



Appeal Decision

Site visit made on 9 December 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2025

Appeal Ref: APP/K0425/W/24/3341869

Land Between Madeira and Highfield, Windmill Lane, Widmer End, Buckinghamshire HP15 6AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs N Love against the decision of Buckinghamshire Council.
 - The application Ref is 23/06594/OUT.
 - The development proposed was described as: "Erection of a self-build detached dwelling with associated car parking and landscaping."
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Decision

1. The appeal is allowed and planning permission is granted for erection of a self-build detached dwelling with associated car parking and landscaping at Land Between Madeira and Highfield, Windmill Lane, Widmer End, Buckinghamshire HP15 6AU in accordance with the terms of the application, Ref 23/06594/OUT, and the plans submitted with it, subject to the conditions in the attached schedule.

Background and Main Issues

2. The appeal scheme relates to an outline proposal, with all matters reserved except for access and layout. I have considered the appeal accordingly and therefore must treat the submitted proposed elevation plans as indicative only.
3. Single dwelling applications on this site have previously been refused in 2013¹ and 2015², with the latter application dismissed at appeal in 2016³ (the 2016 appeal). This appeal was determined under previous planning policies and guidance. Whilst the planning history and previous appeal decisions are significant material considerations, I must also have regard to the current submitted evidence and site-specific circumstances. I have determined the appeal on this basis.
4. Subsequent to the Local Planning Authority (LPA) issuing its decision, on 22 November 2023 all designated AONBs became "National Landscapes" (NLs). The site is within the Chilterns NL. On 26 December 2023, section 245 of the Levelling-Up and Regeneration Act amended the statutory duty on relevant authorities in respect of their functions which affect land in Protected Landscapes, which includes NLs. This duty requires me to seek to further the statutory purposes of Protected Landscapes, and has since remained the same.

¹ LPA Ref: 12/07674/OUT

² LPA Ref: 15/05325/FUL

³ APP/K4025/W/15/3063766

5. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. I have given the main parties an opportunity to comment as to whether the Framework revisions have any relevance to the appeal, and have had regard to the comments received in my consideration of this appeal.
6. The appeal site is also within the Green Belt and the Framework now includes reference to "grey belt" land. Annex 2 to the Framework defines grey belt as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. Grey belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development. Areas referred to in footnote 7 of the Framework include NLs. The main parties are in dispute as to whether the appeal site comprises grey belt land for the purposes of the Framework.
7. Having regard to all the above, the main issues are:
 - whether the appeal site is grey belt land with particular reference to:
 - a) whether its location within the Chiltern National Landscape (NL) provides a strong reason for refusing or restricting the proposed development; and
 - b) purposes (a), (b), and (d) in paragraph 143 of the National Planning Policy Framework (the Framework); and
 - if the appeal site is grey belt land, whether the proposal is inappropriate development for the purposes of the Framework and the development plan.

Reasons

Whether the appeal site is grey belt land

- Location within the Chilterns National Landscape (NL)

8. The appeal site comprises a rectangular field situated between two dwellings known as Madeira and Highfield. Its frontage with Windmill Lane is mainly enclosed by trees and hedgerow, with low mesh fencing and some tarpaulin enclosure along the frontage, and a wooden pole-mounted electricity substation within the site near to the road. There are some trees within the site, which is enclosed by fencing along each side and with further shrubbery along the rear boundary.
9. Dwellings on the opposite side of Windmill Lane to the appeal site are within the built up area of Widmer End village, identified as a Tier 1 village in the Policies Map of the Wycombe District Local Plan 2019 (WDLP). The appeal site and the properties each side of it are outside of this defined built up area, and are within the Green Belt and the Chilterns NL.
10. The site lies within the "Great Kingshill Settled Plateau" landscape character area (LCA 16.3), as defined within the Wycombe Landscape Character Assessment 2011 (LCA). Key characteristics of this character area, as identified in the LCA and most relevant to the proposal, include: a mosaic of arable fields defined by hedgerows, with trees and rural fencing; individual properties and farmsteads dispersed across the area; a good local rights of way network; and settlement, development and roads frequently fragmenting views and the

landscape. I found the landscape surrounding the proposal to be reflective of these key characteristics.

