



Appeal Decision

Site visit made on 26 February 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th March 2025

Appeal Ref: APP/B1930/W/24/3349988

Moor Mill Tanker Depot, Smug Oak Lane, Bricket Wood, Hertfordshire AL2 3TZ

- 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 Eithne McGowan of Smug Oak Lane Limited against the decision of St Albans City Council.
 - The application Ref is 5/2023/2226.
 - The development proposed is described as 'outline planning permission for the erection of 9. no dwellings with access, parking and associated works'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with all matters reserved except access. The application includes illustrative plans and elevations. I have determined the appeal based on the proposed access in the illustrative site plans, with the remaining proposed development layout and elevations for indicative purposes only.
3. The National Planning Policy Framework (the Framework) was revised, and the 2023 Housing Delivery Test (HDT) results were published in December 2024. As these could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of these documents, and the responses received on them.
4. Within the context of this appeal under section 78 of the Act¹, it is not within my remit to formally determine whether the use is lawful. If the appellant wishes to ascertain whether it is lawful, an application can be made under section 191 of the Act. Nevertheless, I have had regard to the use insofar as it is relevant to my consideration of the case.

Main Issues

5. The main issues in this appeal are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the proposal on the openness and purposes of the Green Belt;
 - whether the site would be a suitable location for the proposed development, having regard to the accessibility of services and facilities; and

¹ The Town and Country Planning Act 1990 (as amended)

- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal is inappropriate development

6. The appeal site lies within the Green Belt identified under saved Policy 1 of the St Albans District Local Plan Review 1994 (LPR). This states that, except for development in Green Belt settlements or in very special circumstances, permission will not be given for development for purposes other than those listed in the policy. The list of developments allowed under Policy 1 predate those in the Framework.
7. In addition, Policy S1 of the St Stephen Parish Neighbourhood Plan 2022 (NP) only supports residential development in the Green Belt where it either meets the exceptions to inappropriate development set out in the Framework or demonstrates very special circumstances.
8. Paragraphs 154 and 155 of the Framework list the types of development that are not inappropriate in the Green Belt, subject to certain conditions. These include the limited infilling or the redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt (paragraph 154(g)). They also include the development of homes utilising grey belt land where it would meet several criteria (paragraph 155).
9. The definition of previously developed land in the Framework refers to land 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. The appellant considers that the site is previously developed land as it contains extensive hardstanding with many movable storage containers and skips and a small derelict building. However, there is no evidence that the existing use and building are lawful. The impact of the proposed development on the openness of the Green Belt and thus whether it meets the exception in paragraph 154(g) is considered below.
10. There is no dispute that the site meets the definition of grey belt outlined in the Framework. However, the parties disagree on whether the development would be in a sustainable location, as set out in paragraph 155(c) of the Framework. I address this matter below.

Effect of the proposal on openness

11. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the counterpart of urban sprawl and often connotes the absence of development. It is an open textured term and can have both spatial and visual dimensions.
12. The site abuts Smug Oak Lane and is surrounded by vegetated and open land, with well-established boundary trees and hedges. There are two accesses from the lane, one of which is blocked off. As the only existing permanent above ground structure is a modest sized building in a poor state of repair, the introduction of nine permanent dwellings would result in a substantial loss of spatial openness.

13. The eastern access would be opened up to provide the entrance to the proposed development. It is indicated that the scheme could be a contained short cul de sac with retained and new boundary trees. However, the proposal would be visible from Smug Oak Lane through the access road and from public rights of way (PROW) to the north. Whilst there could be some screening of the houses from the public realm, any planting could be removed, become damaged or diseased and may only provide screening in the spring and summer months. Thus, the built development would also significantly harm visual openness.
14. The effect on openness is not only related to the size of the proposal but also its purpose and the intensity of its use. The introduction of nine dwellings on the site would result in the creation of gardens and domestic paraphernalia. Further, the proposal would result in more people accessing the site and using the hardstanding for the manoeuvring, turning and parking of vehicles. Such features and activities would also unacceptably affect spatial and visual openness.
15. Therefore, regardless of whether the site is previously developed land, the proposal would substantially harm the openness of the Green Belt and would not fall within the exception in paragraph 154(g) of the Framework.

Effect of the proposal on Green Belt purposes

16. The five purposes of the Green Belt are set out in the Framework. The Council is concerned about the impact of the proposed development on purpose (c) which serves to assist in safeguarding the countryside from encroachment.
17. There is no indication that the use of the site is authorised and apart from the hardstanding and one small derelict building, much of the site is undeveloped and surrounded by fields and woods. Therefore, the introduction of nine dwellings would result in encroachment into the countryside, in conflict with this Green Belt purpose.

