



Appeal Decision

Site visit made on 12 August 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 AUGUST 2025

Appeal Ref: APP/J1915/W/25/3366406

Land to the South of 111 Burnham Green Road, Burnham Green, Hertfordshire AL6 0NH

- 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 Mr Paul Smith of London & Herts Ltd against the decision of East Hertfordshire District Council.
 - The application Ref is 3/24/1819/OUT.
 - The development proposed is described as “infill development consisting of two new houses, garden, parking provision, landscaping, the laying of services, and the creation of an access within the site.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline with all matters reserved other than access. I have considered the appeal accordingly. A plan has been submitted as part of the application which indicates how two dwellings could be accommodated on the site. I have taken this plan into account for indicative purposes only.
3. The National Planning Policy Framework (the Framework) was revised in December 2024, after the application was determined. The revised Framework made changes to national Green Belt policy, including through the introduction of grey belt. Both parties have commented on the revised Framework as part of the appeal process, and I have taken these comments into account in reaching my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies, with particular regard to whether the site represents a suitable location for housing, and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Whether inappropriate development

5. The appeal site is within the Green Belt, where Policy GBR1 of the East Herts District Plan (EHDP) (2018) states that planning applications will be considered in

line with the provisions of the Framework. Chapter 13 of the Framework requires substantial weight to be given to any harm to the Green Belt, stating that inappropriate development should not be approved except in very special circumstances. The Framework does however outline several exceptions to inappropriate development at paragraphs 154 and 155.

6. The refusal of the appeal scheme was initially based on the Council's assessment of the proposal relating to what are now points e) and g) of paragraph 154 of the Framework. These relate to limited infilling in villages and the partial or complete redevelopment of previously developed land respectively. However, there has been a marked change in the policy context since the application was determined through the revision of the Framework, and in particular the introduction of the grey belt.
7. The appellant has advanced that the appeal site would fall within the definition of grey belt land, which the Council have accepted. I see no reasons to reach any different view. To be regarded as not inappropriate development in the Green Belt, development in the grey belt must meet all the criteria set through paragraph 155 of the Framework. In this case, criterion d. is not relevant as the proposal does not relate to major development, and the main parties agree that criteria a. and b. would be met. I also see no reasons to disagree on these points.
8. I have not been provided with any defined boundaries of the settlements of Burnham Green or Tewin Wood. On the evidence before me I am not therefore satisfied that the proposal would lead to the merging of settlements which would fundamentally undermine the purposes of the remaining Green Belt across the area. I am also aware that the Planning Practice Guidance is clear that this relates to the merging of towns, rather than villages.
9. The only outstanding dispute between the parties in respect of paragraph 155 of the Framework is whether the proposal would meet criterion c. which states, "*the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework*".
10. These paragraphs relate amongst other matters to focusing development in locations which are or can be made sustainable and ensuring that sustainable transport modes are prioritised. Within paragraph 110 of the Framework, it is acknowledged that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making.
11. Burnham Green has limited facilities, which include a public house, a village hall and a beauty salon, within reasonable walking distance from the site. Bus services run through the village, providing sustainable transport options to larger settlements in the area including Welwyn Garden City and Hertford. However, I note the conclusions of a previous Inspector¹ who stated that the evidence before them did not indicate an extensive bus service when considering the same bus routes. Bus services from the stop close to the site are not particularly frequent.
12. The Council has recently granted planning permission for a single dwelling to the north of the site (along the Burnham Green Road frontage) in which they did not raise sustainability concerns. This is despite Burnham Green being located within

¹ APP/J1915/W/23/3321219

what the Council refer to as a Group 3 village, which is amongst the smallest settlements in the District. The officer report associated with that application appeared to identify the same services, facilities and public transport opportunities as would be available to the appeal site.

13. Given the appeal site's proximity to the site where the Council recently granted planning permission for a dwelling, within the same village context, I find it would be illogical to reach a different judgement in respect to the site's sustainability credentials. Even in acknowledgement that the appeal proposal is for two dwellings rather than one, and would be further away from the road frontage, the evidence on this matter does not sufficiently persuade me that the appeal site should be treated differently from the site at the Burnham Green Road frontage.
14. The occupiers of the proposed dwellings would have access to some services within the village, as well as the opportunity to travel sustainably to larger settlements for their wider needs. Occupiers would therefore not need to be entirely reliant on the use of a private vehicle, but this is to be expected in rural areas, where sustainable transport solutions will vary from those in urban areas. On this basis I find that the proposal would be in a sustainable location.
15. On the first main issue I conclude that the proposal would not be inappropriate development in the Green Belt as it would constitute the development of grey belt land referred to by paragraph 155 of the Framework. Based on this, there would be no conflict with Policy GBR1 of the EHDP.
16. Whilst paragraph 155 of the Framework requires me to have "*particular*" reference to paragraphs 110 and 115 of the Framework, I have also considered the development plan insofar as it relates to the sustainability of the appeal site's location.
17. Policy INT1 of the EHDP relates to an overarching presumption in favour of sustainable development, seeking to approve proposals wherever possible to secure development that improves the economic, social and environmental conditions in the area. This is supported by the Development Strategy set through Policy DPS2 of the EHDP, which seeks to deliver sustainable development in accordance with a hierarchy which, at the bottom, refers to limited development in the villages. Policy TRA1 of the EHDP states amongst other matters, that development proposals should primarily be located in places which enable sustainable journeys to be made to key services and facilities.
18. In respect to the main issue relating to the Green Belt, including whether the site represents a suitable location for housing, I find no direct conflict with Policies GBR1, INT1, DPS2 or TRA1 of the EHDP.
19. I note that the Council have also referred to Policy VILL3 of the EHDP. In respect to the settlement hierarchy, this policy accepts the principle of limited infill development identified in an adopted Neighbourhood Plan, subject to a number of criteria. Nevertheless, this policy pre-dates the Framework. For proposals which are within the Green Belt, the Framework sets that limited infilling in villages is not inappropriate development (paragraph 154(e) of the Framework). There is no requirement for such development to be identified in an adopted Neighbourhood Plan. Thus, whilst the proposal would not accord with Policy VILL3 of the EHDP, I do not consider this policy to be determinative given that it adopts a stricter approach than the Framework.