11. I saw some evidence of fly-tipping within the site, although the piles of detritus are not visible from surrounding vantage points. It is more noteworthy that the pole-mounted substation, visible from Windmill Lane, would be removed as part of the proposal. The proposed access would also be sited where the existing front tarpaulin enclosure is. Removal of the substation and tarpaulin would provide a minor benefit to the natural beauty of the Chilterns NL, and a dwelling in this site would provide natural surveillance which would likely deter any future fly-tipping.
12. Although scale and appearance are Reserved Matters (RM), the submission includes proposed elevations showing the dwelling as having a single storey eaves level, with hipped roof forms to each side and traditional brick and flint elevations. Whilst I must treat these elevations as indicative, I am satisfied that an appropriate scale and appearance could be secured at RM stage. The proposed dwelling layout would be sufficiently set back from the road at lower ground level, and set away from each side boundary, such that an overdominant or incongruous appearance could be avoided.
13. Whilst a dwelling would lead to some loss of open views towards the undulating countryside beyond the appeal site, due to intervening dwellings and shrubbery the existing views of this landscape from Windmill Lane are limited to approaches along the appeal site's frontage. When viewed from public rights of way to the west and north, the provision of one dwelling at this site would not lead to an intrusive urban expansion in to the undeveloped landscape.
14. The proposed plans considered under the 2016 appeal are before me. I note that this scheme included significantly more tree loss than that currently proposed, which is limited to part removal of the front hedgerow and an adjacent dead tree that is recommended for removal in any event. Although landscaping is also a Reserved Matter, it is clear that additional planting within the site could be achieved, subject to planning conditions.
15. Statute⁴ requires me to seek to further the statutory purposes of Protected Landscapes, including NLs. As set out above, the current appeal proposal would not harm the character and appearance of the surrounding area within the Chilterns NL. I am satisfied that the special landscape qualities of the NL, as identified in the LCA and Chilterns NL Landscape Management Plan, could be protected at RM Stage, and that a minor enhancement to the NL could be achieved.
16. In this respect, the proposal complies with Policies CP9, DM30, DM32 and DM35 of the WDLP. Collectively, these policies require, amongst other things, conservation and enhancement of the natural environment and the natural beauty of the NL, protection and reinforcement of the positive key characteristics of the receiving landscape, and improvement of the character of the area and the way it functions. The proposal would also meet the aim of Paragraph 189 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in NLs which have the highest status of protection in relation to these issues.

⁴ Section 245 of the Levelling-up and Regeneration Act 2023

17. The location of the appeal site within the Chiltern National Landscape (NL) therefore does not provide a strong reason for refusing or restricting the proposed development.

- Green Belt purposes

18. In order to conclude whether the appeal site comprises grey belt land, I must also assess whether it strongly contributes to any of Green Belt purposes a), b), or d) as set out in paragraph 143 of the Framework. I have had regard to the submitted evidence and my site visit observations, and have also drawn upon the Planning Practice Guidance (PPG)⁵ which provides advice on how to determine whether land constitutes grey belt in decision making.

19. Purpose a) is to check the unrestricted sprawl of large built-up areas. The appeal site contains a pole-mounted electricity substation and is therefore not entirely free of existing development. It is mainly enclosed by shrubbery and fencing which restrict and contain development. The infill nature of the site would also avoid an incongruous pattern of development such as an extended "finger" of development into the Green Belt. The site therefore does not strongly contribute to Green Belt purpose a).

20. Purpose b) is to prevent neighbouring towns merging into one another. As already set out above, the appeal site is not entirely free of development. Due to its size and positioning in between dwellings on either side along Windmill Lane, the site does not form a substantial part of a gap between towns. Similarly, development of the site would not likely result in the loss of visual separation of towns. The site therefore does not strongly contribute to Green Belt purpose b).

21. Purpose d) is to preserve the setting and special character of historic towns. Based on the evidence before me and what I have seen on site, the appeal site does not form part of the setting of a historic town has no visual, physical, or experiential relationship to historic aspects of a historic town. The site therefore makes no contribution to the setting and special character of a historic town.

