106 prevented development until provision of sports pitches at another site carried out
- Similarly, note public access arrangements in Court Lane

CONCLUSIONS

- Can avoid golden rules altogether if proposal for under 10 units of housing
- Otherwise, make the most of golden opportunity. Golden rules re AH likely to be less onerous now (50%) than once relevant development plan policies come forward
- Plus easier to satisfy other requirements prior to widespread GB release as part of local plan process...