



Appeal Decision

Site visit made on 3 June 2025

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/P0240/W/24/3355615

Land adjacent to Lower Wood Farm, Sundon Road, Harlington LU5 6LN

- 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 Brampton Valley Homes against the decision of Central Bedfordshire Council.
 - The application Ref is CB/24/01838/OUT.
 - The development proposed is the construction of up to 8 residential dwellings with associated access, parking and amenity/open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with the means of access to be determined at this stage. As a result, except for the proposed access, I have treated the layout in the context block plan and site layout as indicative only.
3. The Council has confirmed that following the receipt of additional information, they no longer object to the proposed access based on highway safety. As a result, the third reason for refusal solely refers to the impact of the removal of the hedgerow (to facilitate the access) on the character and appearance of the surrounding countryside. This is reflected in the main issues below.
4. With reference to the fourth reason for refusal relating to the provision of a safe pedestrian access, the Council have confirmed that this can be addressed by condition. As a result, they no longer pursue this reason.

Main Issues

5. The main issues are:
 - whether the appeal site is grey belt land and whether the proposal would be inappropriate development having regard to relevant development plan policies and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the openness and purposes of the Green Belt;
 - the effect of the proposal, and the removal of the hedgerow to facilitate the vehicular access, on the character and appearance of the surrounding countryside;

- the effect of the proposal on ecology, protected species, and biodiversity; and;
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The site is located within the Green Belt. Paragraph 153 of the Framework sets out that substantial weight should be given to any harm to the Green Belt, and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework states development in the Green Belt is inappropriate unless exceptions apply. One of these exceptions is limited infilling in villages.
7. Policy SP4 of the Central Bedfordshire Local Plan 2015-2035 (Local Plan)¹ aligns with the Framework and specifies that development proposals within the Green Belt will be assessed in accordance with government guidance contained in the Framework and NPPG.
8. Paragraph 155 of the Framework makes provision for a further exception to inappropriate development and details that the development of homes should not be regarded as inappropriate where all of 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, b) there is a demonstrable unmet need for the type of development proposed, c) the development would be in a suitable location, with particular reference to paragraphs 110 and 115 of the Framework and d) where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework.
9. The term 'Grey Belt' is defined in the Framework as land in the Green Belt comprising previously developed land and/or any other land that in either case, does not contribute to any of the purposes (a), (b) or (d) in paragraph 143.
10. The parties disagree as to whether the appeal site makes a strong contribution to purpose 143 (a) of the Green Belt, i.e. to check the unrestricted sprawl of large built up areas. This includes dispute as to whether the nearest settlement is a 'large built up area'. As such there is disagreement as to whether the site comprises Grey Belt.
11. The built up area referred to is Harlington which is defined as a Minor Service Centre in the Local Plan. Neither the Framework nor the PPG provide a definition of a 'large built-up area', but the term is not exclusive to a town or city. Given that minor service centres are defined in the Local Plan as 'larger settlements' and Harlington benefits from a train station, church, pubs, hotel, cricket club, schools, and shops, it would be reasonable to class it as a large built up area.
12. To make a strong contribution to purpose 143(a), the PPG states that sites 'are likely to be free of existing development and lack physical feature(s) in reasonable

¹ Adopted in July 2021

proximity that could restrict and contain development'. Given that the appeal site is a paddock in an undeveloped setting, this is the case here. As a result, the appeal site positively contributes to purpose 143 (a) of the Green Belt and therefore does not fall within the definition of Grey Belt.