- Conclusion - whether the appeal site is grey belt land

22. The location of the appeal site within the Chiltern National Landscape (NL) does not provide a strong reason for refusing or restricting the proposed development. The site also does not strongly contribute to Green Belt purposes a), b), or d) in paragraph 143 of the Framework. For the purposes of the Framework, the appeal site therefore comprises grey belt land.

Inappropriate development

23. Paragraph 155 of the Framework states that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all the following apply:

- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;

⁵ Paragraph: 005 Reference ID: 64-005-20250225

- b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.
24. The Policies Map of the WDLP shows an extensive expanse of undeveloped Green Belt land beyond the rear boundary of the appeal site. The appeal site is small in size by comparison and is contained to the front by the road, on each side by dwellings, and to the rear by a line of shrubbery. This remaining countryside would therefore be safeguarded from encroachment, and there would also be no conflict with the other Green Belt purposes as listed in paragraph 143 of the Framework. The development would therefore not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area.
25. The PPG advises⁶ that the question of whether a location is sustainable should be determined in light of local context and site or development-specific considerations, amongst other things. The appeal site is near to but outside of Widmer End village, which forms part of the High Wycombe Tier 1 Large Urban Area. It is within short and accessible walking distance of some local services and a bus route, and I am satisfied that the proposed access from the site is safe and suitable for all users. The proposal is therefore in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework.
26. Policy CP3 of the WDLP sets out the District's settlement strategy and that development outside of the Tier 1-6 areas and settlements will be restricted to that which is appropriate to a rural area. As I have found the site's location to be sustainable in the above context, there would be no conflict with the aims of Policy DM3.
27. Footnote 56 to the Framework states that in the case of applications involving the provision of housing, a demonstrable unmet need for the type of development proposed means the lack of a five year supply of deliverable housing sites, including the relevant buffer where applicable. It is common ground between the main parties that the Buckinghamshire West planning area does not have a five year housing land supply as required by the Framework. For this reason alone, there is a demonstrable unmet need for the type of development proposed.
28. As the proposal does not comprise major development⁷, the Framework's 'Golden Rules' are not applicable. Paragraph 155 d. of the Framework is therefore not applicable to the development.
29. Policy DM42 of the WDLP states that development in the Green Belt is inappropriate. Exceptions to this include development that the Framework classifies as not inappropriate. As I have found the proposal to not be

⁶ Paragraph: 011 Reference ID: 64-011-20250225

⁷ For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

inappropriate development of grey belt land in the Green Belt having regard to the Framework, there is no conflict with WDLP Policy DM42.

30. Having regard to all above matters, I conclude that the proposal is not inappropriate development for the purposes of the Framework and the development plan.
31. Footnote 55 to the Framework sets out that if development is considered to be not inappropriate development on grey belt land, then this is excluded from the policy requirement to give substantial weight to any harm to the Green Belt, including to its openness.

Other Matters

32. The appellant contends that the LPA's requirement for a Unilateral Undertaking (UU) to secure the dwelling as self-build is unnecessary and unjustified and instead, a planning condition could be imposed. Suggested condition wording is provided requiring compliance with Section 1 of the Self-build and Custom Housebuilding Act 2015.
33. I note however that the officer report indicates that a self-build dwelling could claim an exemption from the Council's Community Infrastructure Levy (CIL) charge. The PPG⁸ advises that a CIL exemption is one of the methods a relevant authority can consider in determining whether a permission is for self-build or custom housebuilding. The PPG⁹ also sets out the CIL exemption process in further detail, which is available to anyone who builds or commissions their own home for their own occupation. One of the CIL exemption requirements is that the property must remain the principal residence for a minimum of 3 years.
34. It would therefore still be possible for the development to be delivered and occupied as a self-build dwelling, subject to the above CIL exemption process. This would not be a certainty in the absence of a UU or a suitably worded planning condition. I have nonetheless found the provision of one dwelling to be in accordance with the development plan as a whole in terms of access and layout, and its delivery as a market dwelling would not alter this conclusion. Therefore, although self-build is included in the description of development, it is not necessary to secure self-build as a planning obligation under the statutory tests¹⁰. Imposition of a planning condition would also not meet the policy tests set out in Paragraph 57 of the Framework.
35. The appeal proposal is at sufficient distance away from surrounding dwellings to avoid any harmful impacts on living conditions or visual impacts. Any potential loss of neighbouring property value is not a matter that falls within the scope of this appeal.

