



Appeal Decision

Site visit made on 30 September 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal Ref: APP/N0410/W/25/3369024

Fulmer Wood Farm, Fulmer Common Road, Fulmer, Buckinghamshire SL3 6AA

- 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 UCC Limited against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref is PL/24/3552/FA.
 - The development proposed is the change of use of agricultural land to ancillary residential (Use Class C3) land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Preliminary Ecological Appraisal¹ (PEA) was submitted as part of this appeal. As the Council and interested parties have had the opportunity to consider this information as part of the appeal process, no injustice would occur should I accept it. For the avoidance of doubt, I have determined the appeal based on this information.
3. The appellant's submissions suggest that the appeal site, comprising land and an ornamental lake, has historically been used for residential amenity and outdoor recreational purposes and that the appeal proposal seeks to ensure the extent of land used for residential purposes accurately reflects that associated with the dwellinghouse and the way in which the land is in practice used by its occupants. However, the extent to which the past use of the site may be lawful is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 and in the absence of a lawful development certificate, I have determined the appeal based on the description of the proposed development that has been applied for.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposed development on the character and appearance of the area;

¹ Preliminary Ecological Appraisal by Luscinia Ecology dated 9 July 2025

- the effect of the proposal on protected species and priority habitats; and
- whether the proposal should secure biodiversity gain.

Reasons

Whether inappropriate development

5. The site lies within the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework establishes that development in the Green Belt is inappropriate unless one of the exceptions listed applies. The material change in the use of land is not inappropriate development in the Green Belt under the terms of paragraph 154 h) v. of the Framework, provided it preserves its openness and does not conflict with the purposes of including land within it.
6. Saved Policy GB1 of the South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011 (SBDLP) sets out that, within the Green Belt, planning permission will not be granted for development other than that listed, which includes the change of use of land to other uses and essential facilities for them, which would not compromise the purposes of including land in the Green Belt and which would permanently retain its open and undeveloped character. In these regards, it is generally consistent with the Framework.
7. Saved Policy GB13 SBDLP supports proposals to extend residential curtilages in or into the Green Belt where the proposal would be entirely contained within the boundary of a settlement listed in Policy GB3. However, given this approach is inconsistent with and predates the Framework, I attribute limited weight to saved Policy GB13.
8. The appeal site comprises land and a lake adjoining the site of a dwelling which, at the time of my site visit was under construction. The surrounding land, which forms part of a wider estate owned by the appellant, includes woodland and pastureland. Permission is sought to change the use of the site from agricultural use to ancillary residential use in connection with the new dwelling.
9. The site is currently largely free from built development. The proposal does not include any new buildings, structures or operational development and is intended solely for the private use of the occupiers of the dwelling. Permitted development rights for the erection of incidental buildings, as well as walls, fences and other means of enclosure could be controlled by a planning condition. I note the Council's concern regarding the siting of domestic paraphernalia on the site, which I recognise would be more difficult to control. However, in the event that this does occur, despite the size of the site, any such paraphernalia would be likely to be modest in scale and would not be permanent fixtures, and, due to its size and relatively discrete siting, would have a limited effect on the Green Belt in visual terms. Thus, subject to the imposition of a suitably worded planning condition to remove permitted development rights for incidental buildings and means of enclosure, the openness of the Green Belt, in both spatial and visual aspects, would be preserved.

10. The purposes of the Green Belt include safeguarding the countryside from encroachment. The site is located in an area of open countryside, away from a large built-up area and would therefore not lead to unrestricted sprawl of such areas. In addition, the site is very well contained by the existing woodland planting which creates a strong sense of enclosure. Consequently, the proposed change of use of the land would not give rise to any significant encroachment into the surrounding countryside. It would therefore not conflict with the purposes of including land within the Green Belt.
11. In light of the above considerations, I find that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It would therefore constitute a type of development that is not inappropriate in the Green Belt. In that regard, it would accord with the aims of Policy GB1 of the SBDLP and advice in the Framework in relation to the protection of Green Belt land. While the proposal would result in a technical breach with Policy GB13 of the SBDLP, for the reasons given it would not comprise inappropriate development.

Character and appearance

12. The absence of built form of any significant scale and the woodland setting of the site contribute positively to the rural character and appearance of the area. Even if a condition were imposed to remove permitted development rights as set out above, the manifestations of the proposed use for ancillary residential purposes, including domestic paraphernalia and ornamental planting could affect the character and appearance of the site.
13. However, despite the size of the site, which would give rise to a considerable increase to the existing garden area of the host dwelling, for the reasons set out, any domestic trappings would be likely to be modest in scale and would be seen within the context of the host dwelling. Moreover, by virtue of its woodland location and subsequent visual containment and position set back from the public highway, the site is not readily visible from the surrounding area. Consequently, having regard to these factors, the proposed development would not be visually intrusive in the wider landscape, and thus, any effects would be localised and limited.
14. I therefore conclude that the proposed development would not harm the character and appearance of the area. Accordingly, it would not conflict with saved Policy EP3 of the SBDLP which sets out that the use of land should be compatible with the uses of adjacent land and buildings and with the character and amenities of the locality in general or saved Core Policy 9 of the South Bucks Core Strategy, adopted February 2011 (CS) which seeks to conserve and enhance landscape characteristics and resists development which would harm landscape character.