20. I have been provided with numerous appeal decisions and planning application details from both main parties in relation to the matter of whether the appeal constitutes infill development in the Green Belt. However, because I have found that the proposal would not be inappropriate development in the Green Belt by virtue of paragraph 155 of the Framework, it is not necessary for me to consider whether it would comprise limited infilling in a village. I therefore do not consider the appeal decisions referred to or provided as pertinent to the outcome of the appeal. It is also not necessary for me to consider whether the proposal constitutes the redevelopment of previously developed land (referred to at paragraph 154(g) of the Framework), or the effect of the proposal on the openness of the Green Belt.

Character and appearance

21. Residential development in the surrounding area takes varying forms. Along Burnham Green Road, properties are generally fronting the road with a relatively consistent set back from the highway. No 111 Burnham Green Road is an anomaly to this being positioned to the rear of the other properties fronting the road. Elsewhere in the area, the residential form of development is more sporadic and includes some cul-de-sac arrangements, including properties at Tewin Close to the south of the site.
22. The appeal site forms an undeveloped parcel of land to the rear of 111 Burnham Green Road, roughly equidistance between Burnham Green Road and Tewin Close. It sits adjacent to a wider open field to the east of the site. Land to the west is also relatively sparse of built form, cumulating in a grassed open frontage at the edge of Orchard Road. Large trees feature predominantly in the surrounding area (some of which I understand to be protected through a preservation order). Overall, this gives the site, and the immediately surrounding area distinct rural characteristics.
23. The appellant has identified all the land surrounding the site as being residential. I do not have the lawful status of neighbouring land uses in the evidence before me. Nevertheless, even if the site and the neighbouring open land is in a lawful residential use, this is not displayed through its visual characteristics. To the contrary, the appeal site contributes towards a valuable void in built form, which creates an important gap between buildings. The absence of development within the appeal site and the neighbouring open land assists in maintaining the sparse, rural nature of the surrounding area, which is valuable to the village context of the site.
24. I note that the site has not been explicitly identified through the development plan as a significant open space or gap important to the setting of the village. Despite the outline nature of the appeal proposal, the development of the site for two dwellings in any form, would erode an important gap between built form. It would lead to a clear encroachment into the open space, harming the rural characteristics of the surrounding area.
25. For the reasons given in the discussion of the first main issue above, I do not find that this harm relates to the purposes of the Green Belt. I therefore find no direct conflict with Policy GBR1 of the EHDP in this regard. The proposal would however conflict with Policy DES4 of the EHDP, which amongst other matters, requires all development proposals to be of a high standard of design to reflect and promote

local distinctiveness. Even in the absence of knowing the precise form of development proposed, rather than making the best possible use of the land, the development of the site for two residential dwellings would fail to reflect the local distinctiveness evident in the rural characteristics of the site and the surrounding area.

Other Matters

26. The proposal has received support from interested parties for various reasons. The proposed use of a shared highway access would likely cause no disruption to the road and the surrounding community. Equally it is noted that the proposal in its outline form would not have a detrimental effect to the street scene or to the living conditions of neighbouring occupiers. The absence of such harm does not weigh in favour of the proposal.

Planning Balance

27. The Council is unable to demonstrate a five-year supply of deliverable housing sites as required by the Framework. The supporting planning statement for the application included details of appeal decisions from 2023 and 2024² which identified the supply as between 4.20 and 4.49 years. However, it appears that position has evolved with the appellant's evidence now suggesting the current calculation as being between 3.4 and 3.7 years. The Council has not disputed this figure.
28. Given that I have found that the Green Belt designation is not a clear reason for refusing the development proposed, an inability to demonstrate a five-year housing land supply warrants the application of paragraph 11(d)ii. of the Framework.
29. As above, I have identified that the proposal would cause harm to the rural characteristics of the surrounding area. Even noting that the proposal is in an outline form, the level of harm to the character and appearance of the area arising from the development of the appeal site would be significant. I assign significant weight to that harm.
30. The proposal would lead to social, economic and environmental benefits. Two additional dwellings would contribute towards the shortfall in housing and would also present the opportunity to contribute towards the longevity of local facilities. Given my conclusions above, I also note that the proposal would lead to the development of grey belt land which is favourable in comparison to other land within the Green Belt. Other benefits include the proposed net gain in biodiversity. Whilst I cannot be confident of the precise figures given the outline nature of the proposal, it is clear from the evidence before me that the gains to both biodiversity and hedgerow units would be notable.
31. Even small developments present the opportunity to make a meaningful, immediate difference to housing land supply. In this respect I have given the associated housing delivery moderate weight in the overall balance. Nevertheless, this, and the cumulative weight of the other benefits in this case does not outweigh the significant weight I assign to the harm that would be caused to the character and appearance of the area.

² APP/J1915/W/23/3318094 and APP/J1915/W/24/3340497

32. Even if I were to conclude that the site is previously developed land, the benefits associated with developing it would not lead me to a different conclusion in cumulation with the benefits identified above.
33. In the specific circumstances of this case, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the Framework, taken as a whole, having particular regard to securing well-designed places.

Conclusion

34. The proposal would conflict with the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which indicate planning permission should be granted. Therefore, the appeal is dismissed.

L Gardner

INSPECTOR