Conditions

36. I have considered the Council's suggested conditions against the tests in the Framework and PPG, and have amended their wording, where necessary.

⁸ Paragraph 038 Reference ID: 57-038-20210508

⁹ Paragraphs 082 Reference ID: 25-082-20190901 - 097 Reference ID: 25-097-20190901

¹⁰ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

37. Given the outline nature of the proposal, a condition is necessary to ensure that the reserved matters details relating to appearance, scale and landscaping are submitted to and approved in writing by the Local Planning Authority before any development is commenced (condition 1). Statute¹¹ requires me to impose conditions (nos 2 and 3) governing time limits for submission of the reserved matters and commencement of development. A condition is necessary to confirm the approved plan details (condition 4) in the interests of clarity.
38. Condition 5 is necessary to be pre-commencement in respect of the dwelling in the interests of highway safety. I have deleted reference to compliance with the "Buckinghamshire Council guide note Private Vehicular Access Within the Public Highway", as this is insufficiently precise and given that the proposed ground levels will be controlled as part of condition 9. Condition 6 is necessary to ensure that sufficient parking and turning space is provided within the site prior to occupation. I have deleted reference to "the loading and unloading of vehicles" as this is not relevant to the development.
39. Condition 7 is necessary in order to achieve the higher water efficiency standard as required WDLP Policy DM41. Condition 8 is necessary in order to facilitate sustainable transport modes. I have deleted reference to "in the position shown on the approved plans" as the approved site plan does not include a specific location for the electric vehicle charging point. I have therefore added a requirement for details of the precise charge point location to be submitted to and approved in writing by the Local Planning Authority.
40. Conditions 9 and 10 are necessary to clarify the details to be submitted at reserved matters stage in respect of appearance, scale and landscaping. Condition 11 is necessary to ensure the implementation and retention of the landscape details to be agreed under reserved matters. Condition 12 is necessary in the interests of tree protection. I have made specific reference to the submitted arboricultural impact assessment and method statement, and tree protection plan, for clarity. I have deleted references to works specified to take place under the supervision of a retained arboricultural specialist, as the arboricultural report does not refer to this.
41. Condition 13 is necessary to secure biodiversity protection and enhancement at reserved matters stage, as required by WDLP Policy DM34, through the submission of a Landscape and Ecological Management Plan (LEMP). Given the scale of development within a privately owned site with no public access, some of the Council's suggested requirements for the LEMP (listed e. to i.) are not necessary or proportionate and have therefore been removed.
42. Condition 14 is necessary to ensure that a sustainable drainage strategy is provided at reserved matters stage that accounts for site-specific circumstances, as required by WDLP Policy DM39. The suggested requirement for groundwater level monitoring over the winter period is unnecessary as the site is within an area with a low probability of flood risk.
43. Condition 15 is necessary to ensure that the surface water drainage scheme to be agreed at reserved matters stage is constructed. I have added cross-reference to condition 14 for clarity. The Council has suggested a pre-

¹¹ Section 92(2) of the Town and Country Planning Act 1990

commencement condition requiring submission of a "whole-life" maintenance plan for the site's drainage system. However, this would not be proportionate to the scale of development within a privately owned site. Condition 16 is necessary to limit the scheme to a maximum of one dwelling, in the interests of clarity.

44. I have added reference to the approved site plan (drawing no. 1967-SP1) to conditions 6 and 7, in the interests of precision. I have amended conditions 5 to 8, 12 and 15 to refer to the "development hereby approved", for clarity and consistency.

