



Appeal Decision

Site visit made on 22 July 2025

by S Wilkinson BA, BPI, Dip LA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/P0240/W/25/3363914

Land at 22 Common Lane, Upper Sundon, LU3 3PF

- 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 LDF Enterprises against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/03433/FULL.
 - The development proposed is for a rural exception scheme to demolish existing structures and construct a pair of semi-detached bungalow dwellings and a separate bungalow.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The appeal is accompanied by an application for Costs. This is addressed through a separate decision.

Preliminary Matters

3. The Council has served an enforcement notice in respect of the existing use and structures on the appeal site and is considering prosecuting the land owner because of non-compliance. As there is no evidence which refutes the Council's statement, I regard the existing use and structures as unlawful. I have determined this appeal based on the site's lawful use identified from the aerial photographs in 2009.
4. Following an exchange of information following the lodging of the appeal it is accepted that the Council does not have a policy compliant amount of housing land.

Main Issues

5. The appeal scheme raises the following:
 - Whether or not it is inappropriate development and the effect of the proposal on openness and the purposes of including land within the Green Belt,
 - The effects on the area's character and appearance, and
 - Whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Green Belt

Is the site Grey Belt land?

6. The National Planning Policy Framework, (the Framework) identifies that the fundamental aim of Green Belt policy is the prevention of urban sprawl by keeping land permanently open and its essential characteristic is openness and permanence. Paragraph 153 of the Framework requires that substantial weight is given to any harm to the Green Belt. The Council's adopted policy SP4 is broadly consistent with the Framework in resisting inappropriate development unless very special circumstances exist.
7. The site comprises 0.12ha and lies in a broad area of land to the north of Luton, designated as Green Belt which includes many villages including Upper Sundon. The site lies on the edge of the settlement boundary of Upper Sundon and is surrounded on two sides by open fields with its eastern edge shared with the neighbouring bungalow.
8. Paragraph 143 of the Framework identifies that there are five purposes to the Green Belt. These are the prevention of the unrestricted sprawl of built-up areas, prevention of neighbouring towns merging, safeguarding the countryside from encroachment, preservation of the setting of historic towns and assisting regeneration by encouraging the recycling of derelict land.
9. Given the significant works which have been carried out on the site in the last few years without the benefit of planning permission, piecing together an understanding of the site's history is difficult. However, it is understood from the pre application advice that the site had been last been used for agricultural purposes. Historic aerial photographs from 2009 identify the site as being greenfield containing several incidental buildings with shrub planting on its edges. It is understood that the buildings may have been associated with a Piggery.
10. There is no conclusive evidence that the site was part of the curtilage of 22 Common Lane and from my site visit the shared boundary with the appeal site comprising overgrown post and feather board fencing appears of long standing. For these reasons, the appeal site does not form part of the curtilage of the neighbouring residential property.
11. For this reason and in the absence of evidence to the contrary, given the site's past use for agricultural purposes the site cannot be considered as previously developed land as defined in the glossary to the Framework. This situation contrasts with the conclusions of my Inspector colleague on another recent appeal in Upper Sundon¹, where despite the size of the appeal site, the area covered by both hardstanding and buildings was significant.
12. There is no evidence before me that the site contributes to Purposes a), c), d) or e). The Council identify that the site contributes to Purpose b) as it lies within a broad area of Green Belt land which includes washed over settlements, including Upper Sundon located between Luton and Flitwick. However, due to its size and location

¹ APP/P0240/W/24/3348840

even in the context of its condition in 2009, the site does not make a strong contribution to this purpose.

13. I find that the application of policies in footnote 7 of the Framework which relate to areas or assets of particular importance do not apply to this appeal site.

14. Accordingly, the appeal site is grey belt land.

Whether the appeal scheme is not inappropriate

15. Paragraph 153 identifies that inappropriate development is by definition harmful to the Green Belt and should be refused unless very special circumstances exist. Dwellings are considered as inappropriate development.