Protected species and priority habitats

15. The PEA submitted as part of the appeal concludes that the proposed development would avoid the loss of habitats of ecological importance as those within the site are to be retained, with habitat loss relating to habitats of negligible importance. It sets out that, while an area of modified grassland will become residential curtilage, and it is possible this area will then be subject to new forms of management, levels of greenspace will not change and that the overall impact on habitats will be at least neutral. The PEA also sets out a range of precautionary measures in relation to

amphibians and reptiles, as well as enhancement measures in the interests of wider biodiversity.

16. As well as modified grassland, the site includes an area of priority habitat comprising lowland mixed deciduous woodland, which is not disputed by the appellant. In addition, parts of the site lie within the 15m buffer of the adjoining ancient woodland, which the Natural England and Forestry Commission Standing Advice indicates should comprise semi-natural habitats such as woodland, scrub, grassland, heathland or wetland. The appellant highlights that the proposal relates solely to the change in land classification and would not involve any additional physical development or the removal of hedgerows or trees. In addition, I note the appellant's willingness to accept a planning condition relating to landscape management which would minimise potential risks to the ancient woodland and associated biodiversity through the planting of invasive or non-native species.
17. Notwithstanding this, even if it is not the appellant's intention to carry out any operational development on the site or intensify the use of the land, the proposed change of use from agricultural to residential use has the potential to introduce activity of a distinctly different scale and nature. The formal change of use to garden could therefore result in the land being managed or used, either by the appellant or subsequent owners of the property, in a manner tangibly different to the agricultural use of the land, in much closer proximity to the ancient woodland than the replacement dwelling. Such uses would be inherently at odds with the agricultural use of the land and could not be controlled by a planning condition.
18. The effects of the proposed use, including human activity associated with the use of the land for residential purposes would be unavoidable, given the position of the priority habitat within the site and proximity of the site to the ancient woodland. As such, I cannot be certain that the proposal would not have an adverse effect on either the ancient woodland, by virtue of activity within the buffer, or lowland mixed deciduous habitats.
19. For the foregoing reasons, while the evidence indicates that there would be no adverse effects on protected species, it has not been demonstrated that the proposed development would not harm the biodiversity interests of the priority habitats. It would therefore conflict with the aims of Core Policy 9 of the CS which seek to protect and enhance biodiversity resources.

Biodiversity gain

20. Under the statutory framework for biodiversity gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective of achieving at least a 10% gain in biodiversity value will be met. The appellant contends that the proposed development is exempt from the biodiversity gain requirements as it is subject to the de minimis exemption set out under the Biodiversity Gain Requirements (Exemptions) Regulations 2024. However, even if the proposal would not lead to the loss or degradation of more than 25 square metres of other onsite habitat, for the reasons set out above, it has not been demonstrated that the proposal would not impact the onsite priority habitat. As such, from the evidence before me, it would fail to meet the first condition so as to satisfy the de minimis exemption.
21. I recognise that the scheme for a replacement dwelling at the site was exempt from the statutory biodiversity net gain requirements, by virtue of the date of the

submission of the planning application. However, while I am mindful of the association between the appeal site and the host dwelling, I am required to assess the appeal proposal against the relevant regulations in place at the time the application was submitted.

22. Accordingly, it has not been demonstrated that the proposal would be exempt from the provision of biodiversity gain. Thus, while it would not have a harmful effect on protected species, the proposal fails to make appropriate provision for biodiversity gain and would therefore have an adverse effect on biodiversity. Accordingly, it would conflict with the aims of Core Policy 9 of the CS in so far as it seeks the conservation, enhancement and net gain in local biodiversity resources within the Biodiversity Opportunity Areas and would fail to comply with Schedule 7A of the Town and Country Planning Act 1990, which mandates a minimum 10% biodiversity gain for new developments.

Other Matters

23. While the redevelopment of the wider estate may have resulted in the separation of the site from the remaining agricultural holding, there is no compelling evidence that it could not continue to be used for agricultural purposes, or that the proposed ancillary residential use is otherwise justified to reflect the present site context.
24. I sympathise with the appellant's desire to increase the garden area, which it is suggested is part of the overall land use strategy for the estate and would reflect the physical boundaries on site. However, given the generous nature of the existing garden which serves the replacement dwelling, there is no clear reason why further outdoor space of such a considerable scale would be necessary to support the reasonable needs of the future occupiers of the property, or that the extent of the existing private garden area is not commensurate with the size of the host dwelling.

Planning Balance and Conclusion

25. I have found that the proposal would not constitute inappropriate development in the Green Belt and would not give rise to harm to the character and appearance of the area, or protected species. Set against this, it has not been demonstrated that the scheme would not give rise to harm to priority habitats or that it would meet the biodiversity gain exceptions. The proposal would therefore conflict with the development plan as a whole. There are no other considerations, which outweigh this finding to justify granting planning permission contrary to the development plan. The appeal is therefore dismissed.

E Worley

INSPECTOR