Conclusion

45. The proposal is in accordance with the development plan as a whole, and the material considerations do not indicate that a decision should be made other than in accordance with it. The appeal is therefore allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale ("the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) This permission is in respect of the access and layout shown on the approved site plan (drawing no. 1967-SP1).
- 5) No other part of the development hereby approved shall begin until the new means of access has been sited and laid out in accordance with the approved site plan (drawing no. 1967-SP1).
- 6) The scheme for parking, garaging and manoeuvring shown on the approved site plan (drawing no. 1967-SP1) shall be laid out prior to the initial occupation of the development hereby approved, and that area shall not thereafter be used for any other purpose.
- 7) The development hereby approved shall be constructed to meet as a minimum the higher standard of 110 litres per person per day as set out in the 'Housing: optional technical standards' guidance and prescribed by Regulation 36(2)(b) of the Building Regulations 2010 (or any guidance or change to the Building regulations that may supersede these, that set out the requirements for water efficiency).
- 8) Prior to the development hereby approved being brought into use, details of the precise electric vehicle charge point location shall be submitted to and approved in writing by the Local Planning Authority. The charging point shall thereafter be retained as such, in working order.
- 9) The reserved matters detail of appearance and scale shall include the following:
 - a) Full elevations of all buildings
 - b) Full floorplans of all buildings, which demonstrate compliance with the internal space standards required by Policy DM40 of the Wycombe District Local Plan 2019.
 - c) A schedule of external materials and finishes for each building
 - d) A schedule of materials and finishes for all hard surfacing areas
 - e) Details of existing and proposed ground levels and proposed threshold levels shown relative to a fixed and known datum outside the site. These details are to include cross sections through the new dwelling.
 - f) Details of cycle and bin storage

The development shall be implemented in accordance with the approved details.

- 10) The reserved matters detail of landscaping shall include the following:

- a) Details of all fences, walls and railings including any to be retained on the boundary of the site
- b) The type/species, size, number and location of all new planting proposed, which should maximise the opportunities available for canopy cover (and consider the use of green roofs and green walls) in accordance with Policy DM34 of the Wycombe District Local Plan 2019
- c) A method statement for all new tree planting, including details of existing and proposed below ground services, tree pit details for all trees located within hard surfaced areas and details of how the trees within tree pits will be linked into the sustainable drainage system for the site
- d) Details of underground service routes.

The development shall be implemented in accordance with the approved details.

- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.
- 12) Unless otherwise agreed as part of the reserved matters details of landscaping, the development hereby approved shall take place in accordance with the submitted arboricultural impact assessment and method statement (Ref: GHA/DS/162160:23) and tree protection plan (dated January 2023).
- 13) The reserved matters details of landscaping shall include a Landscape and Ecological Management Plan (LEMP). The content of the LEMP shall include the following:
 - a. Description and evaluation of features to be managed.
 - b. Ecological trends and constraints on site that might influence management.
 - c. Aims and objectives of management which will (without limitation) include the provision of biodiversity net gain within the site as shown within the Biodiversity Gain Net Gain Technical Note and Small Sites Metric (AAE, March 2023).
 - d. Details of ecological features to be installed on site including 1 integrated bat box and 'Hedgehog Highways'.
- 14) The reserved matters details of scale shall include details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
 - a) Assessment of Sustainable Drainage System (SuDS) components as listed in the CIRIA SuDS Manual (C753) and justification for exclusion if necessary demonstrating that water quality, ecological and amenity benefits have been considered
 - b) Ground investigations comprising infiltration in accordance with BRE365

- c) If infiltration is demonstrated to be inviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to discharge to be limited to 1.1 l/s for all events
 - d) Full construction details of all SuDS and drainage components
 - e) Detailed drainage layout with pipe numbers, gradients and pipe sizes, together with storage volumes of all SuDS components
 - f) Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any on site flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site
 - g) Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration of flow direction.
- 15) Prior to the first occupation of the development hereby approved, a demonstration (such as built drawings and/or photographic evidence) of the as-built surface water drainage scheme, carried out by a suitably qualified person, must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Drainage System as agreed under condition 14 has been constructed.
- 16) The development hereby approved shall be limited to a maximum of 1 dwelling.

*****End of Schedule*****