16. The exception included at Paragraph 154f) of the Framework allows the provision of affordable housing for local needs on rural exception sites but is caveated with reference to the policies of the Development Plan. Despite the Council stating that it would normally look favourably on schemes for the provision of affordable housing on rural exception sites included in supporting text to policy SP4 there is no specific policy which addresses this matter as required by Paragraph 154f) of the Framework.

17. Whilst I acknowledge that the appeal scheme includes three bungalows of which two would be affordable housing as defined by the Framework, in the absence of a specific reference to affordable housing, policy H4 is not consistent with Paragraph 154f) and cannot be considered as enabling an exception.

18. Paragraph 155 allows exceptions for dwellings on grey belt land subject to three criteria. In respect of the first I consider that the proposed scheme would not fundamentally undermine the purposes of the remaining Green Belt land across the area of the plan. Secondly, given the housing land supply position and the findings of the local housing need survey there is a demonstrable unmet need for dwellings and in particular two affordable dwellings included in the scheme.

19. However, in respect of the site's location, Upper Sundon is a small village without any shops or services although it lies on a bus route to Luton with limited services. Development on this site would not allow access to shops and services by a choice of transport modes. For this reason, the development would not be in a sustainable location with reference to Paragraphs 110 and 115 of the Framework.

20. For this reason, the appeal scheme represents inappropriate development in the Green Belt and an assessment of openness is required.

Impacts on openness

21. Although there is no definition of 'openness' within the Framework the Planning Practice Guidance (PPG) refers to assessments of openness as being informed through consideration of spatial and volumetric aspects, the duration of the development and the degree of activity likely to be generated.²

22. The scale of development proposed involving a pair of semi-detached and a detached bungalow would have spatial and visual impacts far greater than the limited development which existed on the site before the unlawful works

² Reference ID: 64-001-020190722

commenced. The proposed scheme would result in a significant spatial and volumetric increase in development.

23. Openness would be impacted by the extent of activity arising from its residential use associated with the typical movement of occupants around the site. Furthermore, garden fences and paraphernalia associated with residential use would further erode the site's openness.
24. For these reasons, I conclude that the appeal scheme would have a significant impact on openness and conflicts with Policy SP4.

Character and appearance

25. The appeal site lies at the western end of Upper Sundon on the northern side of Common Lane. The Icknield Way, a designated long distance footpath runs along Common Lane, past the site and descends along a narrow footpath to the west.
26. The aerial photograph of the site in 2009 identifies it being surfaced in grass with shrubs located both within and on its edges and with several small buildings. Beyond the site is open countryside. Its predominantly open character and the limited scale of buildings would have represented a transition between the buildings along Common Lane and the open countryside beyond. Figure 20 included in the appellants evidence is instructive in this regard.
27. Policies HQ1 and EE5 of the Local Plan require development to be of the highest possible quality with particular reference to height scale and massing and that for sites with a rural edge, development should reflect local landscape character.
28. The proposed scheme involves three bungalows of which two would be semi detached with forecourt parking. A turning circle designed to benefit highway users would be located at the western edge of the site.
29. In part, the form of development proposed reflects the character of the neighbouring built development with properties set back from the road frontage, some with frontage parking and the proposed bungalow design reflecting that of the neighbouring property and that opposite the site.
30. However, the scale of the scheme in relation to the size of the site results in a cramped layout with each of the two blocks of dwellings located tightly with respect to their boundaries. I acknowledge that the scheme was revised through pre application meetings, but the form of development is at variance with the more spacious character of other development along Common Lane.
31. Furthermore, the extent of frontage parking, together with the turning circle only serve to emphasis the hard urban character of the proposed scheme which extends along its entire frontage; this adversely contrasts with the more open character of development along Common Lane. The development would be clearly visible from users of the footpath.
32. For these reasons, I conclude that the appeal scheme would have an adverse impact on the character and appearance of the area conflicting with policies EE5 and HQ1 of the Local plan.

