

APPENDIX 1



Streetmap Location Plan

APPENDIX 2



Photograph 1: View looking south east showing existing kitchen garden and derelict glasshouses to be demolished.



Photograph 2: View looking east towards existing workshop building to be demolished.



Photograph 3: View looking north east showing workshop, store shed and derelict glasshouses to be demolished.



Photograph 4: View looking east towards existing workshop building and store shed to be demolished.



Photograph 5: View looking east showing existing glasshouse to be demolished.



Photograph 6: View looking east from Hollybush Lane showing existing vehicular access gates into site.



Photograph 7: View looking northwest showing relationship to Holly House (Field End House) Grade II listed building including intervening landscaping and boundary features.



Photograph 8: View looking northeast from Hollybush Lane showing approach to Holly House (Field End House) Grade II listed building.

APPENDIX 3

Flood map for planning

Your reference
0147PA

Location (easting/northing)
516756/221668

Created
28 October 2025 12:03

Your selected location is in flood zone 1, an area with a low probability of flooding.

You will need to do a flood risk assessment if your site is **any of the following**:

- bigger than 1 hectare (ha)
- in an area with critical drainage problems as notified by the Environment Agency
- identified as being at increased flood risk in future by the local authority's strategic flood risk assessment
- at risk from other sources of flooding (such as surface water or reservoirs) and its development would increase the vulnerability of its use (such as constructing an office on an undeveloped site or converting a shop to a dwelling)

Notes

The flood map for planning shows river and sea flooding data only. It doesn't include other sources of flooding. It is for use in development planning and flood risk assessments.

This information relates to the selected location and is not specific to any property within it. The map is updated regularly and is correct at the time of printing.

Flood risk data is covered by the Open Government Licence which sets out the terms and conditions for using government data. <https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3>

Use of the address and mapping data is subject to Ordnance Survey public viewing terms under Crown copyright and database rights 2025 AC0000807064. <https://flood-map-for-planning.service.gov.uk/os-terms>



Flood map for planning

Your reference

0147PA

Location (easting/northing)

516756/221668

Scale

1:2,500

Created

28 Oct 2025 12:03

-  Selected area
-  Flood zone 3
-  Flood zone 2
-  Flood zone 1
-  Flood defence
-  Main river
-  Water storage area



0 20 40 60m

APPENDIX 4

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Court of Appeal

Dartford Borough Council v Secretary of State for Communities and Local Government

[2017] EWCA Civ 1411

B

2017 March 9; 14

Gloster, Lewison LJ

Planning — Development — Green Belt land — Applicants seeking permission for change of use of land to private gipsy and traveller caravan site — Site within residential curtilage of farmhouse in Green Belt and not in built-up area — Inspector granting permission on basis site qualifying as previously developed land — Whether “previously developed land” — National Planning Policy Framework (2012)

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The owners of a farmhouse applied for planning permission for change of use of land within its residential curtilage to use as a private gipsy and traveller caravan site comprising one mobile home and one touring caravan. The farmhouse was in the Green Belt and was not in a built-up area. On their appeal against the local planning authority's refusal of planning permission, the planning inspector appointed by the Secretary of State decided that the site qualified as “previously developed land”, as defined in the glossary of terms in the National Planning Policy Framework (“NPPF”)¹, because it was within the curtilage of a permanent structure and was not excluded as “land in built-up areas such as private residential gardens, parks, recreational grounds and allotments”. The judge dismissed the local planning authority's challenge to that decision under section 288 of the Town and Country Planning Act 1990, rejecting its contention that all private residential gardens were excluded from the definition of previously developed land, whether or not they were in a built-up area.

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On the local planning authority's appeal—

Held, dismissing the appeal, that the same approach was to be adopted to the interpretation of the National Planning Policy Framework 2012 as to the interpretation of a development plan document, namely that policy statements should be interpreted objectively in accordance with the language used, read in its proper context, and not as if they were statutory or contractual provisions; that the starting point was the glossary definition of “previously developed land” read as a matter of ordinary English; that the critical words defining the exception to previously developed land were “land in built-up areas such as private residential gardens, parks, recreation grounds and allotments”; that the words “such as” stated clearly that what followed were examples of the more general expression that preceded them, namely “land in built-up areas”, so that as a matter of ordinary English, “land in built-up areas” could not mean land not in built-up areas; that while the NPPF was full of broad statements of policy which might be in conflict with each other, it was not the business of an interpreter to search for possible ambiguities or conflicts in order to detract from the obvious meaning of the words to be interpreted, and in any event there was no such conflict in the present case; that neither, where the language of the NPPF was clear, should previous policy guidance be invoked in order to create ambiguities and it would be wrong to expect the public, for whose benefit the NPPF was published, or indeed a would-be developer, to have to undertake the investigation of previous iterations of government planning policy in order to understand the NPPF, let alone ministerial statements introducing previous iterations of policy which would defeat one of the main purposes of promulgating the NPPF; that, therefore, statements made by ministers about previous iterations of policy could not detract from the clear words of the definition of previously developed land;

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¹ National Planning Policy Framework, glossary: see post, para 2.

and that, accordingly, the proposed development site fell squarely within the definition of previously developed land and was not excluded as land in a built-up area (post, paras 6–9, 20, 23–25, 26). A

Tesco Stores Ltd v Dundee City Council (Asda Stores Ltd intervening) [2012] PTSR 983, SC(Sc), R (*Timmins*) v *Gedling Borough Council* [2015] PTSR 837, CA and *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2016] PTSR 1315, CA applied.

Decision of Charles George QC sitting as a deputy judge of the Queen’s Bench Division [2016] EWHC 635 (Admin) affirmed. B

The following cases are referred to in the judgment of Lewison LJ:

Adedoyin v Secretary of State for the Home Department [2010] EWCA Civ 773; [2011] 1 WLR 564, CA

Hopkins Homes Ltd v Secretary of State for Communities and Local Government [2016] EWCA Civ 168; [2016] PTSR 1315; [2017] 1 All ER 1011, CA C

R (Timmins) v Gedling Borough Council [2015] EWCA Civ 10; [2015] PTSR 837; [2016] 1 All ER 895, CA

R (TW Logistics Ltd) v Tendring District Council [2013] EWCA Civ 9; [2013] 2 P & CR 9, CA

Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government [2014] EWCA Civ 1386; [2015] PTSR 274, CA

Tesco Stores Ltd v Dundee City Council (Asda Stores Ltd intervening) [2012] UKSC 13; [2012] PTSR 983, SC(Sc) D

Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466; [2016] JPL 1092, CA

No additional case was cited in argument.

APPEAL from Charles George QC sitting as a deputy judge of the Queen’s Bench Division E

By a claim form issued pursuant to section 288 of the Town and Country Planning Act 1990, the local planning authority, Dartford Borough Council, challenged a decision of a planning inspector appointed by the Secretary of State for Communities and Local Government made on 29 July 2015, allowing an appeal by the owners of land at Shirehall Farm, Shirehall Road, Hawley, Kent, which was in the Green Belt and not in a built-up area, against the planning authority’s refusal of their application for the change of use of part of the land within the residential curtilage of the farm to a private gypsy and traveller caravan site comprising one mobile home and one touring caravan. On 21 January 2016 [2016] EWHC 635 (Admin) Charles George QC, sitting as a deputy judge of the Queen’s Bench Division, dismissed the claim. F

By an appellant’s notice dated 20 April 2016, and with permission granted by the Court of Appeal (Lindblom LJ) on 10 August 2016, the planning authority appealed on the following grounds. (1) The judge had erred in his interpretation of the term “previously developed land” in the glossary to the National Planning Policy Framework (“NPPF”) and should have held that all private residential gardens were excluded from the definition whether or not they were in a built-up area. (2) The judge’s reading of the definition meant that other parts of the NPPF were at odds with each other. (3) The judge should have looked at ministerial statements covering changes to previous iterations of planning policy when interpreting the relevant words in the context of the NPPF document. G
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A At the conclusion of the hearing the court dismissed the appeal with reasons to be given later.

The facts are stated in the judgment of Lewison LJ, post, paras 3–4.

Ashley Bowes (instructed by *Sharpe Pritchard LLP*) for the local planning authority.

B *Charles Banner* (instructed by *Treasury Solicitor*) for the Secretary of State.

The court took time for consideration.

14 March 2017. The following judgments were handed down.

C **LEWISON LJ**

1 The sole issue on this appeal was the meaning of “previously developed land” (often called “brownfield land”) as defined by the glossary forming part of the National Planning Policy Framework (“NPPF”).

2 That definition reads:

D “Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”

F 3 The context in which the issue arises is that on 29 July 2015 a planning inspector allowed an appeal against the refusal by Dartford Borough Council (“Dartford”) to grant planning permission for a change of use of land to a private gipsy and traveller caravan site comprising one mobile home and one touring caravan. The site in question was within the residential curtilage of Shirehall Farm. Shirehall Farm is within the Green Belt, and is not in a built-up area.

G 4 The inspector decided that the site qualified as previously developed land because: (i) it was within the curtilage of a permanent structure (namely Shirehall Farm); and (ii) it was not excluded as “land in built-up areas such as private residential gardens, parks, recreation grounds and allotments”.

H 5 Dartford does not challenge the first of those reasons: the challenge is to the second. The argument is that all private residential gardens are excluded from the definition of previously developed land, whether or not they are in a built-up area. Any other interpretation, so it is said, would give rise to conflicting policies within the NPPF. At the conclusion of the hearing we announced that the appeal would be dismissed with reasons to follow. These are my reasons for joining in that decision.

6 The approach to the interpretation of the NPPF is the same as the approach to the interpretation of a development plan document: *R (Timmins) v Gedling Borough Council* [2015] PTSR 837, para 24 and *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2016] PTSR 1315, para 24. The correct approach to the interpretation of a development plan document was laid down by the Supreme Court in *Tesco Stores Ltd v Dundee City Council (Asda Stores Ltd intervening)* [2012] PTSR 983. In that case Lord Reed JSC said, at para 18: “policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context.” He went on to make an important point, at para 19:

“That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse . . . Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.”

7 It is particularly that feature, namely that broad statements of policy may be irreconcilable, that differentiates a development plan document from a contract which one would expect to be internally consistent. Like a development plan document, the NPPF is also full of broad statements of policy; and it would be crying for the moon to start the process of interpretation with the idea that there is no tension between statements of policy pulling in different directions.

8 The starting point is, of course, the words themselves read as a matter of ordinary English. The critical words are: “land in built-up areas such as private residential gardens, parks, recreation grounds and allotments . . .”

9 In my judgment the words “such as” state clearly that what follows are examples of something. Examples of what? They can only be examples of the more general expression that precedes them, namely “land in built-up areas”. As a matter of ordinary English I cannot see that any other meaning can be given to this sentence. “Land in built-up areas” cannot mean land *not* in built-up areas. It is argued that this interpretation means that other parts of the NPPF are in conflict with each other. Even if that were true it is not the business of an interpreter to go searching for possible ambiguities or conflicts in order to detract from the obvious meaning of the words to be interpreted.

10 The alleged conflict within the NPPF upon which Mr Bowes relied was the juxtaposition of two of the core planning principles in paragraph 17 of the NPPF, and a conflict between paragraphs 14, 55 and 111. I start with paragraph 17. This provides that 12 core principles should underpin both plan-making and decision-taking. Two of those principles are:

A “take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;”

and “encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value . . .”

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11 There is in truth no conflict between these two core principles, as is demonstrated by the more detailed policies about the Green Belt. Paragraph 87 of the NPPF states: “As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

C 12 Paragraph 89 goes on to say that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. But that general policy is immediately qualified by exclusions, one of which is:

“limited infilling or the *partial* or complete *redevelopment of previously developed sites* (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.” (Emphasis added.)

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13 Accordingly, the NPPF accommodates the definition of previously developed land within the general policy about development in the Green Belt. If a new building is a partial redevelopment of a previously developed site it is not to be regarded as inappropriate redevelopment in the Green Belt, provided that it has no greater impact on the openness of the Green Belt than the existing development. The proviso also means that the encouragement of development on brownfield land is not, at least in the Green Belt, unqualified. So any possible tension is resolved.

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14 Nor do I see any conflict between the definition and paragraphs 55 or 111 of the NPPF. Paragraph 55 states: “Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances . . .”

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15 However, the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an “isolated” home. There will already be a permanent structure on the site. Paragraph 111 states: “Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.”

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16 This paragraph expressly adopts the expression “previously developed” land and I cannot see that there is any conflict in so doing.

17 Mr Bowes also relied on statements made by the minister when introducing changes to previous versions of planning policy contained in PPS3. Before commenting on that argument it is worth recalling why Lord Reed JSC said that development plan documents were to be objectively interpreted. His explanation, also at [2012] PTSR 983, para 18, was:

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“The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which

will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities.”

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18 The same is true of the NPPF. In the foreword to the NPPF the responsible minister stated: “By replacing over a thousand pages of national policy with around fifty, written simply and clearly, we are allowing people and communities back into planning.”

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19 In *R (Timmins) v Gedling Borough Council* [2015] PTSR 837, para 24 Richards LJ said that the NPPF was: “on the face of it a stand-alone document which should be interpreted within its own terms and is in certain respects more than a simple carry-across of the language in the guidance it replaced.” In *Turner v Secretary of State for Communities and Local Government* [2016] JPL 1092, para 21 Sales LJ said:

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“The NPPF was introduced in 2012 as a new, self-contained statement of national planning policy to replace the various policy guidance documents that had proliferated previously. The NPPF did not simply repeat what was in those documents. It set out national planning policy afresh in terms which are at various points materially different from what went before.”

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20 However, in both *Timmins’s* case and *Turner’s* case the court accepted that, at least in the case of the Green Belt, previous policy guidance remained relevant. I do not, however, consider that previous policy guidance should be invoked in order to create ambiguities in the NPPF where the language of that document is clear. Nor do I consider that that was the process that the court sanctioned in *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government* [2015] PTSR 274. The question in that case was whether “any other harm” should be given a restrictive meaning limited to what was described as “Green Belt harm” as opposed to “non-Green Belt harm”. In the result the court interpreted the words by giving them their ordinary meaning. “Any other harm” meant “any other harm”; not “some other harm”. The reference to previous guidance was deployed in order to rebut an argument that there had been a policy shift which justified a more restrictive and unnatural interpretation.

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21 Mr Bowes drew our attention to the decision of this court in *Adedoyin v Secretary of State for the Home Department* [2011] 1 WLR 564. That case concerned the Statement of Changes in Immigration Rules (1994) (HC 395) which, unlike ministerial statements of planning policy, must be placed before Parliament. The question was whether the word “false” meant “dishonest” or merely “incorrect”. Rix LJ said, at para 70:

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“in a situation where a word, such as here ‘false’, has two distinct, and distinctively important, meanings, there is a genuine ambiguity which makes it legitimate, in construing Rules which are expressions of the executive’s policy, to consider what the executive has said, publicly, about its rules. Clearly, what a minister says in Parliament, expressed as an assurance, and especially on the occasion of a debate arising out of the tabling of amended rules, is of particular, and may be of decisive, importance . . .”

