



Appeal Decision

Site visit made on 10 November 2025

by **J Pearce MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th November 2025

Appeal Ref: APP/P0240/W/25/3368939

Land to the rear of 48 Church Road, Studham LU6 2QA

- 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 Morris Investment & Property Limited against the decision of Central Bedfordshire Council.
 - The application Ref is CB/25/01435/FULL.
 - The development proposed is the erection of three dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings with associated access, parking and landscaping at Land to the rear of 48 Church Road, Studham LU6 2QA in accordance with the terms of the application, Ref CB/25/01435/FULL, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Morris Investment & Property Limited against Central Bedfordshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. A signed Unilateral Undertaking dated 18 September 2025 has been submitted during the appeal process. This would secure a financial contribution to mitigate the effect of the development on the Chiltern Beechwoods Special Area of Conservation (SAC). The Council considers the legal agreement addresses its second reason for refusal and has advised that this reason for refusal is no longer contested. The appeal will be determined on this basis, and I shall return to the legal agreement later in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the openness of the Green Belt;

- the effect of the proposal on the integrity of the Chiltern Beechwoods SAC; and
- if it is inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development

5. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. The appeal site comprises vacant land to the rear of dwellings fronting Church Road. The site is accessed from Church Mead, a cul-de-sac of eight dwellings within a row opposite the site. The site is wholly within the settlement of Studham which is identified as a small village within the Central Bedfordshire Local Plan 2021 (LP).
7. Policy SP4 of the LP states that development proposals within the Green Belt will be assessed in accordance with government guidance contained in the Framework and the Planning Practice Guidance (PPG). Paragraph 155 of the Framework states that the development of homes in the Green Belt should not be regarded as inappropriate where all 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 sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and d. where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.
8. The Council states that the site comprises land that does not strongly contribute to any of purposes a), b) or d) in paragraph 143 of the Framework. From the evidence presented and my observations on site, the land does not strongly contribute to any of the purposes of checking the unrestricted sprawl of large built-up areas, of preventing neighbouring towns merging into one another, or of preserving the setting and special character of historic towns. As such, I agree with both parties, and consider the land at the site to be grey belt.
9. The Council acknowledges that it is unable to demonstrate a five year supply of deliverable housing sites and that the proposal does not comprise major development. Accordingly, the proposal would meet points a. and b. of paragraph 155 of the Framework.
10. In terms of whether a sustainable location paragraphs 110 and 115 of the Framework promote sustainable transport in terms of managing patterns of growth to support this objective. The appeal site is located within Studham, which is defined as a small village within the LP. The LP notes that small villages contain few services and facilities and are limited in their availability of public transport links.

11. The appeal site is close to bus stops on Church Road, near to the junction with Church Close. Although the bus services provide only a limited weekday service to and from Dunstable, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. The proximity of the site to the bus stops and the provision of the school and public house within the settlement would partly reduce the reliance of future occupants on private vehicles. For the purposes of this appeal, there is no compelling evidence before me that the appeal site is not within a sustainable location in terms of criterion c) of Paragraph 155 of the Framework. Given that the proposal meets the criteria set out in Paragraph 155 of the Framework, the scheme would not be inappropriate development.
12. Where a proposal is not inappropriate development in the Green Belt, as per Paragraph 155 of the Framework, an assessment on the effect of the proposals on the openness of the Green Belt is not required. Likewise, very special circumstances do not need to be demonstrated in order for the proposals to be considered acceptable in Green Belt terms. Consequently, the scheme accords with Policy SP4 of the LP and the Framework, which seeks to protect the Green Belt from harm.

Chiltern Beechwoods SAC

13. The appeal site is within the zone of influence of the Ashridge Commons and Woods site of special scientific interest, which forms part of the Chilterns Beechwoods SAC, wherein 75% of people will travel to use the SAC for recreational purposes. The SAC is an internationally recognised habitat with protected features in its beech forests, semi-natural dry grasslands and scrub on chalk, and its population of stag beetles. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) require me as the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects, on the integrity of the sites.
14. The proposal would create a net gain of dwellings and in combination with other developments permitted in the area there would be a likely significant effect on the integrity of the SAC. The Council has an adopted mitigation strategy¹, supported by Natural England, that seeks contributions towards strategic access management and monitoring and the provision of suitable alternative natural greenspace.
15. The PPG on AA indicates that any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice. The appellant has submitted a signed UU, under Section 106 of the Town and Country Planning Act 1990 that would ensure a payment towards the mitigation strategy that is acceptable to the Council. Therefore, taking into consideration the submitted UU which would mitigate the proposed development, I conclude that the proposal would not have an adverse effect on the integrity of the SAC.
16. In this way harmful effects would be prevented. As a result, following an AA, the development would not adversely affect the integrity of the SAC. It would therefore accord with Policy EE3 of the LP, which requires proposals to conserve habitats,

¹ Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest

species and sites, delivering enhancement and creation of ecological networks and the aims of the Framework, which include conserving and enhancing the natural environment.