Very Special Circumstances

33. The appellant's case is predicated on the range of benefits arising from each distinct element of the proposed scheme which are presented as the very special circumstances to address harm to the Green Belt. I address each of these in turn.
34. The Council does not have a policy compliant amount of housing land and the appeal scheme includes housing of mixed tenure designed to address local needs; this is confirmed by the Council's evidence. A single market dwelling is required to ensure the viability of the scheme; a matter acknowledged by the Council.
35. Whilst the scheme is not of a sufficient size to be in accordance with policy H3 it could in part redress the loss of bungalows which have occurred through the Borough, evidenced in the Local Plan. When considered overall the proposed tenure mix and the inclusion of bungalows would make a small but positive contribution to addressing the current under supply and local needs.
36. Other matters which weigh in favour of the appeal scheme include economic benefits including people employed in its construction. However, I do not consider that the standard metric for spending power referred to in the appellant's evidence would necessarily reflect the spend pattern of occupants of affordable dwellings.
37. It is acknowledged that the provision of a turning head within the scheme would be a benefit to highway users.
38. It is accepted that the application was submitted before the statutory requirement for Biodiversity Net Gain (BNG) had come into force although the Framework did require development to demonstrate a net gain. The Preliminary Ecological Assessment (PEA) dates from 2021 when the site had already been developed for open storage. Whilst the scheme identifies improvements when compared to the existing state of the site, I do not consider that the PEA includes an appropriate baseline enabling comparison with that which existed previously. I accord its findings limited weight.
39. The submitted Landscape and Visual Appraisal also dates from the time when the unlawful development had occurred and does not include a detailed assessment of the value of the proposed enhancements when compared to what existed before the unlawful works commenced. Whilst enhancements are proposed they do not include the original baseline from 2009 and for this reason I accord its findings limited weight.
40. However, despite these shortcomings I find that when considered overall the range of benefits clearly outweigh the harms to openness arising from the appeal scheme.

Planning balance and conclusion

41. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
42. Both main parties acknowledge that there is an undersupply of housing land. In these circumstances there is a presumption in favour of sustainable development as defined by the Framework.
43. The fact that policies are deemed as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as

- explained in Paragraph 232, which amongst other things, states that the closer that local policies are to those in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date by reason of an inadequate land supply to still carry significant weight.
44. The reasons for refusal identify conflict with policies SP4, EE5 and HQ1. These are the most important policies for determining this appeal. Policy SP4 does not account for the most recent provisions of the Framework regarding Grey Belt land. However, its essential thrust resists inappropriate development but accepts that development on brownfield sites and within the 'washed over villages' would be acceptable as long as they reflect their character and openness. The policy is nuanced and given the scale of development proposed, I accord only limited weight to the conflict.
45. Policy EE5 requires that landscape character is respected and reflects local distinctiveness. This accords closely with Paragraph 135 of the Framework which emphasises the importance of landscape setting. Policy HQ1 also requires development to be sympathetic to local character and be visually attractive. I accord the conflict between the appeal scheme and this policy significant weight.
46. I recognise the importance of housing delivery referred to in the Written Ministerial Statement and the Framework but find that the form of development proposed by the appeal scheme would adversely impact on the character and appearance of the area.
47. When considered overall, whilst I accept that very special circumstances exist for this development in the Green Belt the adverse impacts arising on the character and appearance of the area are localised and significant and outweigh the limited housing, economic and environmental benefits arising from the scheme.
48. Overall, I conclude that the harm caused in this case would significantly and demonstrably outweigh the benefits identified when assessed against the policies in the Framework taken as a whole. As such the proposed development does not benefit from the Framework's presumption in favour of sustainable development.
49. Bearing all of the above in mind, there are no material considerations, including the Framework, that would indicate that the decision in this case should be taken otherwise than in accordance with the Development Plan. Accordingly, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Wilkinson

INSPECTOR