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A 22 I do not consider that he derives any help from that case. That was a case in which there was an ambiguity on the face of the rules. Here there is no ambiguity on the face of the NPPF. The minister's statement relied on was not a statement about the NPPF, so it is not covered by Rix LJ's observations. Nor was there any ambiguity in PPS₃ itself. Mr Bowes does not in fact rely on previous policy guidance: so his reliance is not within what was contemplated by *Timmins's* case [2015] PTSR 837 or *Turner's* case [2016] JPL 1092.

B The alleged ambiguity only arises if the minister's statement in Parliament is literally interpreted without regard to the text of the revised policy that he was introducing. I do not regard that as a legitimate approach to the interpretation of the NPPF.

23 In my judgment it would be quite wrong to expect the public, for whose benefit the NPPF is published, or indeed a would-be developer, to have to undertake the investigation of previous iterations of government planning policy in order to understand the NPPF, let alone ministerial statements introducing previous iterations of policy. Indeed that would defeat one of the main purposes of promulgating the NPPF in the first place. If I may repeat something I have said before:

D "The public nature of these documents is of critical importance. The public is in principle entitled to rely on the public document as it stands, without having to investigate its provenance and evolution." (*R (TW Logistics Ltd) v Tendring District Council* [2013] 2 P & CR 9, para 15.)

24 For these reasons I did not consider that statements made by ministers about previous iterations of policy could detract from the clear words of the definition of previously developed land.

E 25 I note that when Lindblom LJ granted permission to appeal he did not do so on the ground that the appeal had a real prospect of success, but because there was some other compelling reason for the appeal to be heard. I agree with his view on the merits of the appeal, which is why I agreed to its dismissal.

F GLOSTER LJ

26 I agree with the reasons given by Lewison LJ for the dismissal of this appeal.

Appeal dismissed.

ALISON SYLVESTER, Barrister

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APPENDIX 5



Hilary Term
[2020] UKSC 3
On appeal from: [2018] EWCA Civ 489

JUDGMENT

**R (on the application of Samuel Smith Old Brewery
(Tadcaster) and others) (Respondents) v North
Yorkshire County Council (Appellant)**

before

**Lady Hale
Lord Carnwath
Lord Hodge
Lord Kitchen
Lord Sales**

JUDGMENT GIVEN ON

5 February 2020

Heard on 3 December 2019

Appellant
Daniel Kolinsky QC
Hannah Gibbs

Respondents (1 and 2)
Peter Village QC
James Strachan QC
Ned Helme
Ruth Keating

(Instructed by North Yorkshire
County Council Legal Services)

(Instructed by Pinsent Masons LLP
(Leeds))

Respondent (3)
Alison Ogley

(Instructed by Walker Morris LLP)

Respondents:-

- (1) Samuel Smith Old Brewery (Tadcaster)
- (2) Oxton Farm
- (3) Darrington Quarries Ltd

LORD CARNWATH: (with whom Lady Hale, Lord Hodge, Lord Kitchen and Lord Sales agree)

Introduction

1. The short point in this appeal is whether the appellant county council, as local planning authority, correctly understood the meaning of the word “openness” in the national planning policies applying to mineral working in the Green Belt, as expressed in the National Planning Policy Framework (“NPPF”). The Court of Appeal ([2018] EWCA Civ 489), disagreeing with Hickinbottom J ([2017] EWHC 442 (Admin)) in the High Court, held that, in granting planning permission for the extension of a quarry, the council had been misled by defective advice given by their planning officer. In the words of Lindblom LJ, giving the leading judgment:

“It was defective, at least, in failing to make clear to the members that, under government planning policy for mineral extraction in the Green Belt in para 90 of the NPPF, visual impact was a potentially relevant and potentially significant factor in their approach to the effect of the development on the ‘openness of the Green Belt’, ...” (para 49, per Lindblom LJ)

He thought that, having regard to the officer’s own assessment, it was “quite obviously relevant”, and therefore a necessary part of the assessment. The court quashed the permission.

2. In this court, the council, supported by the quarry operator (the third respondent), argues that the Court of Appeal’s reasoning was based on misunderstandings both of the relevant policies and of the officer’s report, and that the permission should be reinstated. The first and second respondents (collectively referred to as “Samuel Smith”) seek to uphold the decision and reasoning of the Court of Appeal.

Green Belt policy

History and aims

3. Although we are directly concerned with the policies in the NPPF (in its original 2012 version), Green Belt policies have a very long history. It can be traced back to the first national guidance on Green Belts in Circular 42/55 (issued in August 1955). More

recently Planning Policy Guidance 2: Green Belts (published in 1995 and amended in 2001) (“PPG2”) confirmed the role of Green Belts as “an essential element of planning policy for more than four decades”; and noted that the purposes of Green Belt policies and the related development control policies set out in 1955 “remain valid today with remarkably little alteration” (para 1.1). The NPPF itself, as appears from ministerial statements at the time, was designed to consolidate and simplify policy as expressed in a number of ministerial statements and guidance notes, rather than to effect major policy changes (see *Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government* [2014] EWCA Civ 1386; [2015] PTSR 274, paras 16ff, 22 per Sullivan LJ).

4. In the NPPF the concept of “openness” first appears in the introduction to section 9 (“Protecting Green Belt land”) which gives a statement of the fundamental aim and the purposes of Green Belt policy:

“79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”

5. This statement of the “fundamental aim” of the policy and the “five purposes” is unchanged from PPG2. The PPG included a fuller statement of certain “objectives” for the use of land within defined Green Belts, including (for example) providing

opportunities for access to open countryside, and retaining and enhancing attractive landscapes (para 1.6), but adding:

“The extent to which the use of land fulfils these objectives is however not itself a material factor in the inclusion of land within a Green Belt, or in its continued protection. For example, although Green Belts often contain areas of attractive landscape, the quality of the landscape is not relevant to the inclusion of land within a Green Belt or to its continued protection. The purposes of including land in Green Belts are of paramount importance to their continued protection, and should take precedence over the land use objectives.”
(para 1.7)

It is clear therefore that the visual quality of the landscape is not in itself an essential part of the “openness” for which the Green Belt is protected.

Control of development in Green Belts

6. Key features of development control in Green Belts are the concepts of “appropriate” and “inappropriate” development, and the need in the latter case to show “very special circumstances” to justify the grant of planning permission. In *R (Lee Valley Regional Park Authority) v Epping Forest District Council* [2016] EWCA Civ 404; [2016] Env LR 30 (“the *Lee Valley* case”), Lindblom LJ explained their relationship:

“18. A fundamental principle in national policy for the Green Belt, unchanged from PPG2 to the NPPF, is that the construction of new buildings in the Green Belt is ‘inappropriate’ development and should not be approved except in ‘very special circumstances’, unless the proposal is within one of the specified categories of exception in the ‘closed lists’ in paras 89 and 90. ... The distinction between development that is ‘inappropriate’ in the Green Belt and development that is not ‘inappropriate’ (ie appropriate) governs the approach a decision-maker must take in determining an application for planning permission. ‘Inappropriate development’ in the Green Belt is development ‘by definition, harmful’ to the Green Belt - harmful because it is there - whereas development in the excepted categories in paras 89 and 90 of the NPPF is not. ...”

7. These concepts are expressly preserved in the policies for the control of development set out in paras 87ff of the NPPF:

“As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

... ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.” (paras 87-88)

8. Paragraph 89 indicates that construction of new buildings is to be regarded as “inappropriate” with certain defined exceptions. The exceptions include, for example, “buildings for agriculture and forestry”, and (relevant to authorities discussed later in this judgment):

- “- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;

- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”

9. Paragraph 90, which defines forms of development regarded as “not inappropriate” is directly in issue in the present case:

“90. Certain other forms of development are also not inappropriate in Green Belt *provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt*. These are:

- mineral extraction;
- engineering operations;
- local transport infrastructure which can demonstrate a requirement for a Green Belt location;

- the re-use of buildings provided that the buildings are of permanent and substantial construction; and
- development brought forward under a Community Right to Build Order.” (Emphasis added. I shall refer to the words so emphasised as “the openness proviso”)

10. Paragraphs 89-90 replace a rather fuller statement of policy for “Control of Development” in section 3 of PPG2. Paragraphs 3.4-3.6 (“New buildings”), and paras 3.7-3.12 (“Re-use of buildings”, and, under a separate heading, “Mining operations, and other development”) cover substantially the same ground, respectively, as NPPF paras 89 and 90, but in rather fuller terms. The policy for “Mining operations, and other development” was as follows:

“3.11 Minerals can be worked only where they are found. Their extraction is a temporary activity. Mineral extraction *need not be inappropriate development: it need not conflict with the purposes of including land in Green Belts, provided that high environmental standards are maintained and that the site is well restored.* Mineral and local planning authorities should include appropriate policies in their development plans. Mineral planning authorities should ensure that planning conditions for mineral working sites within Green Belts achieve suitable environmental standards and restoration ...

3.12 The statutory definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development *unless they maintain openness and do not conflict with the purposes of including land in the Green Belt ...*” (Emphasis added)

11. It will be noted that a possible textual issue arises from the way in which the PPG2 policies have been shortened and recast in the NPPF. In the PPG the openness proviso is in terms directed to forms of development other than mineral extraction (it also appears in the section on re-use of buildings: para 3.8). By contrast, mineral extraction is not expressly subject to the proviso, but may be regarded as not inappropriate, subject only to “high environmental standards” and the quality of restoration. In the shortened version in the NPPF these categories of potentially appropriate development have been recast in para 90, and brought together under the same proviso, including the requirement to preserve openness.

12. I do not read this as intended to mark a significant change of approach. If that had been intended, one would have expected it to have been signalled more clearly. To my mind the change is explicable as no more than a convenient means of shortening and simplifying the policies without material change. It may also have been thought that, whereas mineral extraction in itself would not normally conflict with the openness proviso, associated building or other development might raise greater problems. A possible example may be seen in the *Europa Oil* case discussed below (para 26).

Other relevant policies

13. *Mineral policies* A later part of the NPPF (section 13, headed “Facilitating the sustainable use of minerals”) deals with mineral development generally. It emphasises the importance of ensuring a sufficient supply of minerals to support economic growth (para 142); and gives advice on the inclusion of mineral policies in local plans (para 143), and on the determination of planning applications (para 144). The latter includes (inter alia) a requirement to ensure that there are “no unacceptable adverse impacts on the natural and historic environment ...”, and that provision is made for “restoration and aftercare at the earliest opportunity to be carried out to high environmental standards ...”. No issue arises under these policies in the present case, but they show that development which is “appropriate” in Green Belt may be found unacceptable by reference to other policy constraints.

14. *Local plan policies* The proposal was also subject to Green Belt and other policies in the local plan (the Selby District Core Strategy Local Plan). These are summarised by Lindblom LJ (para 9). It is not suggested by either party that these materially affect the legal issues arising in the present appeal.

The application and the officer’s report

15. The application was for an extension to the operational face of Jackdaw Crag Quarry, a magnesian limestone quarry owned and operated by the third respondent, Darrington Quarries Ltd. The quarry, which extends to about 25 hectares, is in the Green Belt, about 1.5 kilometres to the south-west of Tadcaster. It has been operated by Darrington Quarries for many years, planning permission for the extraction of limestone having first been granted in July 1948 and subsequently renewed. The proposed extension is for an area of about six hectares, expected to yield some two million tonnes of crushed rock over a period of seven years.

16. The application had received planning permission in January 2013, but that permission was quashed because of failings in the environmental impact assessment. The application came back to the county council’s Planning and Regulatory Functions Committee on 9 February 2016, when the committee accepted their officer’s

recommendation that planning permission be granted. Following completion of a section 106 agreement planning permission was granted on 22 September 2016.

17. The officer's report, prepared by Vicky Perkin for the Corporate Director, Business and Environmental Services, was an impressively comprehensive and detailed document, running to more than 100 pages, and dealing with a wide range of planning considerations. Under the heading "Landscape impact", the report summarised the views of the council's Principal Landscape Architect, who had not objected in principle to the proposal, but had drawn attention to the potential landscape impacts and the consequent need to ensure that mitigation measures are maximised (paras 4.118, 7.42-5).

18. For present purposes the critical part of the report comes under the heading "Impacts of the Green Belt" (paras 7.117ff). Having summarised the relevant national and local policies, she referred (para 7.120) to the consultation response from Samuel Smith stating that:

"... the application site falling within the Green Belt is critical in the determination of the proposal and added that '*mineral extraction remains inappropriate development in the Green Belt unless it can be demonstrated that the proposal both preserves the openness of the Green Belt and doesn't conflict with the purposes of including land within the Green Belt*'. The objector also stated that one of the aims of the Green Belt, in '*assisting in urban regeneration will be materially harmed by the development*' ..." (her italics)

19. The officer commented:

"7.121 When considering applications within the Green Belt, in accordance with the NPPF, it is necessary to consider whether the proposed development will firstly preserve the openness of the Green Belt and secondly ensure that it does not conflict with the purposes of including land within the Green Belt.

7.122 It is considered that the proposed development preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt. Openness is not defined, but it is commonly taken to be the absence of built development. Although the proposed development would be on existing agricultural land, it is considered that because the application site immediately abuts the existing operational quarry, it would not introduce development into

this area of a scale considered to conflict with the aims of preserving the openness of the Green Belt.

7.123 In terms of whether the proposed development does not conflict with the purposes of including land within the Green Belt, the proposed quarrying operations are not considered to conflict with the purposes of including land within the Green Belt. Equally, it is not considered that the proposed development would undermine the objective of safeguarding the countryside from encroachment as it should be considered that the site is in conjunction with an operational quarry which will be restored. The proposed development is a temporary use of land and would also be restored upon completion of the mining operations through an agreed [restoration plan].

7.124 The purposes of including land within the Green Belt to prevent the merging of neighbouring towns and impacts upon historic towns are not relevant to this site as it is considered the site is adequately detached from the settlements of Stutton, Towton and Tadcaster. It is also important to note that the A64 road to the north severs the application site from Tadcaster.

7.125 As mentioned in the response from [Samuel Smith], one of the purposes of the Green Belt is assisting in urban regeneration which the objector claims will be undermined by the proposed development. Given the situation of the application site, adjacent to an existing operational quarry and its rural nature, and the fact that minerals can only be worked where they are found, it is considered that the site would not, therefore, undermine this aim of the Green Belt.

7.126 The restoration scheme is to be designed and submitted as part of a section 106 Agreement, it is considered that there are appropriate controls to ensure adequate restoration of the site. Due to the proposed restoration of the temporary quarry and the fact that it is considered the proposal doesn't conflict with the aims of the Green Belt, it is considered that the proposed development would not materially harm the character and openness of the Green Belt, and would, therefore, comply with Policy SP3 and SP13 of the Selby District Core Strategy Local Plan and NPPF."