13. The exception relating to limited infilling in villages, is dependent on the appeal site being within a village. Notwithstanding whether the site is within Harlington, the settlement hierarchy in the Local Plan, which identifies small villages, large villages, minor service centres and major service centres, classifies Harlington as a Minor Service Centre. As such the proposal cannot be considered as limited infilling in a village, as Harlington is not classed as a village.
14. Even if, Harlington was considered a village for the purpose of this exception, whether the appeal site is within the settlement must be made with reference to specific features on the ground². It is my view that the appeal site is not within Harlington. This is because as you leave the settlement heading towards the appeal site, the scale of built form significantly reduces, and high hedgerows demarcate either side of the road giving a verdant rural character. Along this section of the road there is no footpath and the built form visible from the road is limited to the entrance to Pilgrims Chase³ and 121 and 123 Sundon Road. As a result, beyond 82 and 93 Sundon Road, the character of the road changes so that it feels like you have left the settlement and are no longer within it.
15. Whilst the adjacent Pilgrims Close has extended the spread of development south eastwards along Sundon Road, this development does not feel part of Harlington due to being set back from the road and largely screened. Additionally, it does not result in the properties opposite the appeal site (Nos 121 and 123 Sundon Road) being read as part of the settlement. These dwellings and the detached property to the rear of the woodland are read in the context of the surrounding woodland, agricultural field and open land and not the settlement of Harlington.
16. Reference is made to the conversion of a barn to the southeast of No 121 and 123 Sundon Road. This development resulted from the conversion of an existing agricultural building, opposite the complex of agricultural buildings belonging to Wood Farm. The conversion resulted in the building retaining an agricultural appearance in keeping with its rural setting. This building and Wood Farm appear separate to Harlington and therefore their location is not indicative of the extent of the settlement.
17. A further development 'The Brambles'⁴ is located to the southeast of Wood Farm. Whilst the decision notice, legal agreement and plans relating to this development have been provided, the specific planning, and policy considerations behind the example have not been provided. However, the Council has set out that this development was assessed under the exception to inappropriate development comprising of the redevelopment of previously developed land. As such its location is not indicative of being within the settlement, and in my view, it is separate from Harlington. Therefore, this example is significantly different to the appeal scheme, and this limits the weight that I can ascribe to it in determining this appeal.

² Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council ([2015] EWCA 195)

³ CB/22/009681/FULL- approved scheme for 138 dwellings (allocated site)

⁴ CB/21/03293/FULL

18. Whilst the appeal site abuts the boundary of Wood Farm it is separated from the built form of the farm by a wide strip of dense vegetation and undeveloped land in connection with the farm, which does not appear as residential curtilage. By adjoining this land, which is not within the settlement of Harlington and rural in appearance, this emphasises that the appeal site is not read as part of the settlement.
19. The appellant refers to the proposal not extending beyond the established lines of residential development in any direction. However, the proposal would extend built form south-eastwards along Sundon Road and encroach undeveloped land that positively contributes to the purpose of the Green Belt to check the unrestricted sprawl of large built up areas.
20. Whilst the appeal site is located within 250m of the 30mph gateway speed limit sign and the signage for Harlington, the location of these signs is not determinative of the boundary of the settlement. Given that this section of the road is more akin to the proceeding 60mph section, with tall hedgerows lining the road, no footpath and no built form fronting the road, this adds to the feeling that the appeal site is not located within the settlement.
21. Reference is made to an appeal at Notley Croft⁵ whereby an Inspector compared how far the appeal site was from services within the village compared to dwellings within the settlement. However, in this appeal the site was located 650m from the centre of the village which could be accessed by a continuous footpath. Whilst the distance from the appeal site to various services in the village is comparable to other parts of the village, unlike the example provided they would not be accessible via footpath, and this results in the site feeling divorced from the settlement. As a result, this example is not directly comparable to the appeal scheme, and this limits the weight that I can ascribe to it in determining this appeal.
22. Further appeal decisions are cited which detail schemes which were deemed to be in villages despite being outside of a defined settlement⁶, a scheme within the defined settlement whereby the main issue was whether the proposal was small in scale⁷ and a decision to illustrate the weight to be given to supporting text in the development plan with reference to limited infilling⁸. Given that Harlington is neither a village nor is the appeal site within Harlington, limited infilling has not been addressed. As a result, these examples are not directly comparable to the appeal scheme and not relevant to this main issue.
23. As a result, the proposal does not fall within the exceptions to inappropriate development listed in the Framework, and it would therefore comprise inappropriate development in the Green Belt.

