



Appeal Decision

Site visit made on 31 January 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/Z3635/W/24/3350475

235 Hithermoor Road, Staines-Upon-Thames TW19 6AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tejinder Gill against the decision of Spelthorne Borough Council.
 - The application Ref is 24/00349/FUL.
 - The development proposed is the demolition of existing garage and outbuildings to create one self-contained two bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was issued in December 2024 and further revised in February 2025. This included revisions to sections that are pertinent to the appeal, such as Green Belt including the wording of paragraph 154(g) and the introduction of 'Grey Belt'. During the appeal process, the main parties were invited to comment on the relevance of the revised Framework to the appeal proposal, and I have had regard to the responses received. For clarity, throughout my decision any references to the paragraph numbers are to the latest version of the Framework.
3. The Council are in the process of preparing a new local plan - the Pre-Submission Spelthorne Local Plan. From the details provided, the examination is not complete, and at this stage, the policies of emerging plan carry limited weight.

Main Issues

4. The main issues are: -
 - Whether the proposal would constitute inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
 - The living conditions of the future occupiers with regard to noise.

Reasons

Whether inappropriate development

5. Paragraph 154 of the Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to a

number of exceptions. The relevant exception to the appeal proposal is the limited infilling or the redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt as set out in paragraph 154(g).

6. No.235 Hithermoor Road contains a bungalow and a collection of outbuildings which extend over the depth of the plot. It is the end property of what is primarily frontage development to the western side of Hithermoor Road. As such, the proposed development to be located to the rear of the site is not sited directly in between existing properties, nor does it form a gap for infilling.
7. The definition of previously developed land (PDL) as set out in the Framework excludes land in built-up areas such as residential gardens. The existing property and garden have a physical and visual relationship with the residential area of Hithermoor Road, which covers a large number of properties and extends beyond the appeal site on the other side of the road. The appeal site does extend further to the west, closer to Hithermoor Lakes than the other properties, but there is also development in a backland position to the north. The access drive to that property runs adjacent to the northern boundary, although it is not so pronounced that it dissects No.235 from the other residential properties. Whereas the appeal site has a clear boundary, and there is a visual distinction with the open and vegetated land to the south. As such, I conclude that the site is part of the built-up area, and as part of the garden to No.235, it does not constitute PDL and, therefore, does not meet the provisions of exception (g).

Grey Belt

8. The revised Framework introduces Grey Belt, wherein, subject to compliance with a number of criteria¹, the development of the land should not be regarded as inappropriate. However, the definition of Grey Belt² includes 'any other land', not just PDL, which does not strongly contribute to the Green Belt purposes (a), (b) or (d) as set out in paragraph 143 of the Framework.
9. Based on my findings above, the site has a direct relationship with the built-up area and is the redevelopment of a defined residential plot. The proposed redevelopment would remove all of the existing outbuildings, including the garage to the side of No.235, with a new, modest-sized bungalow to be located towards the western end of the site. There would be a spatial change and a loss of some existing grassed garden area for the access and parking area, although conversely, space which is currently occupied by outbuildings would become part of the garden areas. Stanwell Moor is primarily a residential area and is not a historic town. Accordingly, the land does not strongly contribute to the purposes of the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging or preserving the setting and character of historic towns. The appeal site is therefore 'grey belt'.
10. Given the limited scale of the site, the development would not fundamentally undermine the purposes of the remaining Green Belt across the plan area, and therefore complies with the first criteria, as set out at paragraph 155.
11. It is common ground between the parties that the Council do not have a five-year housing land supply, and therefore, paragraph 155 criterion b. and footnote 56 of

¹ Paragraph 155 of the Framework criteria a to d

² The Framework Annex 2 – Glossary – Grey Belt

the Framework are engaged as there is an unmet need for housing within the Borough.

12. Criterion c. and paragraphs 110 and 115 of the Framework, seek to mitigate significant impacts of development on the transport network in terms of capacity, congestion and highway safety, whilst focusing development to sustainable locations by limiting the need to travel and offering a genuine choice of transport modes. The occupiers of the proposed property, as per its neighbours, will have access to facilities and public transport serving Stanwell Moor. It is nonetheless likely that travel further afield would be required for a range of services and that occupiers would be somewhat reliant on a car. As a single additional property, it is unlikely that any trips generated would lead to a perceptible increase in vehicle movements on the local road network. There are also opportunities to encourage sustainable transport with the provision of cycle storage and Electric Vehicle Charging Points, which can be secured by condition. As such, the proposal would be in a sustainable location.
13. For completeness, the proposed development is not major development, and accordingly, the requirement of criterion d. to satisfy the 'Golden Rules' is not applicable to the appeal proposal.
14. Drawing these aspects together, all of the relevant criteria of paragraph 155 of the Framework are met, and thereby, the proposed development would utilise grey belt land. It would, therefore, not be inappropriate development within the Green Belt and I do not need to consider Green Belt matters further. Policy GB1 of the Spelthorne Borough Local Plan predates the Framework and is out of date in terms of the Green Belt exceptions and, in particular, the Grey Belt. There is nonetheless compliance with the general objectives of that policy, which is to prevent development which conflicts with the Green Belt purposes.