20. Section 8 of the report gives the planning officer's conclusion:

“8.4 It is considered that the proposed screening could protect the environment and residential receptors from potential landscape and visual impacts.

8.5 Due to the proposed restoration of the temporary quarry and the fact that it is considered the proposal doesn’t conflict with the aims of the Green Belt, it is considered that the proposed development would not materially harm the character and openness of the Green Belt.”

Legal principles

21. Much time was taken up in the judgments below, as in the submissions in this court, on discussion of previous court authorities on the relevance of visual impact under Green Belt policy. The respective roles of the planning authorities and the courts have been fully explored in two recent cases in this court: *Tesco Stores Ltd v Dundee City Council (Asda Stores Ltd intervening)* [2012] UKSC 13; [2012] PTSR 983, and *Hopkins Homes Ltd v Secretary of State for Communities and Local Government* [2017] UKSC 37; [2017] 1 WLR 1865. In the former Lord Reed, while affirming that interpretation of a development plan, as of any other legal document, is ultimately a matter for the court, also made clear the limitations of this process:

“Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse ...” (para 19)

In the *Hopkins Homes* case (paras 23-34) I warned against the danger of “over-legalisation” of the planning process. I noted the relatively specific language of the policy under consideration in the *Tesco* case, contrasting that with policies:

“expressed in much broader terms [which] may not require, nor lend themselves to, the same level of legal analysis ...”

22. The concept of “openness” in para 90 of the NPPF seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: “to prevent urban sprawl by keeping land permanently open ...”. Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As PPG2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land.

23. It seems surprising in retrospect that the relationship between openness and visual impact has sparked such legal controversy. Most of the authorities to which we were referred were concerned with the scope of the exceptions for buildings in para 89 (or its predecessor). In that context it was held, unremarkably, that a building which was otherwise inappropriate in Green Belt terms was not made appropriate by its limited visual impact (see *R (Heath and Hampstead Society) v Camden London Borough Council* [2007] EWHC 977 (Admin), upheld at *R (Heath and Hampstead Society) v Vlachos* [2008] EWCA Civ 193; [2008] 3 All ER 80). As Sullivan J said in the High Court:

“The loss of openness (ie unbuilt on land) within the Green Belt or Metropolitan Open Land is of itself harmful to the underlying policy objective. If the replacement dwelling is more visually intrusive there will be further harm in addition to the harm by reason of inappropriateness ...” (para 22)

To similar effect, in the *Lee Valley* case, Lindblom LJ said:

“The concept of ‘openness’ here means the state of being free from built development, the absence of buildings - as distinct from the absence of visual impact.” (para 7, cited by him in his present judgment at para 19)

24. Unfortunately, in *Timmins v Gedling Borough Council* [2014] EWHC 654 (Admin) (a case about another familiar Green Belt category - cemeteries and associated buildings), Green J went a stage further holding, not only that there was “a clear conceptual distinction between openness and visual impact”, but that it was:

“wrong *in principle* to arrive at a specific conclusion as to openness by reference to visual impact.” (para 78, emphasis in original)

25. This was disapproved (rightly in my view) in *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466; [2017] 2 P & CR 1, para 18. This concerned an inspector’s decision refusing permission for a proposal to replace a mobile home and storage yard with a residential bungalow in the Green Belt. In rejecting the contention that it was within the exception for redevelopment which “would not have a greater impact on the openness of the Green Belt”, the inspector had expressly taken account of its visual effect, and that it would “appear as a dominant feature that would have a harmful impact on openness here”. The Court of Appeal upheld the decision. Sales LJ said:

“The concept of ‘openness of the Green Belt’ is not narrowly limited to the volumetric approach suggested by [counsel]. The word ‘openness’ is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs ... and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.” (para 14)

Before us there was no challenge to the correctness of this statement of approach. However, it tells one nothing about how visual effects may or may not be taken into account in other circumstances. That is a matter not of legal principle, but of planning judgement for the planning authority or the inspector.

26. The only case referred to in argument which was directly concerned with mineral extraction as such was *Europa Oil and Gas Ltd v Secretary of State for Communities and Local Government* [2013] EWHC 2643 (Admin); [2014] 1 P & CR 3 (upheld at [2014] EWCA Civ 825; [2014] PTSR 1471). That concerned an application for permission for an exploratory drill site to explore for hydrocarbons in the Green Belt, including plant and buildings. The inspector had considered the potential effect of the development on the Green Belt:

“... I consider Green Belt openness in terms of the absence of development. The proposal would require the creation of an extensive compound, with boundary fencing, the installation of a drilling rig of up to 35 metres in height, a flare pit and related buildings, plant, equipment and vehicle parking on the site. Taking this into account, together with the related HGV and other traffic movements, I consider that the Green Belt openness would be materially diminished for the

duration of the development and that there would be a conflict with Green Belt purposes in respect of encroachment into the countryside over that period.” (quoted by Ouseley J at para 16)

He refused permission, taking the view that it did not fall within the exception for “mineral extraction”, and that there were no very special circumstances to out-weigh the harm to the Green Belt identified in that passage.

27. It was held that he had erred in failing to treat the proposal as one for mineral extraction, and therefore potentially within the exception in NPPF para 90. Ouseley J noted the special status of mineral extraction under Green Belt policy. As he said:

“67. One factor which affects appropriateness, the preservation of openness and conflict with Green Belt purposes, is the duration of development and the reversibility of its effects. Those are of particular importance to the thinking which makes mineral extraction potentially appropriate in the Green Belt. Another is the fact that extraction, including exploration, can only take place where those operations achieve what is required in relation to the minerals. Minerals can only be extracted where they are found ...

68. Green Belt is not harmed by such a development because the fact that the use has to take place there, and its duration and reversibility are relevant to its appropriateness and to the effect on the Green Belt ...”

28. However, he made clear that it remained necessary for the decision-maker to consider the proposal under the proviso to para 90. Affirming his decision in the Court of Appeal, Richards LJ said (para 41):

“The key point, in my judgment, is that the inspector approached the effect on Green Belt openness and purposes on the premise that exploration for hydrocarbons was necessarily inappropriate development since it did not come within any of the exceptions. He was not considering the application of the proviso to para 90 at all: on his analysis, he did not get that far. Had he been assessing the effect on Green Belt openness and purposes from the point of view of the proviso, it would have been on the very different premise that exploration for hydrocarbons on a sufficient scale to require planning permission is nevertheless capable in principle of being appropriate development. His mind-set would have been different, or at least it might well have been different ...”

Although the decision turned principally on a legal issue as to the meaning of “mineral extraction”, it is significant that the impact on the Green Belt identified by the inspector (including a 35 metre drill rig and related buildings) was not thought necessarily sufficient in itself to lead to conflict with the openness proviso. That was a matter for separate planning judgement.

Material considerations

29. Section 70(2) of the Town and Country Planning Act 1990 (“the Act”) required the council in determining the application to have regard to the development plan and “any other material consideration”. In summary Samuel Smith’s argument, upheld by the Court of Appeal, is that the authority erred in failing to treat the visual effects, described by the officer in her assessment of “Landscape impact” (para 17 above) as “material considerations” in its application of the openness proviso under para 90.

30. The approach of the court in response to such an allegation has been discussed in a number of authorities. I sought to summarise the principles in *Derbyshire Dales District Council v Secretary of State for Communities and Local Government* [2009] EWHC 1729 (Admin); [2010] 1 P & CR 19. The issue in that case was whether the authority had been obliged to treat the possibility of alternative sites as a material consideration. I said:

“17. It is one thing to say that consideration of a possible alternative site is a potentially relevant issue, so that a decision-maker does not err in law if he has regard to it. It is quite another to say that it is *necessarily* relevant, so that he errs in law if he fails to have regard to it ...

18. For the former category the underlying principles are obvious. It is trite and long-established law that the range of potentially relevant planning issues is very wide (*Stringer v Minister of Housing and Local Government* [1970] 1 WLR 1281); and that, absent irrationality or illegality, the weight to be given to such issues in any case is a matter for the decision-maker (*Tesco Stores Ltd v Secretary of State for the Environment and West Oxfordshire District Council* [1995] 1 WLR 759, 780). On the other hand, to hold that a decision-maker has erred in law by *failing* to have regard to alternative sites, it is necessary to find some legal principle which compelled him (not merely empowered) him to do so.”

31. I referred to the discussion of this issue in a different context by Cooke J in the New Zealand Court of Appeal, in *CreedNZ Inc v Governor General* [1981] 1 NZLR

172, 182 (adopted by Lord Scarman in the House of Lords in *In re Findlay* [1985] AC 318, 333-334, and in the planning context by Glidewell LJ in *Bolton Metropolitan Borough Council v Secretary of State for the Environment and Greater Manchester Waste Disposal Authority* (1991) 61 P & CR 343, 352):

“26. Cook J took as a starting point the words of Lord Greene MR in the *Wednesbury* case [1948] 1 KB 223, 228:

‘If, in the statute conferring the discretion there is to be found expressly or by implication matters which the authority exercising the discretion ought to have regard to, then in exercising the discretion it must have regard to those matters.’

He continued:

‘What has to be emphasised is that it is only when the statute *expressly or impliedly identifies considerations required to be taken into account by the authority as a matter of legal obligation* that the court holds a decision invalid on the ground now invoked. It is not enough that it is one that may properly be taken into account, nor even that it is one which many people, including the court itself, would have taken into account if they had to make the decision ...’ (Emphasis added)

27. In approving this passage, Lord Scarman noted that Cook J had also recognised, that -

‘... in certain circumstances there will be some matters so obviously material to a decision on a particular project that anything short of direct consideration of them by the ministers ... would not be in accordance with the intention of the Act.’ (*In re Findlay* at p 334)

28. It seems, therefore, that it is not enough that, in the judge’s view, consideration of a particular matter might realistically have made a difference. Short of irrationality, the question is one of statutory construction. It is necessary to show that the matter was one which the statute expressly or impliedly (because ‘obviously

material’) requires to be taken into account ‘as a matter of legal obligation’.”

32. Mutatis mutandis, similar considerations apply in the present case. The question therefore is whether under the openness proviso visual impacts, as identified by the inspector, were expressly or impliedly identified in the Act or the policy as considerations required to be taken into account by the authority “as a matter of legal obligation”, or alternatively whether, on the facts of the case, they were “so obviously material” as to require direct consideration.

The reasoning of the courts below

33. Hickinbottom J in the High Court held in summary that consideration of visual impact was neither an implicit requirement of the openness proviso, nor obviously relevant on the facts of this case. He said:

“64. I stress that we are here concerned with differential impact, ie the potential adverse visual impact over and above the adverse spatial impact. On the facts of this case ... it is difficult to see what the potential visual impact of the development would be over and above the spatial impact, which, as Mr Village concedes, was taken into account. In any event, even if there were some such impact, that does not mean that openness would be adversely affected; because, in assessing openness, the officers would still have been entitled to take into account factors such as the purpose of the development, its duration and reversibility, and would have been entitled to conclude that, despite the adverse spatial and visual impact, the development would nevertheless not harm but preserve the openness of the Green Belt.

65. In this case, the potential visual impact of the development falls very far short of being an obvious material factor in respect of this issue. In my judgment, in the circumstances of this case, the report did not err in not taking into consideration any potential visual impact from the development. Indeed, on the facts of this case, I understand why the officers would have come to the view that consideration of visual impact would not have materially added to the overarching consideration of whether the development would adversely impact the openness of the Green Belt.”

34. Lindblom LJ took the opposite view. He summarised the visual impacts described by the officer:

“42. The proposed development was a substantial extension to a large existing quarry, with a lengthy period of working and restoration. As the Principal Landscape Architect recognized in her response to consultation, and the officer acknowledged without dissent in her report, there would be permanent change to the character of the landscape (paras 4.109 and 4.115 of the report). The ‘quality of the Locally Important Landscape Area as a whole would be compromised’ (para 7.41). *The exposed face of the extended quarry would be as visible as that of the existing quarry, if not more so* (paras 4.111 and 7.42). *Long distance views could be cut off by the proposed bunding and planting.* Agricultural land would ultimately be replaced by a ‘deep lower level landscape’ of grassland (para 4.113). The ‘character and quality’ of the landscape would be ‘permanently changed’ and the ‘impact cannot be described as neutral’ (paras 4.115 and 7.44). Concluding her assessment of ‘Landscape Impact’, the officer was satisfied that the ‘proposed screening could protect the environment and residential receptors from potential landscape and visual impacts’, and that with the proposed mitigation measures the development would comply with national and local policy (paras 7.47 and 8.4).

43. That assessment did not deal with the likely effects of the development on the openness of the Green Belt as such, either spatial or visual. *It does show, however, that there would likely be - or at least could be - effects on openness in both respects, including the closing-off of long distance views by the bunding and planting that would screen the working* (para 4.111 of the officer’s report). The officer’s conclusion overall (in para 7.47) was, in effect, that the proposed screening would be effective mitigation, without which the development would not be acceptable. But this was not followed with any discussion of the harmful effects that the screening measures themselves might have on the openness of the Green Belt.” (Emphasis added)

35. He then directed particular attention to para 7.122 of the report, which he understood to encapsulate her views on the application of the openness proviso under NPPF para 90:

“45. So it is to para 7.122 that one must look, at least in the first place, to see whether the officer considered the relevance of visual impact to the effect of this development on the openness of the Green Belt. Did she confront this question, and bring the committee’s attention to it? I do not think she did. *She neither considered, in substance, the likely visual impact of the development on the openness*

of the Green Belt nor, it seems, did she ask herself whether this was a case in which an assessment of visual impact was, or might be, relevant to the question of whether the openness of the Green Belt would be preserved. Indeed, her observation that openness is 'commonly taken to be the absence of built development' seems deliberately to draw the assessment away from visual impact, and narrow it down to a consideration of spatial impact alone. And the burden of the assessment, as I read it, is that because the further extraction of limestone would take place next to the existing quarry, the 'scale' of the development would not fail to preserve the openness of the Green Belt. This seems a somewhat surprising conclusion. But what matters here is that it is a consideration only of spatial impact. Of the visual impact of the quarry extension on the openness of the Green Belt, nothing is said at all. That was, it seems to me, a significant omission, which betrays a misunderstanding of the policy in para 90 of the NPPF.

46. One must not divorce para 7.122 from its context. The report must be read fairly as a whole. The question arises, therefore: did the officer address the visual impact of the development on the openness of the Green Belt in the remaining paragraphs of this part of her report, or elsewhere? I do not think she did. *Her consideration of the effects of the development on the 'purposes of including land in the Green Belt', in paras 7.123 to 7.125, is unexceptionable in itself. However, she did not, in these three paragraphs, revisit the question of harm to the openness of the Green Belt, either in spatial or in visual terms.* The conclusion to this part of the report, in para 7.126, is that the 'character and openness of the Green Belt' would not be materially harmed by the development - a conclusion repeated in para 8.5 - and that the proposal would therefore comply with Policy SP3 and Policy SP13 of the local plan and the NPPF. But I cannot accept that this conclusion overcomes the lack of consideration of visual impacts on 'openness' in the preceding paragraphs. It seems to treat 'character' as a concept distinct from 'openness'. Even if these two concepts can be seen as related to each other, and however wide the concept of 'character' may be, there is no suggestion here that the officer was now providing a conclusion different from that in para 7.122, or additional to it.