Openness

24. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has both spatial and visual aspects. The spatial impact of the proposal is significant, as it would substantially increase the built form on site through the introduction of eight dwellings. With reference to the visual impact, the

⁵ APP/P1940/W/17/3187494

⁶ APP/B1930/W/20/3249093 and APP/B1930/W/23/3327185

⁷ APP/P1940/W/17/3187494

⁸ APP/P0240/W/23/3329451

proposal would be visible from the road due to the partial removal of the hedgerow. As a result, it would erode the open spacious feeling of the undeveloped site and adversely impact the visual openness of the Green Belt. The proposal would therefore have an adverse impact on openness resulting in significant harm to the Green Belt and conflicting with the purpose of the Green Belt to safeguard the countryside from encroachment.

Character and Appearance

25. The appeal site is a paddock accessed from Sundon Road which is largely characterised by tall hedgerows lining either side of the road, giving a verdant rural character. A five bar gate provides access to the site and a tree is positioned close to the access and adjacent to a hedgerow. The southern boundary borders the landscape buffer between the site and the development at Pilgrims Chase, the rear borders an agricultural field and the northern boundary borders undeveloped land that forms part of Wood Farm. As a result, the appeal site has a pastoral rural appearance, in an undeveloped setting, which positively contributes to the character and appearance of the area.
26. Whilst the site is not located within a National Landscape or area designated for its landscape or amenity value, Policy EE5 of the Local Plan is not dependent on the site being within one of these areas and requires all development to respect, retain and enhance the character and distinctiveness of the local landscape.
27. The proposal would unacceptably extend development along Sundon Road and erode the pastoral verdant character of this section of the road. The appellant considers that the site is contained on all sides, but this is not experienced on site. Instead, the plot is surrounded by undeveloped land. As such the extant undeveloped nature of the plot is in keeping with the surrounding verdant and undeveloped land, whereas the introduction of eight dwellings would dilute this pastoral character. Reference is made to an appeal at Old Vicarage, Snitterfield Road⁹ which the appellant considers relevant, but in this appeal the original site was not undeveloped unlike the appeal scheme, as a result this example is not directly comparable to the proposal and therefore this limits the weight that I can assign it in determining this appeal.
28. The proposal would not be read with or screened by the existing and approved built development, readily assimilated into the surrounding pattern of development nor would it reflect the character of Pilgrims Chase or The Brambles. Given that the appeal site is surrounded by undeveloped land, the proposed dwellings would be read in the context of this verdant setting. This is demonstrated when stood within the appeal site, as built form cannot be easily seen when standing within the site. In addition, the partial removal of the hedgerow and tree to facilitate the access would result in a significant loss of vegetation on Sundon Road and a large proportion of the plot being visible from the road. In contrast, the developments at Pilgrims Chase and The Brambles are largely positioned behind retained established hedgerow and significant vegetation. As such these developments have retained the verdant character of the Road.
29. Whilst the quantum of development proposed, would reflect the density of the front section of Pilgrims Chase and the layout and design of the dwellings could be

⁹ APP/J3720/W/22/3290946

addressed under a reserved matters application, these matters would not address the harm arising from the erosion of the pastoral rural character of the area.

30. For the reasons above, the proposal including the removal of the hedgerow to facilitate the vehicular access would have an unacceptable effect on the character and appearance of the surrounding countryside. It would therefore be contrary to Policies HQ1, EE4, EE5 and SP7 of the Local Plan. Amongst other things, these policies require development to be complementary to the existing natural environment, take into account landscape setting and character, incorporate existing hedgerows and trees to enhance development, and respect, retain and enhance the character and distinctiveness of the local landscape.

