



Appeal Decision

Site visit made on 30 July 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Appeal Ref: APP/C1570/W/25/3366933

Lock Farm, Dell Lane, Little Hallingbury, Essex CM22 7SG

- 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 Tim Marsh of R W Marsh and Sons against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/1775/FUL.
 - The development proposed is demolition of existing outbuildings. Proposed residential development of 6 units with associated landscaping and vehicle parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A few weeks before my site visit one of the buildings pertinent to the appeal scheme was damaged by fire. I am informed that, thankfully, personal injury was avoided, and the fire was contained. I have no evidence the fire affected the building in a way that is material to the appeal.
3. The appellant has supplied a previous appeal decision at a different site¹ (the previous appeal). This was not supplied with the application. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme; What is considered by the Inspector should be essentially the same as was considered by the Council and interested parties at the application stage.
4. The previous appeal is cited in respect of what weight housing proposals should attract given the local housing land supply position. The Council addressed that issue in determining the application and provided comments on the previous decision in defending the appeal. I am satisfied therefore that the appellant's citing of the previous appeal does not involve a substantial difference or fundamental change to the application, and that considering it in my determination would cause no unlawful procedural unfairness.
5. The second reason for refusal cites insufficient information to show the likely effects of the appeal scheme on great crested newts, a European protected species. This was first raised by the Council during the lifespan of the application, leading the appellant to obtain pertinent information from Natural England on 22 October 2024 (the NE email).
6. Disagreement exists over whether the NE email was received by the Council during the application. The appellant has provided an email dated 23 October

¹ Appeal Ref: APP/C1570/W/24/3348090.

2024 to the (then) Council case officer in which the NE email is forwarded. I am informed that a series of emails to the Council followed thereafter. At the same time, the decision notice does not cite the NE email in the list of documents considered, and the Council officer's report makes no mention of it; in fact, the report strongly indicates that the officer did not consider it.

7. The appellant plainly undertook engagement with NE during the application, following observations by the Council. I do not doubt they felt they had submitted the results.
8. However, and whilst the appellant has taken the opportunity to address the issue in their final comments, I do not have an electronic receipt for, or direct response from the Council to, the email dated 23 October; Whilst an email dated 31 October from the original case officer to the appellant's agent is supplied, it appears to refer to building volumes and is not evidently a direct response to, or acknowledgement of, the 23 October email. I do not doubt that the appellant emailed the Council on a number of occasions after 31 October, but I have no evidence any of these emails referred to the NE email. Overall, the evidence does not demonstrate that the NE email was before the Council as part of the application.
9. On 8 April 2025, following receipt of the decision notice, the appellants agent emailed the Council case officer, citing the NE email and asking whether the second reason for refusal might fall away in the event of an appeal. Again, whilst I do not doubt that the email was sent, I have no evidence that it was received or responded to. Moreover, I see no reason why it would have been added to the planning application file given a decision had been issued already. It is not evident, therefore, that there was no need for the appellant to include it when making an appeal.
10. The appellant does not contest the Council's assertion that, in submitting the appeal, they did not supply the Council with the NE email as a supporting document not previously sent as part of the application. It therefore falls to me to decide whether to consider it as part of the appeal.
11. The NE email states that a great crested newt district level license could not be issued as there are no ponds within the appeal site or within a 250m buffer zone. However, it provides an opportunity for reassessment if circumstances justify it. It does not, therefore, evidently provide such a definitive, final position as to render any further observations from the Council immaterial.
12. Whilst it may be that, had the Council placed the NE email before its ecology consultees the second reason for refusal would have fallen away, I cannot be certain of that. As the NE email has not been assessed and addressed by the Council, I will not consider it in reaching my determination.

Main Issues

13. The Council found that the appeal scheme would cause less than substantial harm to a heritage asset. With that in mind, the main issues are:
 - whether the proposal would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;

- the effect on heritage assets;
- the effect of the proposal on protected species; 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

14. The appeal site (the site) is in the Green Belt. Paragraph 153 of the Framework states that development therein is inappropriate save for certain exceptions. These include, at 154(g), the partial or complete redevelopment of previously developed land (PDL) where it would not cause substantial harm to the openness of the Green Belt and, at 155, the utilising of grey belt land subject to the criteria set out thereafter.
15. The decision notice cites Policy S6 of the Uttlesford District Local Plan (2005) (the Local Plan), which does not set out an approach directly comparable to that in the pertinent paragraphs of the Framework but is supported by text stating that within the Green Belt development will only be permitted if it accords with national planning policy. PPG2, rather than the Framework, is cited. The Council describe the policy as partially consistent with the Framework and one which should be afforded moderate weight. I see no reason to view matters otherwise.