47. The same may also be said of the officer's earlier discussion of 'Landscape Impact' in paras 7.41 to 7.47. Her assessment and conclusions in that part of her report are not imported into para 7.122, or cross-referred to as lending support to her conclusion there ...” (Emphasis added)

36. This led to the overall conclusion in para 49 (quoted in part at the beginning of this judgment):

“49. I can only conclude, therefore, that the advice given to the committee by the officer was defective. It was defective, at least, *in failing to make clear to the members that, under government planning policy for mineral extraction in the Green Belt in para 90 of the NPPF, visual impact was a potentially relevant and potentially significant factor* in their approach to the effect of the development on the ‘openness of the Green Belt’, and hence to the important question of whether the proposal before them was for ‘inappropriate’ development in the Green Belt - and, indeed, in implying that the opposite was so ... One can go further. *On the officer’s own assessment of the likely effects of the development on the landscape, visual impact was quite obviously relevant to its effect on the openness of the Green Belt. So the consideration of this question could not reasonably be confined to spatial impact alone.*” (Emphasis added)

37. Although it is necessary to read the discussion in full, I have highlighted what seem to me the critical points in Lindblom LJ’s assessment of the failure to take account of visual effects; in summary:

i) In paras 42 and 43, he extracts from the officer’s own landscape assessment the observation that “the exposed face of the extended quarry would be as visible as that of the existing quarry, if not more so ...” and that “long distance views could be cut off by the proposed bunding and planting”. This leads to the view that:

“there would likely be - or at least could be - effects on openness in both respects, including the closing-off of long distance views by the bunding and planting that would screen the working.”

ii) In para 7.122, where the officer purported to address the issue of openness, she failed to consider the likely effect of such visual impact nor its relevance to whether the openness of the Green Belt would be preserved. Instead, by in effect equating openness with absence of built development, she tended to narrow the issue down to a consideration of spatial impact alone. That betrayed a misunderstanding of the policy in para 90 of the NPPF.

iii) The subsequent paragraphs dealt with other aspects of the effect on the purposes of the Green Belt, and were unexceptionable in themselves; but they did not revisit the question of visual impact or so make up for the deficiency in para 7.122.

iv) The officer's advice was defective in this respect. Further on her own assessment visual effect was "quite obviously relevant" to the issue of openness, and the committee could not reasonably have thought otherwise.

38. I hope I will be forgiven for not referring in detail to the arguments of counsel before this court, which substantially reflected the reasoning respectively of the High Court and the Court of Appeal. I note that Mr Village QC for Samuel Smith made a further criticism of para 7.122, not adopted by Lindblom LJ, that the officer treated the fact that the site abutted the existing quarry as reducing its impact on openness.

Discussion

39. With respect to Lindblom LJ's great experience in this field, I am unable to accept his analysis. The issue which had to be addressed was whether the proposed mineral extraction would preserve the openness of the Green Belt or otherwise conflict with the purposes of including the land within the Green Belt. Those issues were specifically identified and addressed in the report. There was no error of law on the face of the report. Paragraph 90 does not expressly refer to visual impact as a necessary part of the analysis, nor in my view is it made so by implication. As explained in my discussion of the authorities, the matters relevant to openness in any particular case are a matter of planning judgement, not law.

40. Lindblom LJ criticised the officer's comment that openness is "commonly" equated with "absence of built development". I find that a little surprising, since it was very similar to Lindblom LJ's own observation in the *Lee Valley* case (para 23 above). It is also consistent with the contrast drawn by the NPPF between openness and "urban sprawl", and with the distinction between buildings, on the one hand, which are "inappropriate" subject only to certain closely defined exceptions, and other categories of development which are potentially appropriate. I do not read the officer as saying that visual impact can never be relevant to openness.

41. As to the particular impacts picked out by Lindblom LJ, the officer was entitled to take the view that, in the context of a quarry extension of six hectares, and taking account of other matters, including the spatial separation noted by her in para 7.124, they did not in themselves detract from openness in Green Belt terms. The whole of paras 7.121 to 7.126 of the officer's report address the openness proviso and should be read together. Some visual effects were given weight, in that the officer referred to the restoration of the site which would be required. Beyond this, I respectfully agree with Hickinbottom J that such relatively limited visual impact which the development would have fell far short of being so obviously material a factor that failure to address it expressly was an error of law. For similar reasons, with respect to Mr Village's additional complaint, I see no error in the weight given by the officer to the fact that

this was an extension of an existing quarry. That again was a matter of planning judgement not law.

Conclusion

42. For these reasons, I would allow the appeal and confirm the order of the High Court dismissing the application.

APPENDIX 6



Appeal Decision

Site visit made on 10 December 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/M3645/W/24/3347328

Woodside House, Copthorne Bank, Copthorne, Surrey RH10 3JD

- 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 Mr and Mrs B Delgado against the decision of Tandridge District Council.
 - The application Ref is TA/2023/1480.
 - The development proposed is demolition of existing dwelling, garage, and outbuildings (retention of shed and garage). Construction of 2 x detached dwellings and 1 x detached garage with new driveway and car parking areas.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling, garage and outbuildings (retention of shed and garage). Construction of 2 x detached dwellings and 1 x detached garage with new driveway and car parking areas at Woodside House, Copthorne Bank, Copthorne, Surrey RH10 3JD in accordance with the terms of the application, Ref TA/2023/1480, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024, Government published a revised National Planning Policy Framework (the Framework). This included revisions to policies that are pertinent to the appeal, such as those relating to development in the Green Belt. During the appeal the parties were invited to comment on the relevance of the revised Framework to the appeal proposal. In my decision, I have had regard to the parties' written responses.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies; and
 - The effect of the proposal on protected species.

Reasons

Whether inappropriate development

4. The application site comprises a substantial plot, containing a large, detached, two-storey dwelling, detached double garage, outbuildings, and garden. The site is outside a settlement boundary and is within the Green Belt.

5. Paragraph 142 of the Framework attaches great importance to Green Belts. It states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and identifies the essential characteristics of Green Belts are their openness and their permanence.
6. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 (TLP) supports the fundamental aim of keeping land permanently open and restricts inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except where very special circumstances exist. Policy DP10 reflects the provisions of paragraph 153 of the Framework which resists inappropriate development in the Green Belt.
7. TLP Policy DP13 identifies certain forms of development that are not inappropriate within the Green Belt. Of particular relevance are criteria (F) and (G) of Policy DP13 which, subject to meeting certain requirements, permit the replacement of buildings and support the limited infilling or the partial or complete redevelopment of previously developed land outside Defined Villages. These exceptions broadly reflect criteria (d) and (g) of paragraph 154 of the Framework.
8. In addition, paragraph 155 of the Framework identifies further circumstances where development is not inappropriate in the Green Belt. Paragraph 155 states the development of homes should not be regarded as inappropriate where (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 the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157.

Whether a replacement dwelling

9. Policy DP13(F) supports development of replacement buildings within the Green Belt where the proposed new building is: (1) in the same use as the building it is replacing; (2) is not materially larger than the building it is replacing; and (3) is sited on or close to the position of the building it is replacing, except where an alternative siting within the curtilage demonstrably improves the openness of the Green Belt.
10. The proposed development would represent a total increase in floorspace of 39% and built volume of 38%, relative to the existing buildings on site. Through this substantial increase in built form, the proposed development would be materially larger than the buildings being replaced.
11. Planning permission has been granted for extensions to the existing dwelling¹. The combined footprint of the proposed development would be no greater than the existing dwelling and its permitted extensions. However, the permitted extensions had not been constructed at time of my site visit and therefore do not contribute to the dwelling's existing built form.
12. The proposed development would comprise two dwellings and a detached garage. The front dwelling would be sited broadly within the footprint of the existing

¹ LPA ref: TA/2021/766

dwelling. However, the rear dwelling would be set back within the existing rear garden, thereby resulting in a loss of open land. Therefore, the rear dwelling would not be sited on or close to the position of the building it replaces, and the alternative siting would not demonstrably improve the openness of the Green Belt.

13. The proposal would be in the same use as the existing site, satisfying criterion Policy DP13(F)(1). However, through its size, scale, and siting, the proposed development would fail to comply with criteria (2) and (3) of Policy DP13(F). The proposal would not therefore comprise a replacement dwelling in the Green Belt.

Whether limited infilling or redevelopment of previously developed land

14. Policy DP13(G) permits limited infilling or the partial or complete redevelopment of previously developed sites in the Green Belt outside Defined Villages, where the proposal would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
15. The site is located at Copthorne Bank, which extends northeast from the village of Copthorne. The area is characterised principally by its linear arrangement of dwellings on either side of the highway, interspersed with agricultural land. A short distance to the south is a modern cul-de-sac and there is a public house to the southwest. As discussed above, the rear dwelling would be set back in the site behind the front dwelling within an open area of garden land.
16. The siting of the rear dwelling would not reflect the layout of dwellings in the area and would not fill any clear gap between existing development. Therefore, the proposal would not comprise limited infilling.
17. The proposed development would be wholly within the existing dwelling plot. The appellant asserts the site comprises previously developed land, drawing on *Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors* [2017] EWCA Civ 141 (14 March 2017) which concluded the exclusion of private residential gardens from the Framework's definition of 'previously developed land' referred only to land in built-up areas.
18. However, the development would introduce substantial built form and urbanising features across the site, including a driveway, car parking, hardstanding, and domestic paraphernalia. In addition, the net increase in dwellings would intensify the use of the site, such as through additional vehicle movements.
19. Irrespective of whether the site comprises previously developed land, the development would have a greater, adverse impact on the openness of the Green Belt than the existing development. The proposal would not therefore meet the criteria for the limited infilling or the partial or complete redevelopment of previously developed sites, as set out at Policy DP13(G).

Grey belt and other tests (Framework paragraph 155(a)-(d))

20. The Framework defines 'grey belt' as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143, and excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.

21. The existing dwelling fronts onto the highway. There is a dwelling to the north, and agricultural land to the south and beyond the site's rear boundary. Through its linear layout, adjoining agricultural land and dwellings, the appeal site is typical of the area's character.
22. The proposed development would be contained within the existing boundaries of the dwelling plot and would not result in the unrestricted sprawl of large built-up areas, the merging of towns, nor affect the setting and special character of historic towns. Logically, I must therefore conclude the site does not strongly contribute to purposes (a), (b) and (d) of paragraph 143 of the Framework. In addition, the proposal would not affect areas or assets in footnote 7 of the Framework (other than Green Belt). The proposal would therefore utilise grey belt land.
23. The scale of the proposed development would provide a similar overall quantum of development in terms of footprint and volume to the permitted extensions and existing dwelling. However, the built form would be spread across the site and would be accompanied by hardstanding and domestic features and would intensify its use. The spatial impacts of the proposed development on Green Belt openness would therefore be greater than the existing dwelling, and the fall-back position offered by the permitted extensions.
24. The site is well-screened by existing, mature boundary vegetation, and would not be visually prominent within wider views of the landscape. Views of the development would principally be experienced from passing vehicles and would not be conspicuous from public vantage points or within the wider landscape.
25. The front dwelling would be visible from the site's frontage and the rear dwelling would be partly visible, set back in the site. The site contains existing residential development, and there are other nearby dwellings, and therefore the magnitude of visual change would be small. Nonetheless, the increased built form on the site would have a marginally greater visual impact than the existing development.
26. The spatial and visual impacts of the proposed development would result in a small loss of Green Belt openness. However, the development would utilise grey belt land and would not fundamentally undermine the purposes, taken together, of the remaining Green Belt across the planning authority's area. Therefore, the proposal would comply with criterion (a) of Framework paragraph 155.
27. The Council accepts it cannot demonstrate a five-year supply of housing and delivery of housing has been below 75% of the housing requirement for the past three years. The appellant draws on the Council's Annual Monitoring Report to conclude the Council has a housing land supply equivalent to 1.92 years. Therefore, there is a significant shortfall in past delivery and future supply. Consequently, for the purposes of criterion (b) of Framework paragraph 155, there is a demonstrable unmet need for the type of development proposed.
28. This section of Copthorne Bank has a rural character but, due to the presence of existing dwellings in the vicinity of the site, the proposed development would not be in an isolated location. Furthermore, the highway connects the site with nearby settlements including Copthorne with Burstow, Smallfield, and Domewood.
29. Whilst there are bus stops nearby, Copthorne Bank is subject to a 50mph speed limit and there are no footpaths along this section. Future occupants would therefore be dependent on use of a private car to meet their day-to-day needs.

However, paragraph 110 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

30. The proposal would result in a net increase of one dwelling on the site, and therefore the volume of traffic movements associated with the proposed development would be small. The proposed development would utilise the existing vehicular access and there would be space for the parking and turning of vehicles within the site. The local highway authority did not object to the proposal. Therefore, I am content the proposal would not have significant impacts on the capacity of the transport network, congestion, or highway safety.
31. Within the context of its rural location, I am satisfied the proposal would be in a sustainable location, as required by criterion (c) of Framework paragraph 155, that fulfils the requirements of paragraphs 110 and 115 of the Framework.
32. The proposed development is not major development, and therefore the requirement of criterion (d) of Framework paragraph 155 to satisfy the 'Golden Rules' are not applicable to the appeal proposal.
33. As set out above, the proposal would utilise grey belt land, there is a demonstrable unmet need for housing, and the development would be in a sustainable location. The Golden Rules are not applicable. The proposal would therefore satisfy criteria (a)-(d) of paragraph 155 of the Framework. Consequently, the proposed development would not be inappropriate development within the Green Belt.
34. As set out above, the proposal would not meet the requirements of Policy DP13 for replacement dwellings, limited infilling, or redevelopment of previously developed land. However, Policy DP13 pre-dates the publication of the Framework and includes no provision for development of grey belt land. The weight to be afforded to the scheme's conflict with Policy DP13 is therefore diminished.
35. The proposed development would utilise grey belt land and would satisfy all criteria of paragraph 155 of the Framework. For this reason, the proposed development would not be inappropriate development.
36. The proposal would therefore comply with TLP Policy DP10 which protects the Green Belt from inappropriate development.