Ecology, biodiversity, and protected species

Ecology and protected species

31. The appeal site is located within 1.5km of the Smithcombe, Sharpnose and Sundon Hills SSSI and contains modified grassland and native hedgerows with trees.
32. The proposal would result in the loss of grassland, a section of hedgerow and tree habitat. As a result, the submitted Habitats and Protected Species Report (HPSR), recommends a Landscape Ecological Management Plan (LEMP) to deliver new species rich habitats, measures to protect retained trees and hedgerows, and a Construction Phase Ecological Management Plan (CEMP) to ensure habitats and species are unharmed during construction are imposed as conditions. Had I been minded to allow the appeal, both the LEMP and CEMP could have been secured by condition.
33. The site is located within an area with confirmed presence of Great Crested Newts (GCNs) and license returns. The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) identifies GCN as a European Protected Species (EPS). The intentional or reckless killing, injuring, or capturing of GCN, or intentional or accidental disturbance whilst occupying a place used for shelter or protection, and intentional or reckless destruction of these places, is prohibited by the Wildlife and Countryside Act 1982 (as amended).
34. The appellant suggests that it would be appropriate to use the District Level Licensing Scheme (DLL) to constrain work on site. Whilst the Council suggest that a condition could be imposed to restrict works until a licence is secured, Section 99, of the ODPM Circular 06/20052 requires the presence or otherwise of protected species, and the extent that they may be affected by proposed development, to be established before permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
35. Regulation 9(3) of the Habitat Regulations requires a competent authority to have regard to the requirements of the associated Directive¹⁰ so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to harm to specimens or deterioration or destruction of resting places of an EPS under Article 12(1). I must therefore ensure any potential harm to an EPS would

¹⁰ Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Directive)

be adequately mitigated and consider whether the proposal is unlikely to be licensed.

36. The appellant has not provided evidence of participation in the DLL scheme. I have not been provided with an Impact Assessment and Conservation Payment Certificate, and I therefore cannot be certain that the scheme is suitable for DLL, meets the favourable conservation status test and secures adequate compensation for any impact. Consequently, I cannot be certain the proposal would not contravene Article 12(1) and I am not satisfied the mitigation hierarchy has been followed and that there would be no significant harm to the long-term conservation status of GCN.

Biodiversity

37. The provision of Biodiversity Net Gain (BNG) is mandatory under Paragraph 13 of Schedule 7a of the Town and Country Planning Act 1990 (as amended). In accordance with the Act, the proposal is required to deliver a BNG of 10%.
38. The submitted HPSR identifies that an alternative off site contribution would be required to meet the requirements for 10% BNG. Whilst the level of offsetting required is in dispute, a pre commencement condition requiring that a Biodiversity Gain Plan is submitted to and approved in writing by the LPA would overcome this issue. This could address whether the retained grassland would be disturbed during construction. Given the appeal is dismissed for other reasons, this is not something I have considered further.
39. For the reasons above, from the information before me, whilst BNG could be secured by condition, I am not satisfied that the extent to which GCNs may be affected by the proposed development has been satisfactorily addressed. Accordingly, the suggested condition requiring the appellant join the DLL scheme after permission is granted, provides insufficient certainty that a license is likely to be issued, and that the effects of the development on GCN would be adequately mitigated. The proposal therefore fails to demonstrate it would not harm the long term conservation of GCNs and would be contrary to the Habitats Regulations. The proposal would therefore conflict with Policy EE3 of the Local Plan insofar as proposals should be designed to prevent any adverse impact on protected species.

Other Matters

40. There is dispute between the parties as to whether the Council can demonstrate a five year housing land supply. Whilst the Council suggests it can, this conclusion is contrary to appeal decisions that the appellant has supplied¹¹. The Council has provided a rebuttal to the findings of the appeal decisions justifying a 5.07 year supply. Even if, I was to consider that the Council is unable to demonstrate a five-year supply of deliverable housing sites, the presumption in favour of sustainable development does not apply in this case. This is because footnote 7 of para 11 d) i) identifies the Green Belt as an area of particular importance that would provide a clear reason for refusing the proposal.

¹¹ APP/P0240/W/23/3335858 and APP/P0240/W/24/3341832

Green Belt Balance

41. The proposed development would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also result in harm to the openness of the Green Belt and the character and appearance of the countryside, and it has not been demonstrated that it would not harm the long term conservation of GCNs and would be contrary to the Habitats Regulations. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The benefits that would accrue from the provision of eight dwellings would not clearly outweigh the harm arising from the harm to the Green Belt and other harms identified. The very special circumstances required to justify the proposal do not, therefore, exist. The proposed development is therefore contrary to Policy SP4 of the Local Plan.

Conclusion

42. The proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the above reasons and having regard to all matters raised the appeal is dismissed.

V Goldberg

INSPECTOR