Paragraph 154(g)

16. Turning first to the exception at paragraph 154(g); Annex 2 of the Framework defines PDL as that which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. It also includes land comprising large areas of fixed surface infrastructure such as hardstanding which have been lawfully developed. PDL excludes land that is or was last occupied by agricultural or forestry buildings.
17. The site includes what the appellant describes as former agricultural buildings, labelled 1-4 on the submitted plans (the buildings). The appellant has provided no evidence that the buildings themselves are lawful. However, as the Council, which has outlined the pertinent planning history of the site, has not cast doubt upon the lawfulness of the buildings, I see no reason to do so.
18. The Council has, however, contended that (firstly) for the exemption in paragraph 154(g) to apply, the whole appeal site must be PDL, and (secondly) that only parts of the site satisfy the definition of that term as the lawful use of the buildings remains, in part, agricultural. On the first point, the appellant has not challenged the Council's approach and, given the justification provided in the Council's appeal statement, I see no reason to do so. On the second point, the appellant contends the buildings are in commercial use, and questions whether agricultural buildings should, in any event, be discounted as PDL.
19. As set out in Annex 2 of the Framework, for land to be PDL it must have been lawfully developed. The relevant consideration, therefore, is the lawful use(s) of the buildings rather than their actual use(s). The Council sets out that whilst non-

agricultural uses have, in many cases, been permitted or otherwise recognised as lawful, that is not the case in respect of Building 4 (referred to by the Council as Building N), which does not have a lawful, non-agricultural use based on the Council's records.

20. The appellant has not provided evidence that non-agricultural use of Building 4/N is lawful. In the absence of such evidence, the building cannot be considered PDL based on the definition of that term, which only includes land that has been lawfully developed, and excludes land that is or was last occupied by agricultural or forestry buildings.
21. What is more, though the appellant contends in their final comments that the site boundary fits tightly around the buildings, it in fact encompasses land around and between them. It is not evident that this land is PDL, either by virtue of being the curtilage of developed land, or by being lawful fixed surface infrastructure. Given all of the above, and even if the appeal scheme would not cause substantial harm to the openness of the Green Belt, it does not have the benefit of Framework paragraph 154(g).

Paragraph 155

22. Paragraph 155 of the Framework refers to 'grey belt' land, a term defined in Annex 2. Whilst the appellant appears to have cast some doubt on whether the site may be regarded as 'grey', the Council says that it is, potentially giving rise to an unusual disagreement.
23. As the appellants comment is made in the context of an argument that the scheme benefits from paragraph 155, which can only be the case where the site is 'grey belt' land, and given the detailed and convincing case made by the Council that the site is 'grey', a case in which I see no evident flaw, I consider the site is, indeed, 'grey belt' land.
24. Furthermore, I note the Council accepts that the appeal scheme meets the requirements set out at points (a), (b), and (d) of paragraph 155, and see no reason to view matters differently. The question, then, is whether the development would be in a sustainable location with particular reference to paragraphs 110 and 115 of the Framework, that being the only other requirement of paragraph 155.
25. The appeal scheme would create houses attractive to families, but I have no evidence that adequate services and facilities for domestic, family life exist near the site. The nearest supermarket, health centre, and train station are each over 3km away, as are Sawbridgeworth and Bishops Stortford, the nearest large conurbations likely to contain such services and facilities. Even accounting for the pleasant nature, in good weather and daylight hours, of the riverside paths leading to these destinations, I find it unlikely that most people would regularly walk or cycle a round trip of over 6km to these nearest conurbations, particularly in winter months, after dark, in poor weather, or if carrying shopping.
26. A bus stop and the local primary school are found on the nearby A1184, within walking distance of the site. However, the route to either includes, at Dell Lane and Spellbrook Lane East, a narrow roadway with no lighting or footpaths. Whilst that is not an uncommon arrangement in a rural setting, in this instance much of the road is so tightly enclosed by walls, hedges, and fencing that pedestrians have little opportunity to step aside when vehicles are passing. The appellant identifies

average speeds on Dell Lane to be around 27mph; whilst that is significantly lower than the speed limit, it does not indicate that the lane is so slow-moving that pedestrians may safely share the roadway with cars. Overall, the environment is highly likely to discourage walking to the A1184. Furthermore, I have no evidence that the bus services from the A1184 are so regular and comprehensive that they might offer a genuine public transport option in any event.

27. I note that a local footpath over farmland offers a route to Little Hallingbury but attach very little weight to that; I have no evidence the path is passable all year round, and note it appears to be unlit. In any event, there is no suggestion that Little Hallingbury offers such services and facilities for domestic, family life that travel further afield would be anything other than regular.
28. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it also describes the purpose of the planning system as being to contribute to the achievement of sustainable development, an aim containing an environmental objective of mitigating and adapting to climate change. This includes moving to a low carbon economy achieved, in part, by the promotion of walking, cycling and public transport.
29. It is highly likely that occupiers of the proposed development would be all but wholly dependent upon the private car, as there would be little alternative. The appeal scheme would not offer a genuine choice of transport modes, nor safe and suitable access for all users, given the issues faced by pedestrians. Overall, the proposed development would not be in a sustainable location and so does not have the benefit of Framework paragraph 155.