Protected species

37. In its decision, informed by consultation advice provided by Surrey Wildlife Trust's (SWT) Ecology Planning Advice Service, the Council concluded the proposal contained insufficient information to demonstrate that the proposal would not have an unacceptable effect on protected species.
38. The proposal was accompanied by an Ecological Appraisal Report, Wychwood Environmental Ltd November 2023 (EAR). Reflecting advice from SWT, the appellant subsequently submitted a Bat Emergence Survey, Wychwood Environmental Ltd (July 2024), with further information contained within the appeal statement of case.
39. SWT have reviewed this information and, in relation to bats advise that, prior to occupation, evidence that a bat mitigation licence has been secured should be submitted. In addition, SWT advise a Biodiversity Enhancement Management Plan and Construction Environmental Management Plan should be secured through

planning conditions. SWT also confirmed no further information is required in respect of hazel dormouse.

40. Subject to such conditions being imposed, I am satisfied the proposal would not have an adverse effect on protected species.
41. The proposal would therefore comply with Policy CSP17 of the Tandridge District Core Strategy 2008 which requires development proposals protect biodiversity and provide for the maintenance, enhancement, restoration and, if possible, expansion of biodiversity, by aiming to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife in accordance with the aims of the Surrey Biodiversity Action Plan. In addition, the proposal would satisfy TLP Policy DP19 which requires proposals demonstrate protected or priority species will not be harmed, or appropriate mitigation measures will be put in place.

Conditions

42. The appellant confirms they raise no objection to the Council's suggested conditions, which include pre-commencement conditions. I have considered the suggested conditions against the Framework and Planning Practice Guidance. In addition to the standard time limit for commencement, in the interests of certainty I have imposed conditions to ensure the development is carried out in accordance with the approved plans.
43. To conserve the character and appearance of the area, I have attached conditions requiring submission of details of external materials, hard and soft landscape works, and tree protection plan.
44. In the interest of highway safety, I have included a condition requiring space for the parking and turning of vehicles be laid out prior to occupation of the development. To promote sustainable transport, I have attached conditions requiring provision of electric vehicle charging and cycle storage.
45. In the ecological interests of the site, including the conservation of protected and priority species, I have included conditions requiring submission of an Ecological Enhancement Plan, Construction Environmental Management Plan, and evidence of a bat mitigation licence. In addition, I have included a condition requiring the development be carried out in accordance with the Ecological Appraisal Report's recommendations and identified mitigation measures.
46. To assist in the reduction of emissions in accordance with Policy CSP14 of the Tandridge District Core Strategy 2008, I have included a condition requiring the provision of on-site renewable energy.
47. To ensure privacy and ensure suitable living conditions for future occupants, I have included a condition requiring obscure glazing at specified windows.
48. I have not imposed the suggested condition to remove permitted development rights. Paragraph 55 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition would not be necessary to make the appeal proposal acceptable in planning terms and would not comply with the Framework.

Conclusion

49. For the reasons given above, having regard to the development plan taken as a whole, and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

The development hereby permitted shall be carried out in accordance with drawing nos 1228/01 *Existing Site Layout Plan*; 1228/02 *D Replacement Dwelling (Rear) Proposed Floor Plans & Roof Plan*; 1228/03 *A Replacement Dwelling (Rear) Proposed Elevations*; 1228/04 *B Proposed Site Layout Plan*; 1228/05 *Replacement Garage Building Proposed Plans & Elevations*; 1228/06 *A Replacement Dwelling (Front) Proposed Floor Plans and Roof Plan*; 1228/07 *Replacement Dwelling (Front) Proposed Elevations*; 1228/08 *Existing Floor Plans*; 1228/09 *Existing Elevations*; 1228/10 *Detached Garage – Existing Elevations*; 1228/11 *A Block Plan*; 1228/12 *Site Location Plan*.

- 2) No development above ground level shall start until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.

- 3) No development above ground level shall start until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- proposed finished levels or contours
- means of enclosure
- car parking layouts
- other vehicle and pedestrian access and circulation areas
- hard surfacing materials
- minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- tree and hedgerow planting as compensation for those elements being removed.

Details of soft landscape works shall include all proposed and retained trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers/densities.

All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion or occupation of any part of the development (whichever is the sooner) or otherwise in accordance with a programme to be agreed.

Any trees or plants (including those retained as part of the development) which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the Local Planning Authority, become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written

consent to any variation. The hard landscape works shall be carried out prior to the occupation of the development.

- 4) No development shall start until a Tree Protection Plan relating to all stages of development, for the protection of all trees and hedges to be retained on site or trees located offsite within 12 metres of the site boundary, has been submitted to and approved in writing by the Local Planning Authority. These details shall observe the principles of BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations), shall be implemented prior to any works commencing on site, shall be retained during the course of development, and shall not be varied without the written agreement of the Local Planning Authority.

In any event, the following restrictions shall be strictly observed unless otherwise agreed by the Local Planning Authority:

(a) No bonfires shall take place within the root protection area (RPA) or within a position where heat could affect foliage or branches.

(b) No further trenches, drains or service runs shall be sited within the RPA of any retained trees.

(c) No further changes in ground levels or excavations shall take place within the RPA of any retained trees.

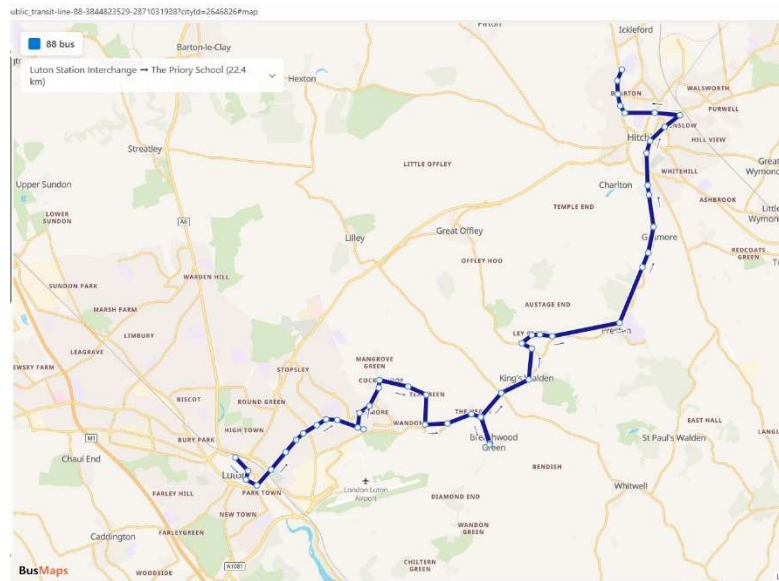
- 5) The development hereby approved shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes.
- 6) The development hereby approved shall not be occupied unless and until each of the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.
- 7) The development hereby approved shall not be occupied unless and until facilities for the secure, covered parking of 2 bicycles per dwelling and the provision of a charging point for e-bikes by said facilities have been provided within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.
- 8) Prior to the commencement of development, an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in accordance with the approved Ecological Enhancement Plan, all measures set out within the approved Ecological Enhancement Plan shall be implemented prior to the first occupation of the dwelling and retained at all times thereafter.
- 9) Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall only be undertaken in accordance with the approved Construction Environmental Management Plan, all measures set out within the approved Construction Environmental Management

Plan shall be implemented prior to the first occupation of the dwelling and retained at all times thereafter.

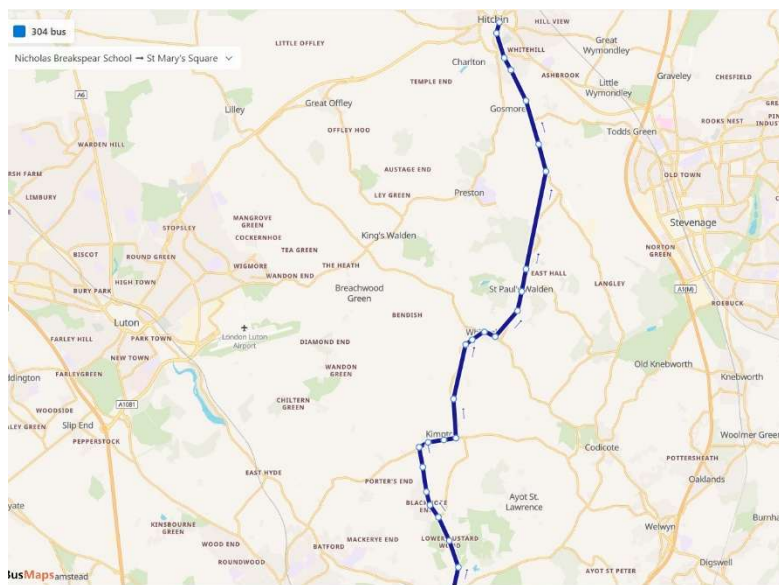
- 10) Prior to first occupation of the development hereby permitted, evidence of the bat mitigation licence being secured shall be submitted to be approved in writing by the Local Planning Authority.
- 11) The development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures set out in the 'Ecological Appraisal Report' by Wychwood Environmental Ltd (November 2023) and 'Bat Emergence Survey' by Wychwood Environmental Ltd (July 2024).
- 12) Before the development hereby approved is occupied, the renewable energy technology as specified in the application details shall be installed and shall thereafter be retained in perpetuity in accordance with the approved details.
- 13) Before the development hereby approved is occupied, the first-floor side windows to both dwellings shall be fitted with obscure glass and shall be non-opening unless the parts of the windows which can be opened are more than 1.7m above the floor of the room in which the windows are installed and shall be permanently maintained as such.

END OF SCHEDULE

APPENDIX 7



Photograph 1: Bus Route Map 88 – Hitchin-Luton via Breachwood Green



Photograph 2: Bus Route Map 304 – Hitchin – St Albans via Whitwell

APPENDIX 8

Centrebus

Hitchin – St Albans

304

MONDAYS TO FRIDAYS

from 12th April 2026

Notes:	Sch	NSch	Sch	NSch
Hitchin, The Priory School, Grounds			1550	
Hitchin, St Mary's Square, Stop L ⬡	0645	0700 0950 1200 1400	1605 1610 1820	
St Ippolyts, London Road, Crossroads	0651	0706 0957 1207 1408	1615 1620 1827	
St Paul's Walden, B651, opp Strathmore Arms	0658	0714 1004 1214 1415	1622 1627 1834	
Whitwell, Horn Hill, King George's Way	0704	0719 1009 1219 1420	1628 1632 1839	
Kimpton, High Street, opp The Boot PH	0712	0725 1016 1226 1427	1638 1641 1846	
Blackmore End, Kimpton Rd, opp The Broadway	0717	0730 1020 1230 1431	1644 1647	
Wheathampstead, opp St Helen's Church	0726	0735 1025 1235 1437	1651 1653	
Sandridge, near St Leonard's Church	0735	0742 1031 1241 1443	1656 1658	
St Albans, Sandridge Road, Lancaster Road	0745	0748 1035 1245 1447	1702 1702	
St Albans, Hatfield Road, Alban City School		1041 1251 1453	1708 1708	
St Albans, St Peter's Street, Stop 1	0755	0758 1046 1256 1500	1715 1715	
St Albans City Railway Station, Stop A ⚙	0802	0805		
Fleetville, Hatfield Road, opp Morrisons	0810			
Oaklands, Nicholas Breakspear School Grounds	0820			

SATURDAYS

from 12th April 2026

Notes:	Sch	NSch	Sch	NSch
Hitchin, St Mary's Square, Stop L ⬡	0840	0950 1200 1405 1610		
St Ippolyts, London Road, Crossroads	0847	0957 1207 1412 1617		
St Paul's Walden, B651, opp Strathmore Arms	0854	1004 1214 1419 1624		
Whitwell, Horn Hill, King George's Way	0859	1009 1219 1424 1629		
Kimpton, High Street, opp The Boot PH	0906	1016 1226 1431 1636		
Blackmore End, Kimpton Rd, opp The Broadway	0910	1020 1230 1435 1640		
Wheathampstead, opp St Helen's Church	0915	1025 1235 1440 1645		
Sandridge, near St Leonard's Church	0921	1031 1241 1446 1651		
St Albans, Sandridge Road, Lancaster Road	0925	1035 1245 1450 1655		
St Albans, Hatfield Road, Alban City School	0931	1041 1251 1456 1701		
St Albans, St Peter's Street	0936	1046 1256 1501 1706		

NOTES: ⚙ - Near Railway Station ⬡ - Interchange with Express Coaches Sch - Schooldays Only NSch - Non Schooldays Only

Wheathamstead – St Albans

304

SUNDAYS

from 12th April 2026

Notes:

Wheathampstead , opp St Helen's Church	1120	1450	1720
Sandridge , Nearr St Leonard's Church	1126	1456	1726
St Albans , Sandridge Road, Lancaster Road	1131	1501	1731
St Albans , St Peter's Street, Stop 2	1135	1505	1735
St Albans City Railway Station ➡	1139	1509	1739

NOTES: ➡ - Near Railway Station

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Red Rose Customer Care: 01296 747 926

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Centrebus

St Albans – Hitchin

304

MONDAYS TO FRIDAYS

from 12th April 2026

Notes:	Sch	NSch	Sch	NSch
Oaklands, Nicholas Breakspear School			1522	
Fleetville, Hatfield Road, Morrisons			1530	
St Albans, St Peter's Street, Stop 13	0710	0720 0845 1050 1300	1550e	1555 1720
St Albans, Sandridge Rd, opp Lancaster Road	0713	0724 0849 1054 1304	1556	1601 1726
Sandridge, opp St Leonard's Church	0717	0729 0854 1059 1309	1601	1606 1731
Wheathampstead, St Helen's Church	0724	0736 0901 1106 1316	1610	1613 1738
Blackmore End, Kimpton Rd, The Broadway	0729	0741 0906 1111 1321	1615	1618 1744
Kimpton, High Street, The Boot PH	0736	0746 0911 1116 1326	1620	1623 1749
Whitwell, Horn Hill, opp King George's Way	0747	0753 0918 1123 1333	1627	1630 1755
St Paul's Walden, B651, Strathmore Arms PH	0753	0757 0922 1127 1337	1633	1636 1801
St Ippolyts, London Road, Crossroads	0802	0804 0929 1134 1344	1640	1643 1808
Hitchin, St Mary's Square, Stop L ⬡	0810	0810 0935 1140 1350	1650	1650 1815
Hitchin, Bancroft, Stop G	0815			
Hitchin, The Priory School, Grounds	0825			

SATURDAYS

from 12th April 2026

Notes:					
St Albans, St Peter's Street, Stop 13	0845	1050 1300 1505 1720			
St Albans, Sandridge Rd, opp Lancaster Road	0849	1054 1304 1509 1724			
Sandridge, opp St Leonard's Church	0854	1059 1309 1514 1729			
Wheathampstead, St Helen's Church	0901	1106 1316 1521 1736			
Blackmore End, Kimpton Rd, The Broadway	0906	1111 1321 1526 1741			
Kimpton, High Street, The Boot PH	0911	1116 1326 1531 1746			
Whitwell, Horn Hill, opp King George's Way	0918	1123 1333 1538 1753			
St Paul's Walden, B651, Strathmore Arms PH	0922	1127 1337 1542 1757			
St Ippolyts, London Road, Crossroads	0929	1134 1344 1549 1804			
Hitchin, St Mary's Square ⬡	0935	1140 1350 1555 1810			