Suitability of the location

18. There are no locally adopted policies on accessibility standards. Nonetheless, the Framework requires proposals to identify and pursue opportunities to promote walking, cycling and public transport use, whilst recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It seeks to ensure that developments prioritise sustainable transport modes taking account of the type of development and its location.
19. There is a narrow path along Smug Oak Lane and several PROWs in the vicinity. The nearest bus stop is around 650m away if accessed via the lane and PROWs or slightly further if accessed only via the lane. Buses provide regular services to St Albans, Borehamwood and Welwyn Garden city. Bricket Wood railway station is around 1.5km away. The nearest primary and secondary schools are about 1.6km and 4.1km from the site respectively, within the statutory walking distances for schools. Further, it is indicated that there are services and facilities within 2km of the site, with various smaller settlements being within a 30 minute walk and some larger towns within a 30 minute cycling distance.
20. Some of these services fall within acceptable, comfortable or realistic walking distances outlined in the Manual for Streets and other guidance. However, pedestrian and cycle access to them would be via unlit paths, PROWs and lanes

through a largely undeveloped rural area with some PROWs only being accessible by crossing the busy Smug Oak Lane.

21. Walking, cycling and the use of buses would be an option for some trips by some people, but the rural, unlit nature of the route and distances to bus stops and services would limit their attractiveness, particularly for older people, those with a disability or with children and at times of darkness and bad weather. As such, I consider that future occupiers of the proposed dwellings would be likely to be reliant on private vehicles to access services.
22. There are references to Secretary of State and appeal decisions for sites nearby² where it was found that the proposals represented a sustainable form of development or the issue of access to services and facilities did not arise. However, these sites are much closer to bus stops on Radlett Road than the appeal site or were approved prior to current national planning policy which requires developments to promote walking, cycling and public transport use. As such, they are not comparable to the appeal scheme.
23. Consequently, the site would not be a suitable location for the proposed development, having regard to the accessibility of services and facilities. Therefore, it would fail to prioritise sustainable transport modes as required by the Framework. As the proposed development would not be in a sustainable location, it would not fall within the exception in paragraph 155 of the Framework.

Other considerations

Contribution to housing land supply

24. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make. The HDT results indicate that delivery of housing in the Council's area has been less than 75% of its requirements over the past three years and is declining. Further, the Council accepts that it has an under-supply of housing, and it is indicated that it currently has a 1.7 year supply when the requirement in the Framework is for five years. The appellant outlines that affordability is worsening, and as the Council's LPR is dated, the Council's housing land supply position will not improve for some time and land will need to be released from the Green Belt to accommodate it.
25. The Framework states that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Even accounting for the retention of boundary landscaping, with a density of around 15 dwellings per hectare, it is questionable whether the proposal would make most efficient use of the site.
26. There is reference to several appeal and Secretary of State decisions³ where it was found that significant or very substantial weight should be accorded to the delivery of new housing in the Council's area given the significant needs and worsening supply. However, these were substantially larger schemes than the proposed development which would make only a modest contribution of nine dwellings towards the supply of housing.

² Refs: APP/B1930/W/15/3028110 and APP/B1930/W/21/3267870

³ Refs: APP/B1930/W/22/3313110, APP/B1930/W/22/3312277 and APP/B1930/W/23/3331451

27. Taking the above into account, the proposal would make some difference to addressing the housing shortfall in St Albans. Therefore, I attribute modest weight to this benefit in this instance.

Economic benefits

28. There would be some economic benefits during the construction phase and once occupied when future residents would use local businesses. However, given the relatively small scale of the proposal, these benefits would be limited.

Other Matters

29. The Council did not find harm or development plan conflict in relation to several other matters, including flood risk, contamination, living conditions, transport, air quality, trees, landscape, ecology, and impacts on heritage assets. Several consultees also did not object. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

30. Appearance, landscaping, layout and scale are reserved for future consideration and do not form part of this outline application. Thus, the appellant's suggestion of a condition to limit the ridge height would not be necessary or reasonable. Further, although the appellant refers to the scheme delivering habitat enhancement, there is no mechanism before me to indicate that it would deliver this.

Whether there would be Very Special Circumstances

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be adverse impacts on its openness and conflict with the purpose of safeguarding the countryside from encroachment. Substantial weight should be given to the harm caused to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

32. I give modest weight to the provision of nine additional dwellings and limited weight to the economic benefits. However, the other considerations would not clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purpose of safeguarding the countryside from encroachment. Consequently, the very special circumstances necessary to justify the proposed development do not exist. As such, it would be contrary to saved Policy 1 of the LPR, Policy S1 of the NP and the Framework.

Planning Balance and Conclusion

33. Paragraph 11(d) of the Framework is engaged as the Council is currently unable to demonstrate a five-year housing land supply. In such circumstances, this states that development should be approved unless the application of policies in the Framework that protect areas of particular importance provides a strong reason for refusing the development. In this appeal, the application of the Framework's Green Belt policies provides a strong reason to refuse the development. The proposal would also conflict with saved Policy 1 of the LPR and Policy S1 of the NP.

34. Consequently, the proposal conflicts with the development plan and the material considerations, including the Framework and the very special circumstances test therein, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

A Wright

INSPECTOR