Noise

15. The Council advise that the site is located within the 66-69leq Heathrow Noise Contour area. Policy EN11 of the Core Strategy & Policies Development Plan Document (Core Strategy), which seeks to minimise the adverse impact of noise, sets out that new residential development will be refused where aircraft noise levels are at or exceed 66leq except in the case of one-for-one replacement. The supporting text of the policy explains that Stanwell and Stanwell Moor are the worst affected areas, and during my site visit, I witnessed several loud planes pass over the area at a low level.
16. No detailed noise information was submitted as part of the planning application; however, a Noise Assessment Report (NAR) prepared by Auricl Acoustic Consulting dated July 2024 has been submitted as part of the appeal. This includes noise monitoring data which was undertaken over a week period and recorded levels over 66dB³.
17. Based on the external noise levels, the NAR predicts that internal noise levels in line with BS 8233 2014 could be achieved through construction specifications relating to the glazing and the roof. It also recommends the use of mechanical ventilation as the external noise levels are such that the opening of a window would exceed appropriate levels. These measures would not, however, address future

³ Table 3.2 Summary of Noise Survey Result - Daytime LAeq (16 hour) (dB) and Night-time LAmax (10th highest)

occupants being exposed to significant noise levels within the garden, which is part of the property's residential environment.

18. The Framework at paragraph 198 states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the effect of pollution on health, living conditions and the natural environment, and in relation to noise advises that they should (a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.*
19. Policy EN11 provides defined thresholds for noise level with a clear imperative to restrict new residential development within the areas worst affected by Heathrow Airport, thereby protecting the health and well-being of further residents being exposed to excessive noise. It does allow for and requires appropriate attenuation measures for development in areas of 60 and 65Leq, however, the site is not in that category.
20. The proposal is for a new, additional residential property, in the highest category where the noise levels would be to the detriment of the health and quality of life of the occupiers. There is no evidence that the site is not subject to those levels of aircraft noise, in fact, they are confirmed by the NAR, and it is not an exception to the restrictions on development in that noise category.
21. The proposal would, therefore, be contrary to policy EN11 and the Framework, which seek to ensure that new development is not adversely affected by unacceptable levels of noise pollution which are harmful to health and quality of life.

Other Matters

22. While not explicitly referenced in the decision notice, the Council has raised concerns in relation to the layout of the development and its relationship with the character of the area. The scale of the development is not significant, and the proposed bungalow is reflective of the existing property at No.235. It would be a backland development and intensification of the use, but there is a similar form of development in the immediate vicinity, and the site relates to the adjacent residential properties, which are not within the Green Belt.
23. The proposed bungalow would be seen in some views from the south, across the open land, glimpsed through/over hedging, from which the existing outbuildings are equally observed. Compared to the existing outbuildings, which run along the boundary, the bungalow would be inset, and, whilst overall taller, it would be a compact, square design with a fully hipped roof, which would limit its massing. There would also be a greater visual separation between what would be two residential properties, rather than the existing sporadic spread of built form.
24. The wording of paragraph 154 (g) has changed from that of the previous December 2023 version of the Framework. As I am required to consider the proposal against current policies, I have not addressed the previous reference to affordable housing, and in any event, I have found the proposal does not accord with this exception.
25. The parties agree that due to the limitation of the Council's housing supply and the Housing Delivery Test, paragraph 11 (d) of the Framework is engaged. Green Belt is identified in the footnote to paragraph 11 d(i), as an area where the presumption

of sustainable development does not apply, when the application of the policies in the Framework provides a clear reason for refusing the development. However, the proposal would not be inappropriate development nor requires justification of very special circumstances. Thus, the Green Belt is not a reason to refuse the development, and the 'tilted balance' is still engaged.

Planning Balance

26. I am required to determine this proposal in accordance with the development plan unless material considerations indicate otherwise; the starting point is, therefore, the development plan. The proposal would be in conflict with Policy EN11 and would result in poor living conditions for the future occupiers of the development. It would also increase the number of properties within the highest noise contour, which would be directly contrary to the objectives of the Framework, namely to avoid noise having a significant adverse impact and to create places that promote health and well-being, with a high standard of amenity for both existing and future residents.
27. The proposal would, whilst not PDL, make efficient use of the site, and there would be a rationalisation of the built form across the site. The new dwelling would contribute to boosting the supply of housing with associated benefits during construction and from new residents. The proposal would, therefore, make a small but positive contribution to the Borough's shortfall in housing supply. Collectively, I have given these benefits moderate weight.
28. Nevertheless, the harm derived from the development in relation to the impacts of noise would be substantial, and therefore, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Hence, the presumption in favour of sustainable development, detailed in the Framework, does not apply.

Conclusion

29. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

G Ellis

INSPECTOR