NOTES: ⚙ - Near Railway Station ⬡ - Interchange with Express Coaches Sch - Schooldays Only NSch - Non Schooldays Only
e - Arrives 5 minutes earlier

St Albans – Wheathamstead

304

SUNDAYS

from 12th April 2026

Notes:

St Albans City Railway Station , Stop D ➡	1055	1425	1655
St Albans , St Peter's Street, Stop 13	1059	1429	1659
St Albans , Sandridge Road, Lancaster Road	1103	1433	1703
Sandridge , Near St Leonard's Church	1108	1438	1708
Wheathampstead , opp St Helen's Church	1114	1444	1714

NOTES: ➡ - Near Railway Station

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APPENDIX 9

Luton – Hitchin

88

MONDAYS TO FRIDAYS

from 27th September 2021

Notes:	Sch	NSch					
Luton , Railway, Stn Interchange, Stand 5 ➡	0715	0730	1000	1230	1430	1705	
Luton , Church Street, Stop C9	0717	0732	1002	1232	1432	1707	
Luton , Park Square, Stop P3	0718	0733	1003	1233	1433	1708	
Luton , Wigmore Lane, ASDA	0729	0742	1012	1242	1442	1717	
Cockernhoe , Luton Rd, The Green	0734	0746	1016	1246	1446	1721	
Tea Green , The Green	0740	0749	1019	1249	1449	1724	
Breachwood Grn , Chapel Rd, Oxford Rd	0752	0756	1026	1256	1456	1731	
King's Walden , Church Road, opp Church	0759	0803	1033	1303	1503	1738	
Preston , Preston Road, opp Red Lion PH	0809	0809	1039	1309	1509	1744	
Gosmore , High St, opp Bird in Hand PH	0816	0814	1044	1314	1514	1749	
Hitchin , St Mary's Square, Stop L ⬄	0822	0820	1050	1320	1520	1755	
Hitchin Railway Station , Stop B ➡	0826						
Hitchin , Fishponds Rd, opp Football Club	0829						
Hitchin , The Priory School, Grounds	0835						

SATURDAYS

from 27th September 2021

Notes:						
Luton , Railway, Stn Interchange, Stand 5 ➡	0800	1000	1230	1500		
Luton , Church Street, Stop C9	0802	1002	1232	1502		
Luton , Park Square, Stop P3	0803	1003	1233	1503		
Luton , Wigmore Lane, ASDA	0812	1012	1242	1512		
Cockernhoe , Luton Rd, The Green	0816	1016	1246	1516		
Tea Green , The Green	0819	1019	1249	1519		
Breachwood Grn , Chapel Rd, Oxford Rd	0826	1026	1256	1526		
King's Walden , Church Road, opp Church	0833	1033	1303	1533		
Preston , Preston Road, opp Red Lion PH	0839	1039	1309	1539		
Gosmore , High St, opp Bird in Hand PH	0844	1044	1314	1544		
Hitchin , St Mary's Square ⬄	0850	1050	1320	1550		

NOTES: ➡ - Near Railway Station ⬄ - Interchange with Express Coaches **Sch** - Schooldays Only **NSch** - Non Schooldays Only

OPERATOR: Red Eagle Customer Care: 01296 747 926

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Hitchin – Luton

88

MONDAYS TO FRIDAYS

from 27th September 2021

Notes:				Sch	NSch
Hitchin , The Priory School, Grounds				1545	
Hitchin , Fishponds Rd, Football Club				1548	
Hitchin Railway Station , Stop A ➡				1552	
Hitchin , St Mary's Square, Stop L ⬅	0900	1100	1330	1600	1600 1800
Hitchin , Bancroft, Stop G	0902	1102	1332	1602	1602 1802
Gosmore , High St, Bird in Hand PH	0908	1108	1338	1608	1608 1808
Preston , Preston Road, Red Lion PH	0913	1113	1343	1613	1613 1813
King's Walden , Church Road, Church	0919	1119	1349	1619	1619 1819
Breachwood Grn , Chapel Rd, Oxford Rd	0927	1127	1357	1627	1627 1827
Tea Green , opp The Green	0934	1134	1404	1634	1634 1834
Cockernhoe , Luton Road, opp The Green	0937	1137	1407	1637	1637 1837
Luton , Wigmore Lane, ASDA	0941	1141	1411	1641	1641 1841
Luton , Church Street, Stop C5	0951	1151	1421	1651	1651 1851
Luton , Railway Station Interchange ➡	0955	1155	1425	1655	1655 1855

SATURDAYS

from 27th September 2021

Notes:			
Hitchin , St Mary's Square, Stop L ⬅			
Hitchin , Bancroft, Stop G			
Gosmore , High St, Bird in Hand PH			
Preston , Preston Road, Red Lion PH			
King's Walden , Church Road, Church			
Breachwood Grn , Chapel Rd, Oxford Rd			
Tea Green , opp The Green			
Cockernhoe , Luton Road, opp The Green			
Luton , Wigmore Lane, ASDA			
Luton , Church Street, Stop C5			
Luton , Railway Station Interchange ➡			

NOTES: ➡ - Near Railway Station ⬅ - Interchange with Express Coaches **Sch** - Schooldays Only **NSch** - Non Schooldays Only

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APPENDIX 10

Five-Year Housing Land Supply Update

November 2025



**North
Herts**
Council

CONTENTS

INTRODUCTION	3
FIVE-YEAR HOUSING REQUIREMENT	5
DELIVERABLE HOUSING SUPPLY	12
CONCLUSIONS	16

INTRODUCTION

Introduction

North Hertfordshire's Local Plan (NHLP) was adopted on 8 November 2022. Since the National Planning Policy Framework (NPPF) was updated on 20 December 2024, the rules for demonstrating a five-year housing land supply have changed and we must now show how housing delivery is expected to roll out over the plan period.

The updated NPPF requires us to identify and update, each year, a supply of specific deliverable sites sufficient to meet a minimum five years' worth of housing against our adopted strategic housing requirement, or against local housing need where strategic policies are more than five years old.

The five-year supply must include a buffer to strengthen prospects of delivery:

- **5%** to ensure choice and competition, or
- **20%** where there has been significant under-delivery over the previous three years, or
- From 1 July 2026 a 20% buffer will be required for decision-making if our housing requirement was adopted within the last five years against an earlier version of the Framework **and** that requirement is 80% or less of the most up-to-date local housing need calculated using the standard method. Will shall keep this element under review.

How this affects North Hertfordshire

We are no longer protected by the transitional provisions in earlier versions of the NPPF that previously guarded five-year supply positions tied to recently adopted local plans. That change means we must now demonstrate a compliant five-year housing land supply under the current Framework tests.

Purpose of this update

This Five-Year Housing Supply Update sets out our position as of **31 March 2025** and explains how that position should be applied to relevant planning applications and decisions.

What to expect next

This Update explains our delivery trajectory, the sites included in the five-year supply, and any buffer applied. It provides the transparent, up-to-date evidence decision-makers and applicants need to understand how housing supply is being met across North Hertfordshire.

This report sets out the figures underpinning our Objectively Assessed Needs, forming a key foundation for the preparation of our Local Plan. In addition, we've included indicative calculations based on the Government's New Standard Method for assessing Local Housing Need. These figures are provided for context only, as we are currently unable to formally progress our Local Plan Update, pending the publication of the necessary regulations by Government.

FIVE-YEAR HOUSING REQUIREMENT

Five-Year Housing Requirement

Our Local Plan requires us to provide land for a minimum of 13,000 homes between 2011 and 2031. That target translates to an annual requirement of 650 homes. We monitor residential land availability every year, and this statement records the position as at 31 March 2025, prepared in line with national [Planning Practice Guidance \(PPG\)](#).

Paragraph 31 of the PPG directs us to make up any past shortfall within the next five years using the Sedgefield approach. During plan preparation we chose a different, more measured route to address historical under-delivery which involved spreading the shortfall across the remaining Plan period. The Examining Inspector agreed with this approach and confirmed it as the most appropriate method for calculating our five-year housing land supply.

‘...the Council proposes to use the ‘three-stepped approach’...in combination with applying the ‘Liverpool’ method, spreading the shortfall in delivery since the beginning of the Plan period across the remainder of the Plan period...I am of the firm view that it is the most appropriate in this case and should form the basis for future calculations of the district’s five-year housing land supply.’¹.

Policy IMR1 in the NHLP sets out our approach clearly:

- We apply the **Liverpool approach**, meeting the accumulated shortfall over the remainder of the Plan period rather than compressing it into the next five years.
- Once the combined annual requirement and any remaining shortfall are established, we apply a buffer if required, reflecting the most recent Housing Delivery Test outcome.

Policy IMR1: Five Year Housing Land Supply

In order to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing, we will:

- Deliver the total housing requirement of 13,000 net dwellings over the plan period on a stepped basis. The Council’s five-year housing land supply will be measured against housing requirement targets of:
 - 350 dwellings per annum for the plan period from 2011 to 31 March 2020;
 - 500 dwellings per annum for the plan period from 1 April 2020 to 31 March 2024; and
 - 1,120 dwellings per annum for the remainder of the plan period from 1 April 2024 to 2031.
- Add any shortfall in housing delivery since the plan’s start date, spread evenly over the remaining plan period, to the calculation of the requirement;
- Ensure that the supply of specific, deliverable sites included a buffer (moved forward from later in the plan period) in line with national planning policy; and
- Monitor housing completion and permissions on an ongoing basis to ensure the housing trajectory is based upon robust and up-to-date information and assumptions.

Stepped housing delivery

Liverpool Approach

As such, the annual housing requirement that should be used for calculating our five-year housing land supply is that set out in Policy IMR1: Five Year Housing Land Supply, of our

¹ Paragraph 113 [Inspectors Report](#)

Local Plan:

- 350 dwellings per year from 2011 to 31 March 2020
- 500 dwellings per year from 1 April 2020 to 31 March 2024; and
- 1,120 dwellings per year from 1 April 2024 to 2031.

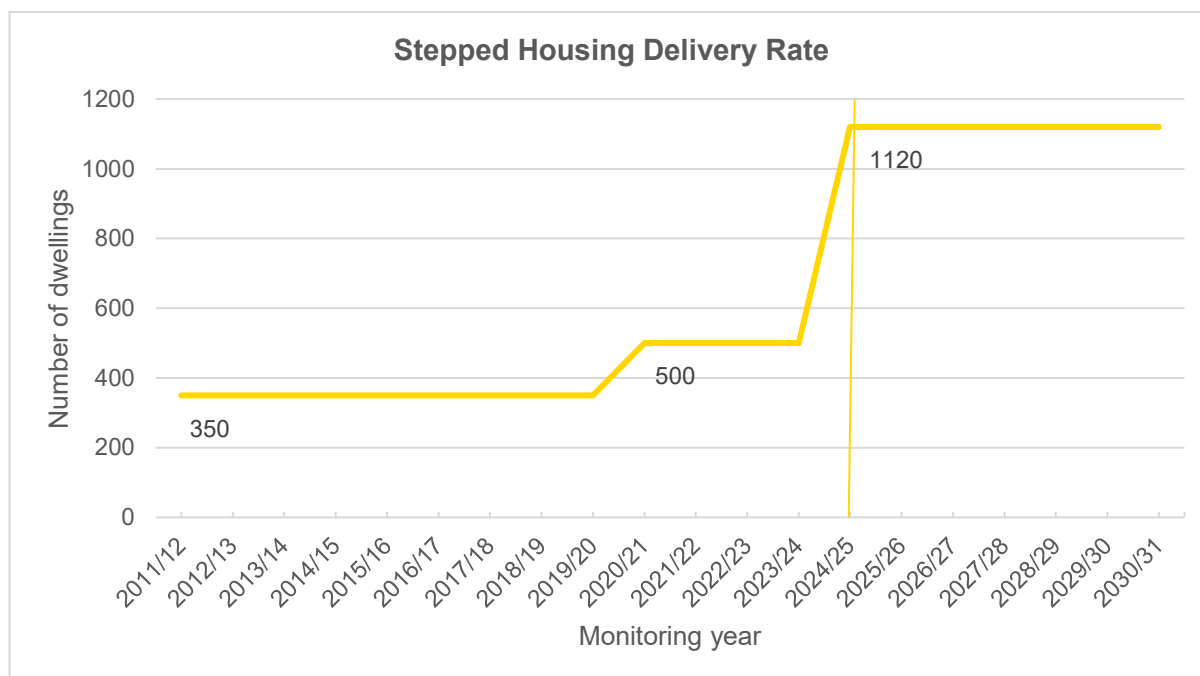


Fig 1 – Stepped housing delivery rate

Annual housing requirement figure	1,120
-----------------------------------	-------

Table 1 – Annual housing requirement figure to 31 March 2025

Table 2 presents our cumulative net housing completions from the Local Plan base date of 1 April 2011 through to the current monitoring date.

The PPG² requires any shortfall to be measured from this adopted plan start date. The table therefore sets out, year by year, how many homes have been completed and highlights the aggregated shortfall against the Plan target since the Plan period began.

Table 2 shows that since 2020/21 our annual housing completions have not met the Plan requirement, and the cumulative shortfall has continued to increase across the Plan period. As of 31 March 2025, our district faces an undersupply of 1,253 dwellings.