Other Matters

17. Schedule 7A of the Town and Country Planning Act 1990 (as amended) (the Act) introduced a statutory framework for biodiversity net gain (BNG). Under the statutory framework, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the Biodiversity Gain Condition (BGC). The objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits. The biodiversity gain condition is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan (BGP) must be submitted and approved by the planning authority before commencement of the development.
18. It is proposed that the BGC would be met primarily through off-site measures, including off-site credit units. The Council has not raised any concerns with this approach. If the 10% net gain could not be achieved onsite, the purchase of credits, or an agreement with a relevant off-site provider, would need to be secured through a planning obligation. Such an obligation could form part of the BGP required by the deemed condition. Therefore, granting planning permission without a formal mechanism in place, to secure off-site gains or credits, would not affect the Council's ability to ensure that the BNG objective is achieved at a later stage.
19. The proposal would reflect the prevailing pattern of development in the area, with the dwellings fronting Church Mead. The architecture of the dwellings would differ from the existing development, which is varied in respect of its scale and design. Nonetheless, the proposal would incorporate materials that would respect those used within the surrounding area and the dwellings would be of a scale that would be sympathetic to the mix of development Church Close and Church Mead.
20. Concerns have been raised in respect of the effect of development on occupants of neighbouring properties, including elderly residents and people living with disabilities. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age and people living with disabilities are relevant protected characteristics to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. These rights are engaged in reaching my decision and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
21. The dwellings would be set away from the existing development fronting Church Road. The first floor windows within the rear elevations of the dwellings would face towards the rear elevations and gardens of neighbouring properties. Nevertheless, due to the position of the dwellings away from the boundary of the site and the dwellings beyond, the proposal would not result in harmful overlooking of the neighbouring dwellings and would not appear overbearing to occupants of the

surrounding properties. Moreover, given the limited scale of the proposal and the location of the site within a largely residential area, the development would not lead to a harmful increase in noise and disturbance.

22. The development includes on-site parking spaces for each dwelling as well as a visitor parking space. The provision of on-site vehicle parking would restrict the potential for parking on the roads in the area, including Church Mead and Church Close. The development would lead to an increase in vehicle movements within Church Close and Church Mead. However, the effect of the additional traffic would be limited by the scale of the development.
23. The proposal would lead to an increase in vehicles using Church Close and Church Mead during the construction phase of the development. Due to the limited width of the roads, including Church Mead, this is likely to be disruptive for existing occupants of Church Close and Church Mead. Nevertheless, the harm could be mitigated through the management of construction traffic, and ensuring that development proceeds in accordance with the Council's Construction Code of Practice for Developers and Contractors. In addition, the construction phase would be finite and accordingly the low level of harm would be transitory.
24. I have found that the proposed development would lead to occupants of neighbouring properties suffering unacceptable harm to their living conditions. I am satisfied that a grant of planning permission would not unacceptably interfere with neighbouring residents' right to a private and family life and home. It is therefore proportionate in the circumstances to allow the appeal.

Conditions

25. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the Framework and advice contained in the PPG. I have adjusted the wording of some conditions to improve precision.
26. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
27. The quality of the environment would be protected by conditions in respect of hard and soft landscaping, boundary treatments and tree protection. To promote ecology, a condition is included requiring the implementation of the recommendations of the Preliminary Ecological Appraisal² (PEA).
28. Conditions relating to the construction of the access, including surface materials, gradient, surface water drainage and the provision and retention of visibility splays are required in the interests of highway safety. Adequate parking would be secured and retained by a condition.
29. To protect the environment and the living conditions of the occupants of neighbouring properties during the construction phase, conditions are included requiring the development is carried out in accordance with the Council's Construction Code of Practice for Developers and Contractors and the Council's Environmental Code of Practice.

² Prepared by Sound Ecology, dated March 2025.

30. The general BGC has a separate statutory basis as a planning condition under Paragraph 13 of Schedule 7A of the Act. On this basis, the PPG strongly encourages decision makers to not include the BGC, or the reasons for applying it, in the list of conditions imposed in the written notice when granting planning permission. Moreover, given that BNG would be delivered primarily through off-site measures and the PEA included enhancement recommendations, the suggested Habitat Management and Monitoring Plan and Ecological Enhancement conditions would not be necessary or reasonable.
31. I have not included conditions in respect of the external materials and in relation to the existing finished ground and slab levels given the relationship of the proposal with the surrounding development and that this information is included on the submitted plans.
32. The Council have suggested a condition for the provision of a two-metre-wide footway to the front of the site. Nevertheless, given the limited scale of the proposal, its position at the end of a cul-de-sac and the provision of a footway on the opposite side of Church Mead, the lack of a two-metre-wide footway would not result in an unacceptable impact on highway safety. The suggested condition is not proportionate or necessary in this case, and would therefore not meet the tests in the Framework.

Conclusion

33. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers LO-01, PL-100 Revision A, and PL-102 (Built Grain Plan').
- 3) No above-ground work shall take place until a landscaping scheme to include all hard and soft landscaping (including retained landscaping) and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.
- 4) Prior to first occupation of the development hereby permitted, a scheme shall be submitted for approval in writing by the local planning authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved scheme before the development is occupied and be thereafter retained.
- 5) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any amendments thereto, the parking provision for the site as detailed on the approved plans shall not be used for any other purpose.
- 6) Prior to first use of any of the accesses, a triangular vision splay shall be provided on each side of the new access drive and shall be 2.8m measured along the back edge of the highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the highway into the site along the centre line of the anticipated vehicle path. The vision splay so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.
- 7) Prior to first occupation of the development hereby permitted, all on site vehicular areas shall be surfaced in stable and durable materials in accordance with details to be approved in writing by the local planning authority. Arrangements shall be made for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.
- 8) The maximum gradient of the vehicular access shall be 10% (1 in 10) for the first 6.0m measured into the site from the highway boundary.

- 9) All ecological measures and/or works shall be carried out in accordance with the details contained in the March 2025 Preliminary Ecological Appraisal as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
- 10) The development shall be carried out in accordance with the measures contained within the Arboricultural Impact Assessment dated April 2025 (Ref. 210140-PD-11h), as prepared by Tim Moya Associates.
- 11) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Environmental Code of Practice'.
- 12) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors'.

End of Schedule