Openness

30. The Council officer report finds the spatial and visual impacts of the appeal scheme would result in a small loss of green belt openness, a conclusion the appellant highlights but does not challenge. The discussion in the report is, as acknowledged by the appellant, in considerable length and detail. Considering all of the above, I see no reason to come any conclusion other than that the appeal scheme would result in a small loss of green belt openness. It would harm openness therefore, albeit to a modest extent.

Heritage

31. The appeal site is at the southern edge of Wallbury Camp², a later prehistoric hillfort. In consultation with Historic England, the Council found the appeal scheme would fail to preserve the setting of this scheduled monument, causing lower levels of less than substantial harm to its significance, given two storey buildings and tree screening between the two. In such circumstances the Framework requires the harm to be weighed against the public benefits of the scheme. The Council consider these to be the provision of housing (6 units), economic and social benefits, and concludes that they outweighed the harm. The appellant has not contested otherwise. Based on these factors, I see no reason to reach a different conclusion.

² NHLE no 1002190.

Biodiversity

32. Local Plan Policy GEN7 addresses development that would have a harmful effect on wildlife and requires a nature conservation survey on sites which include protected species or habitats suitable for them. For the purposes of this appeal, I see no conflict between the approach of the Local Plan and that of Chapter 15 of the Framework.
33. The appellant submitted a Preliminary Ecological Appraisal prepared by Tim Moya Associates which found the site to contain potentially suitable habitats for great crested newts, and recommended the site be registered under the Great Crested Newt District Level Licensing scheme. As set out in the preliminary matters section above, neither the application nor the appeal evidently includes information satisfying this recommendation. As such, it is not evident that the appeal scheme would not have harmful effects on protected species or provide adequate mitigation. As such, it conflicts with the Local plan and the Framework.

Other considerations

34. The appellant considers very special circumstances exist to justify approval of the proposed development which, for the reasons set out above, I have found to be inappropriate in the Green Belt.
35. It is contended that the appeal scheme would result in less impact from vehicular movements than historic or current activities at the site, that the appeal scheme has the support of Framework paragraphs 124 and 125, and that the previous appeal decision, as cited by the appellant, weighs in favour of the scheme. I shall address these in my balance and conclusion section below.

Other Matters

36. The Council found that the proposed development would preserve the setting of the Grade II listed building known as The Three Horseshoes Public House. Given the distance between them, I see no reason to view matters differently.
37. The appellant has invited me to consider the performance of the Council in determining the application, but that is not a matter before me, and I form no view on it.

Green Belt Balance and Conclusion

38. Regarding whether the appeal scheme may reduce impacts from vehicle movements, I have been provided with no evidence to show the extent and nature of movements from the site at present, or how they would compare to those the appeal scheme is likely to generate. Whilst I have an account of the planning history of the site before me, it does not suggest, much less demonstrate, that vehicular movements associated with the site are obviously greater than those the appeal scheme would generate. Overall, I attach minimal weight to the appellant's contention.
39. Framework paragraphs 124 and 125 promote the use of previously developed or 'brownfield' land, especially to meet identified needs for housing where land supply is constrained. However, as per footnote 49, that support is not offered where the proposal would conflict with other policies in the Framework. As set out above, the appeal scheme conflicts with the Framework in respect of protecting the Green

Belt and conserving and enhancing the natural environment. It does not, therefore, have the support of paragraphs 124 and 125.

40. The Council has clarified that the site subject of the previous appeal is not in the Green Belt. Even so, I acknowledge that the Inspector in that case cited an undersupply of housing land and that, at some 3.46 years, the position in that respect has worsened. Like the previous Inspector, I attach significant weight to the delivery of new housing in the circumstances. Unlike the previous Inspector, however, I must set that against the requirement of the Framework to give substantial weight to any harm to the Green Belt, including harm to its openness.
41. The proposal would constitute inappropriate development in the Green Belt and would harm openness. The Framework requires that the harm by reason of inappropriateness be given substantial weight, and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
42. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify the development, which is contrary to the Framework. The above gives a strong reason for refusal. As a result, the provisions of paragraph 11(d) of the Framework are not engaged. The appeal scheme would also fail to preserve the setting of a scheduled monument, causing lower levels of less than substantial harm to its significance, and it is not evident that the appeal scheme would not have harmful effects on protected species or provide adequate mitigation.
43. I conclude that the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
44. The appeal is dismissed.

A Knight

INSPECTOR