² (Paragraph: 031 Reference ID: 68-031-20190722, Revision date: 22 July 2019)

Monitoring year	Annual net housing completions	Annual housing completion target	Annual net housing surplus/shortfall	Cumulative net housing completions	Cumulative housing completion target	Cumulative net housing surplus/shortfall
2011/12	384	350	34	384	350	34
2012/13	291	350	-59	675	700	-25
2013/14	259	350	-91	934	1,050	-116
2014/15	180	350	-170	1,114	1,400	-286
2015/16	341	350	-9	1,455	1,750	-295
2016/17	539	350	189	1,994	2,100	-106
2017/18	282	350	-68	2,276	2,450	-174
2018/19	220	350	-130	2,496	2,800	-304
2019/20	318	350	-32	2,814	3,150	-336
2020/21	593	500	93	3,407	3,650	-243
2021/22	333	500	-167	3,740	4,150	-410
2022/23	445	500	-55	4,185	4,650	-465
2023/24	425	500	-75	4,610	5,150	-540
2024/25	407	1120	-713	5,017	6,270	-1,253

Table 2 – Cumulative net housing completions and shortfall in housing provision 2011/12 to 2023/24

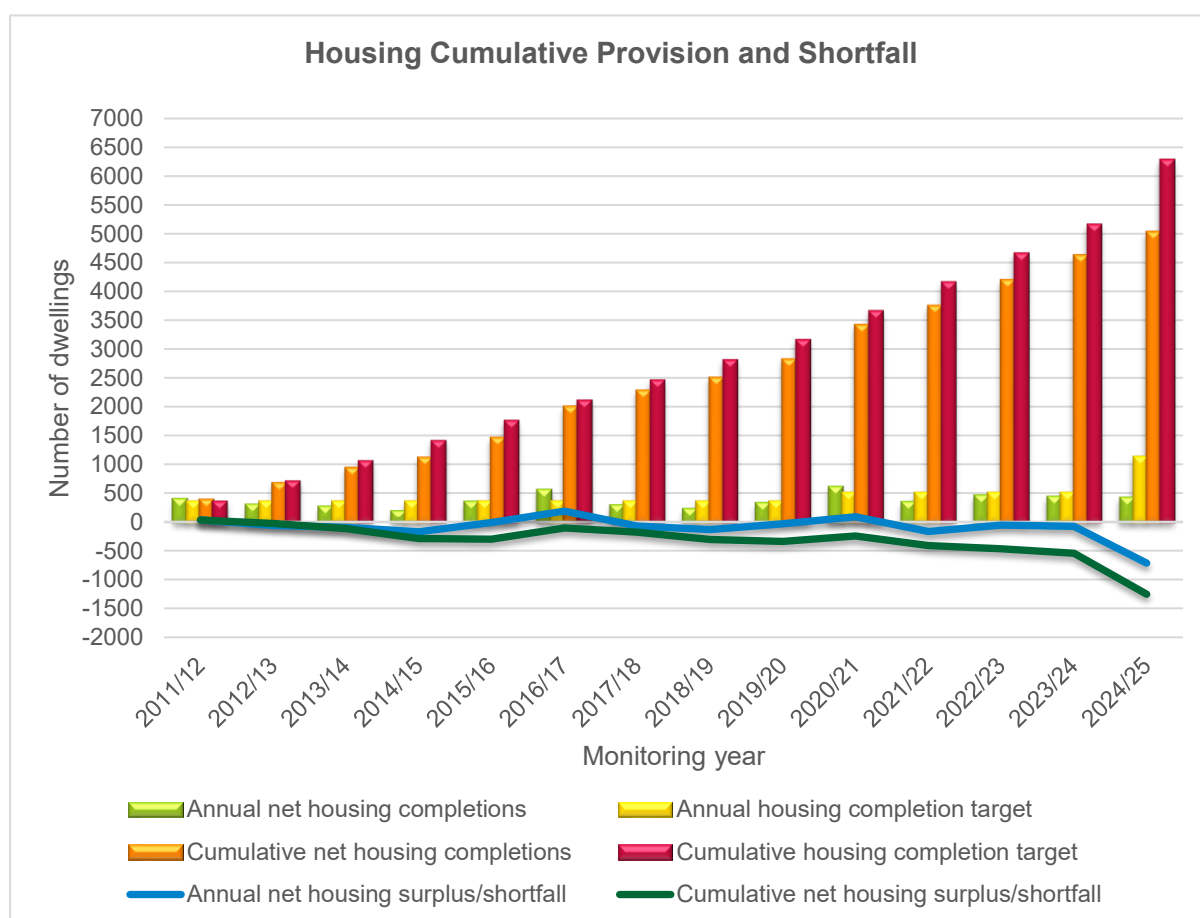


Fig 2 - Cumulative net housing completions and shortfall in housing provision 2011/12 to 2023/24

Under the Liverpool approach, this historic shortfall will be made up evenly over the remainder of the Plan period, so delivery of the 1,253 homes is spread across each year up to 2031. This approach smooths expectations for developers and communities, reduces pressure on the next five years, and provides a realistic, deliverable trajectory for meeting the Plan target by the end of the period.

Annualised requirement to provide for historic undersupply of housing using the Liverpool approach (1,253/6)

209

Table 3 – Annualised requirement for historic undersupply of housing

Paragraph 79 of the 2024 NPPF says that where an authority has experienced significant under-delivery of housing over the previous three years, an additional buffer should be added to the supply of specific deliverable sites.

The latest [Housing Delivery Test](#) (HDT) result for North Hertfordshire (published in December 2024) was 105%, so no delivery buffer is required for our five-year supply.

The HDT assesses actual housing delivery over the prior three years and is published

annually by government. Consequences by HDT band:

- >95% = No further action required.
- <95% = Authority must prepare an Action Plan.
- <85% = Action Plan plus a 20% buffer on the five-year supply.
- <75% = Action Plan, 20% buffer, and the presumption in favour of development.

Because our HDT score exceeds 95%, we do not apply an additional buffer when calculating our five-year housing land supply. This confirms that recent delivery performance (as of March 2023) is strong enough that no compensatory uplift is needed to improve the prospect of meeting planned supply.

The formula for the HDT calculation is:

$$HDT \% = \frac{\text{Total net homes delivered over three-year period}}{\text{Total number of homes required over 2-year 8-month period}^3}$$

Our results for the last published year (2023) are shown in Table 4.

ONS code	Area name	Number of homes required			Number of homes required
		2020/21	2021/22	2022/23	
E07000099	North Hertfordshire	333 ⁴	500	500	1,333
Number of homes delivered		Number of homes delivered		Score	Consequence
2020/21	2021/22	2022/23			
618	335	447	1,400	105%	None

Table 4 – HDT score 2024

The updated NPPF (December 2024) has reintroduced the 5% buffer for calculating five-year housing land supply to preserve choice and competition in the land market, reinforcing the expectation that we factor a modest uplift into supply figures to support a healthy, competitive development environment.

Following the steps above, the total five-year requirement is:

Annual homes requirement for 2024/25	Annual shortfall (Table 3)	Total annual requirement	5-Year requirement	Annual 5% buffer	Total 5-year requirement including buffer
1,120 ⁵	209 ⁶	1,329	6,645	332	6,976

Table 5 – Five-year housing requirement for North Herts, 2024/5 – 2028/29

³ For the 2023 measurement, there is a reduction in the period for measuring total homes required – usually this would be measured over a 3-year period, but an 8-month period has been used for the 2020/21 monitoring year; requirement is assessed from 1 August 2020, meaning that 243 days are assessed. This is to account for the considerable variations in levels of housing delivery as local planning authorities and construction industry faced disruption on a national, regional, and local level due to the pandemic. No adjustment was made in the 2021/22 and 2022/23 monitoring years

⁴ This figure differs from the 350-figure set out in the Local Plan - this includes the Covid-related adjustments applied by Government to the annual target figures.

⁵ From 2024/25, the annual housing requirement increases from 500 to 1,120 dwellings per year.

⁶ Rounded up from 208.83

New Standard Methodology

In December 2024 the Government published a revised standard method alongside the updated NPPF, producing a new method of calculating indicative local housing need figures for our area.

The calculation sets our annual local housing need at 1,043 homes⁷ (published 22 May 2025) and is expected to remain in force until the affordability ratios are next updated in March 2026. This is an increase from the [figure published in December 2024](#). The affordability ratio that is used to calculate the standard method Local Housing Need figure has deteriorated and therefore our housing number has increased.

The updated standard method effectively resets the baseline for housing need, removing the obligation to make up past shortfalls under the old figures and, in practical terms, allows us to “start again” on meeting housing targets. This change means historic under-delivery no longer automatically increases our current requirement, so the focus shifts to delivering against the newly calculated need going forward.

Following the same steps as previous, the total five-year requirement looks like this:

Annual homes requirement of 2024/25	Annual shortfall	Total annual requirement	5-Year requirement	Annual 5% buffer	Total 5-year requirement including buffer
1,043	0	1,043	5,215	261	5,476

Table 6 – Five-year housing requirement for North Herts - new standard method, 2024/5 – 2028/29

As stated previously, this is an indicative calculation based on the Government’s New Standard Method for assessing Local Housing Need. These figures are provided for context only, as we are currently unable to formally progress our Local Plan Update, pending the publication of the necessary regulations by Government. However, we expect to transition to this figure upon the publication of the new regulations for plan making and will use the most up to date figures for any emerging housing target for the development of the new Local Plan update.

⁷ https://www.turley.co.uk/sites/default/files/pdf/file/2025-05/turley_lpdf_-_revised_standard_method_analysis_may2025_0.pdf

DELIVERABLE HOUSING SUPPLY

Deliverable Housing Supply

We have identified an annual supply of sites that can realistically deliver homes within the next five years.

The NPPF defines “deliverable” housing sites as those that are:

- Available now,
- In a suitable location for development now, and
- Achievable with a realistic prospect of delivering homes within five years.

Two important distinctions follow:

- Part (a): Non-major sites with planning permission, and all sites with detailed permission, should be treated as deliverable until permission expires, unless there is clear evidence they will not deliver within five years (for example, viability issues, lack of demand, or long-term phasing).
- Part (b): Major sites with outline permission, sites allocated in a development plan, sites with a grant of permission in principle, or sites on a brownfield register are only deliverable where there is clear evidence that completions will start within five years.

For sites that require extra proof of deliverability, notably outline permissions, allocated sites, permissions in principle, and brownfield register entries, PPG suggests the following types of evidence:

- Current planning status - progress on reserved matters, linked planning performance agreements and discharge of conditions.
- Developer commitment - written agreements with the local planning authority confirming expected start dates and build-out rates.
- Concrete site preparation - firm progress on site assessments and pre-application work.
- Practical constraints and mitigation - information on viability, ownership, infrastructure delivery, or successful bids for infrastructure funding.

We are also able to draw on the [Housing and Economic Land Availability Assessment](#) to demonstrate deliverability.

All sites we have identified meet the NPPF and PPG deliverability tests by being:

- Available now,
- Situated in suitable locations, and
- Achievable within a five-year horizon.

We have grouped sites against the Annex 2 tests so it's clear which require additional

evidence, and which do not.

Part A (normally deliverable)

- Sites under construction
- Sites with detailed planning permission
- Sites with prior notification

Part B (require clear evidence to demonstrate deliverability)

- Sites with outline permission or subject to S106 agreements
- Allocated deliverable housing sites

These Part B sites will only be treated as deliverable where there is demonstrable, site-specific evidence that housing completions will begin within five years.

Units deliverable withing 5 years	
Part A	Sites under construction
	691
	Sites with detailed planning
Part B	372
	Sites with Prior Notification
	84
Part B	Sites with Outline Permission/S106
	387
	Deliverable sites
	1,882
Total	
3,416	

Table 7 – Summary of supply of deliverable housing identified 31 March 2025

In addition to the deliverable sites above, we include a windfall allowance to reflect smaller sites likely to come forward during the Plan period. This approach follows the Local Plan examination recommendations and provides useful flexibility to support delivery.

Paragraph 98 states

‘Also within the supply are 440 new houses on small windfall sites, and 257 on large windfall sites. Windfall delivery is planned for in both the first five years of the Plan from adoption and in the remaining years afterwards.’

We include a windfall figure because it builds careful contingency into the housing supply without double-counting our identified sites, reflecting the Inspector’s view that modest, site-specific opportunities, particularly in town centres. It can also help speed delivery, allowing the Plan to remain responsive to changing market signals and local development opportunities over time.

Monitoring year	Small sites	Large sites	Total
2025/26	-	-	-
2026/27	25	-	25
2027/28	35	-	35
2028/29	50	-	50
2029/30	60	43	103
Final Total	170	43	213

Table 8 – Total supply of windfall housing identified 31 March 2025



Fig 3 – Total gross windfall completions since the start of the Plan period

Our projected windfall figures are deliberately conservative, grounded in actual delivery since the Plan period began in 2011. Figure 3 plots the number of sites recorded as “windfall” through the development management process and logged by Hertfordshire County Council, showing a reliable record that supports our cautious assumptions.

CONCLUSIONS

Conclusions

Local Plan Figures

Our total requirement for housing delivery from 1 April 2025 – 31 March 2030 in our District is **6,976 dwellings**. This incorporates the objectively assessed housing need annual rate of 1,120 dwellings per year, the annual shortfall of 209 dwellings, totaling 1,044 dwellings per year, and the 5% buffer amounting to 332.

Total supply of deliverable housing identified	31 March 2025
Total number of dwellings under construction	691
Total number of dwellings with detailed planning permission	372
Total number of dwellings with prior notification (including -10% for non-implementation of under ten dwellings)	84
Total number of dwellings with outline permission/S106 (including -10% for non-implementation of under ten dwellings)	387
Total number of dwellings for other 'Deliverable' sites	1,882
Total number of dwellings for windfall sites	213
Total identified supply	3,629

Table 9 – Total supply of deliverable housing identified 31 March 2025

Table 9 shows that the **total supply of deliverable housing identified by the Council for that five-year period is 3,629 dwellings**.

This means we can demonstrate a deficit of **3,347 dwellings** over the five-year period of 2025/26 – 2029/30.

Table 10 shows that we can demonstrate a five-year land position of **2.6 years** against our adopted housing requirement. This figure falls below the five-year requirement.

Five-year housing supply calculation		
A	Objectively Assessed Need (OAN) (dwellings per year)	1,120
	OAN over 5 years	5,600
B	Remaining Local Plan period (years)	6
C	Completions 1 April 2011 – 31 March 2024	5,017
D	Target 1 April 2011 – 31 March 2024	6,270
E	Shortfall against target on 31 March 2024 (D – C)	-1,253
F	Target 1 Apr 2025 – 31 Mar 2030	5,600
G	Surplus / Shortfall to be delivered in 5yr period (E / 6 x 5)	1,044
H	Buffer to be applied (5%) based on 2023 HDT consequence	332
I	Total 5yr requirement (F + G + H)	6,976
J	Dwellings for sites under construction	691
K	Dwellings granted permission or prior approval	456
L	Dwellings granted outline permission or subject to S106	387
M	Other dwellings considered 'deliverable'	1,882
N	Dwellings from Windfall sites	213
O	Total deliverable dwellings (supply) 1 Apr 2024 – 31 Mar 2029 (J + K + L + M + N)	3,629
P	Total Years Housing Supply ((O / I) x 5)	2.6

Table 10 – Five-Year Housing Land Supply Calculation

New Standard Method

Our 5-year housing land supply under the standard housing method is also shown for comparison purposes and would be used if the new plan-making system had come into force and we were able to give formal notice to start preparing a new Local Plan.

Our total requirement for housing delivery from 1 April 2025 – 31 March 2030 in our District is **5,215 dwellings**. This incorporates the new standard method housing need annual rate of 1,043 dwellings per year, no shortfall, and the 5% buffer amounting to 261.

Table 8 shows that the **total supply of deliverable housing identified by the Council for that five-year period is 3,629 dwellings**.

This means there is a deficit of **1,586 dwellings** over the five-year period of 2025/26 – 2029/30.

Table 11 shows that we can demonstrate a five-year land position of **3.3 years** using the Governments New Standard Methodology. This figure falls below the five-year requirement.

Five-year housing supply calculation		
A	New Standard Method Local Housing Need (LHN) (dwellings per year)	1,043
	LHN over 5 years	5,215
B	Remaining Local Plan period (years)	6
C	Completions 1 April 2011 – 31 March 2024	5,017
D	Target 1 April 2011 – 31 March 2024	6,270
E	Shortfall	0
F	Target 1 Apr 2025 – 31 Mar 2030	5,215
G	Surplus / Shortfall to be delivered in 5yr period (E / 6 x 5)	0
H	Buffer to be applied (5%) based on 2023 HDT consequence	261
I	Total 5yr requirement (F + G + H)	5,476
J	Dwellings for sites under construction	691
K	Dwellings granted permission or prior approval	456
L	Dwellings granted outline permission or subject to S106	387
M	Other dwellings considered 'deliverable'	1,882
N	Dwellings from Windfall sites	213
O	Total deliverable dwellings (supply) 1 Apr 2024 – 31 Mar 2029 (J + K + L + M + N)	3,629
P	Total Years Housing Supply ((O / I) x 5)	3.3

Table 11 – Five-Year Housing Land Supply Calculation – New Standard Method

APPENDIX 11

Weldon Beesly

Our Ref : 25/02839/PRE

The Old Dairy Barn
Offley Hoo
Hoo Lane
Great Offley
Hitchin
SG5 3ED

Contact : William Thompson
Direct Line : 01462474252
Email : william.thompson@north-herts.gov.uk
Date : 10th February 2026

FAO: Paul Atton MRTPI

Dear Sir / Madam,

Pre Application Advice : Demolition of existing workshop, storage building, derelict glasshouses, sheds and pig pens; erection of single storey self-build dwelling, access and all ancillary works.

Land At Bendish Stables, Hollybush Lane, Bendish, Hitchin, Hertfordshire, SG4 8JA

Thank you for your pre-application submission, named above, which was received on the 6th November 2025 and I write in response following a consideration of the submitted information and a site visit.

Please note that this reply is an officer opinion only and is not a formal determination of the Council and is without prejudice to any subsequent planning application that may be submitted.

The relevant government guidance and policies from the development plan are as follows:

National Planning Policy Framework, 2021

Section 5 - Delivering a sufficient supply of homes

Section 11 - Making effective use of land

Section 12 – Achieving well-designed places

Section 13 - Protecting Green Belt land

Section 15 - Conserving and enhancing the natural environment

Section 16 - Conserving and enhancing the historic environment

North Hertfordshire Draft Local Plan 2011-2031

Policy SP1 - Sustainable development in North Hertfordshire

Policy SP2 - Settlement Hierarchy and Spatial Distribution

Policy SP5 - Countryside and Green Belt

Policy SP8 - Housing

Policy SP9 - Design and Sustainability

Policy SP11: Natural Resources and Sustainability

Policy SP13 - Historic Environment

Policy D1 - Sustainable Design

Policy D3 - Protecting Living Conditions

Policy HE1 - Designated Heritage Assets

Policy NE4 - Biodiversity and Geological Sites

Policy NE8 - Sustainable Drainage Systems

Policy T2 - Parking

Consultee Responses

Ecology - No objection (subject to the following comments).

Looking at the submitted pre-app above there would be no ecological objection to the principle of development on this site.

Existing habitats on the development site appear to consist of vegetable patches, small trees and garden areas, in addition the proposal also includes the demolition of some of the sheds and buildings. As such the applicant is advised that any future planning application should be supported by an ecological appraisal. This would indicate any potential protected species interest on the site. Should such an interest be found it may be necessary to undertake further surveys to determine the level of use. The results of these surveys and details of proposed mitigation would need to accompany an application.

The development would be exempt from mandatory Biodiversity Net Gain as it is a self-build but North Herts Local Plan Policy NE4 still requires development to deliver a net gain in biodiversity. In addition to BNG, features that benefit species such as bats, birds and bee bricks should be considered as part of the built design to provide enhancements and support wildlife.

Environmental Health - No objection (subject to the following comments).

Noise: The Environmental Protection and Housing Team main concern relates to the living conditions of any future occupants, and the noise impacts due to the proximity of the site to London Luton Airport and flightpaths. We would expect to see a noise assessment submitted in accordance with current standards and guidelines to demonstrate that the site is suitable for residential development. Any noise assessment should consider the impact of aircraft noise on future residential dwellings (meeting standards for outdoor amenity areas, building construction and requirements for sound insulation to roofs). It should be noted that London Luton Airport has a current application for expansion and that a further very large expansion in traveller numbers is proposed in the coming years. The Applicant / Acoustic Consultant should contact Luton Borough Council for further details. It would be appropriate for any noise assessment to be submitted at the application stage rather than at a later stage following a decision and a Condition to be imposed requiring a noise assessment.

Contaminated Land: We would also expect to see information on land contamination. This would be in a phased investigation in accordance with BS10175+A2:2017. For land contamination, pre-commencement conditions could be used to secure this information and any subsequent action. However, we would encourage any documentation up front to progress any application. Reason: To ensure that any materials which are hazardous to health are dealt with in a manner that safeguards human health.

Local Air Quality: North Herts Council have specific air quality planning guidance that can be found at <http://www.north-herts.gov.uk/home/environmental-health/pollution/air-quality/air-quality-and-planning>. Application of the guidance to a development of this scale and location defines the site as being a MINOR scale. In accordance with the guidance, this department would recommend that the dwelling has installed an EV charging point.

Site and Surroundings

The site accommodates Bendish Stables, a detached dwelling with a generous curtilage to the south which accommodates various outbuildings. The site is enclosed by mature vegetation, meaning that views from the highway of the dwelling and curtilage are limited.

The locality is rural, with the site being located outside of neighbouring settlement boundaries and within the Green Belt. Due to the rural nature of the surrounding area, the site is distanced from neighbouring dwellings.

Proposal

Pre application advice is sought for *“Demolition of existing workshop, storage building, derelict glasshouses, sheds and pig pens; erection of single storey self-build dwelling, access and all ancillary works.”*

Key Issues

The key issues for consideration are as follows:

- The acceptability of the proposal in principle, and the acceptability of the proposal within the Green Belt;
- The acceptability of the design of the proposed development and its resultant impact on the locality;
- The impact of the proposal upon the surrounding historic environment;
- The impact that the proposed development would have on the living conditions of neighbouring properties;
- The impact that the proposed development would have on highway safety and car parking provision;
- The impact of the proposal upon the natural environment, including Biodiversity Net Gain.

Principle of Development and Green Belt

The application site is located within the Green Belt, north of Bendish. The site is located outside of a settlement boundary, with the nearest boundaries being Breachwood Green (west) and Whitwell (east). Policy SP2 of the Local Plan identifies that no provision is made in the NHLP for housing development for the site's location. Accordingly, the main consideration is whether the proposal is acceptable within the Green Belt.

Policy SP5 supports the principles of the Green Belt. However, given that the NHLP was adopted in 2021, no consideration is given to Grey Belt land. Policies SP1 and SP8 outline support for reaching the target of 20% new homes on previously developed land, which is broadly consistent with Section 11 of the NPPF. The definition of Grey Belt could be applicable to this pre-application for 'the demolition of existing outbuildings, and the subsequent erection of a single storey self-build dwelling (including access and all ancillary works)' as the site could constitute Brownfield/Previously Developed Land (PDL).

The NPPF defines previously developed land (PDL) as follows: ***"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 (although it should not be assumed that the whole of the curtilage should be developed)".*** It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; ***land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."***

The Dartford Borough Council v Secretary of State for Communities & Local Government (CO/4129/2015) appeal determined that residential gardens outside of 'built up areas' met

the definition of PDL land. The application site location is a rural area and is therefore considered to be outside of a 'built up area'.

The proposed dwelling is to be built on land which currently forms the residential curtilage of Bendish Stables. At present, the land is occupied by a 'workshop, storage building, derelict glasshouses, sheds and pig pens' which are used in conjunction with the host dwelling. There is no planning history for the permanent structures. However, Google Earth shows that the structures on site have been in-situ in excess of 4 years and are, therefore, lawful by virtue of the passage of time. Thus, the site constitutes PDL land in accordance with the NPPF definition and relevant case law.

In accordance with paragraph 154(g), a view must be taken as to whether the proposed dwelling would cause 'substantial harm to the openness of the Green Belt'. The proposed dwelling will be of a low-rise, bungalow design, and will replace existing outbuildings. The site is well screened by the existing vegetation along the site boundary. Therefore, the proposal is unlikely to cause substantial harm to the openness of the Green Belt.

Overall, the proposal, as submitted, would not constitute 'inappropriate development' in the Green Belt and is acceptable in principle.

Design and Appearance

Policies SP9 and D1 of the NHLP state the importance of sustainable development, and that new proposals should respond positively to local character. These policies are broadly consistent with Section 12 of the NPPF.

Two prospective designs have been submitted as part of this application: design 1, labelled 'The Lodge', and design 2, labelled 'The Willows'. Both designs are indicative of single-storey dwellings and would have a footprint of approx. 185 sqm (The Lodge design to include hardstanding to the south east). The Lodge would be constructed in a 'L-shape' type development, whereas The Willows would have greater visual massing.

From the information submitted, it is considered that the indicative layout of both designs would likely have a limited visual impact on the locality due to the single storey nature. Therefore, both designs are likely to be considered acceptable; however, largely regarding materials and form, it is believed that the design utilised in The Willows would likely be preferable.

Indicative access is shown to be located at the existing opening along Hollybush Lane, south of the access point to Bendish Stables. As the opening is existing, it is considered that the proposed access would have a minimal impact upon the rural character of the locality.

In my view, either proposed design is likely considered to be acceptable in terms of the material palette, massing, siting and roof design and would, therefore, not cause harm to the character and appearance of the host dwelling or immediate locality. As such, the proposed development would likely comply with Policy D1 and D2 of the NHLP and Section 12 of the NPPF.

Heritage Impact

Policy HE1 states that proposals affecting heritage assets should preserve the significance of the asset and its setting, as is supported by Policy SP13 of the Local Plan and paragraph 208 of the NPPF. Policy HE1 is commensurate with the LPA's statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990.

While the site itself is not located within the Bendish Conservation Area, the site neighbours Grade II Listed Building, Olive Cottage (listed by Historic England as 'Holly Cottage', Listing ID 1103270). A formal application would need to identify potential impacts upon this designated heritage asset.

Impact on Neighbour Amenity

Policy D3 of the Local Plan states that planning applications will only be granted where the proposal does not cause unacceptable harm to living conditions.

The siting of both dwelling designs would be adequately distanced from neighbouring properties, including Bendish Stables. Therefore, the proposed development is unlikely cause unacceptable harm, as to be objectionable, to neighbour amenity, in regard to dominance, shading or loss of privacy.

This development is likely to be considered in accordance with Policy D3 of the NHLP and Section 12 of the NPPF.

Highways, Access and Parking

Both designs include 3no. bedrooms and to comply with Policy T2 of the NHLP would require the provision of 2no. parking spaces at a minimum. While the exact parking provision has not been specified, both dwelling designs would comfortably accommodate 2no. parking spaces to be in accordance with the requirements of Policy T2 of the NHLP.

Prior to a formal application being submitted, the applicant is encouraged to seek guidance from HCC Highways in relation to the proposed access.

Arboriculture and Ecology

The provision of a new dwelling is likely to impact existing habitats and species on site. Therefore, a formal application will need to be accompanied by an Ecological Appraisal to identify potential impacts. Should impacts be identified, a formal application would need to include relevant surveys and details of mitigation measures.

Due to the large number of trees on site, as indicated by the proposed plans, the applicant is strongly encouraged to submit an Arboricultural Assessment alongside a formal application to determine whether the proposed development would negatively impact trees on site.

The site is not within a Flood Risk Zone. A formal application would need to provide details of sustainable drainage arrangements in accordance with Policies SP9, SP11, D1 and NE8 of the NHLP.

Biodiversity Net Gain (BNG)

The proposal would meet the definition of 'Self-Build and Custom', which is exempt from BNG legislation defined under article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Notwithstanding the BNG exemption, Policy NE4 of the NHLP requires proposals to deliver a measurable net gain in biodiversity. A formal application should incorporate the suggestions made by the Ecology Officer to include features which support wildlife.

Conclusion

In conclusion, it is my opinion that if a planning application were submitted which implemented the recommendations of this report, the proposal would likely be looked upon favourably.

Any advice given by Council Officers for pre-application enquiries does not constitute a formal response or decision by the council with regards to future planning permission or other consents. You should also be aware that the information provided within this document gives no guarantees about the final formal decision made on a planning application.

Yours faithfully,

William Thompson

Graduate Planning Officer

The Council's Privacy Notice is available on our website: <https://www.north-herts.gov.uk/home/council-data-and-performance/data-protection/information-management-gdpr>

APPENDIX 12

Holly House

Listed on the National Heritage List for England. **Search over 400,000 listed places**

(<https://historicengland.org.uk/listing/the-list/>)

Official list entry

Heritage Category: **Listed Building**

Grade: **II**

List Entry Number: **1103270**

Date first listed: **08-Feb-1988**

List Entry Name: **Holly House**

Statutory Address 1: **HOLLY HOUSE, HOLLYBUSH LANE**

This List entry helps identify the building designated at this address for its special architectural or historic interest.

Unless the List entry states otherwise, it includes both the structure itself and any object or structure fixed to it (whether inside or outside) as well as any object or structure within the curtilage of the building.

For these purposes, to be included within the curtilage of the building, the object or structure must have formed part of the land since before 1st July 1948.

[Understanding list entries](https://historicengland.org.uk/listing/the-list/understanding-list-entries/) (<https://historicengland.org.uk/listing/the-list/understanding-list-entries/>)

Corrections and minor amendments

(<https://historicengland.org.uk/listing/the-list/minor-amendments/>)

Location

Statutory Address: **HOLLY HOUSE, HOLLYBUSH LANE**

The building or site itself may lie within the boundary of more than one authority.

County: **Hertfordshire**

District: **North Hertfordshire (District Authority)**

Parish: **St. Paul's Walden**

National Grid Reference: **TL1675221729**

Details

TL 12 SE

4/161

ST PAUL'S WALDEN

HOLLYBUSH LANE

(East side)

Bendish

Holly House

II

House. C16, floor and chimney inserted in hall in early C17, N bay

floored late C17, C18 red brick infill to frame, early/mid C19 S wing,

late C20 N range extending to W. Old part timber framed with red brick panels. Red brick S wing and later extension. Steep old red tile roofs. A 4-bays low range now of 2 storeys on W with large internal chimney in 2nd bay from N and S bay partitioned presumably as a parlour. Symmetrical 2-storeys estate cottage added at S facing S to lane. 2-light lattice cast iron windows to 1st floor and 3-lights to ground floor with gabled porch central on S.

Listing NGR: TL1675221729

Legacy

The contents of this record have been generated from a legacy data system.

Legacy System number: **162953**

Legacy System: **LBS**

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



Map

This map is for quick reference purposes only and may not be to scale. This copy shows the entry on 25-Mar-2026 at 12:59:05.

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End of official list entry