

# **PLANNING APPEAL**

**Land at Bradmore Way, Brookmans Park**

**Reference APP/C1950/W/22/3307844**

## **PUBLIC INQUIRY**

**Proof of Evidence: Green Belt**

**By Jed Griffiths MA DipTP FRTPI**

**For the Combined Objectors Group**

**February 2023**

## INTRODUCTION

1. My name is Jed Griffiths. I am a chartered town planner and a Fellow of the Royal Town Planning Institute. I am a Past President of the Institute. I hold a Master's Degree in Geography from the University of Durham and a Diploma in Town Planning from the University of Newcastle-upon-Tyne.
2. I have lived and practised in Hertfordshire for over 50 years. A summary of my qualifications and experience is attached at Appendix 1. Today, I am giving evidence at this inquiry on behalf of the Combined Objectors' Group (COG), which consists of the North Mymms District Green Belt Society, the Brookmans Park Action Group, and CPRE Hertfordshire – the Countryside Charity.
3. The scope of the evidence which I am giving to this Inquiry was set out in the COG Statement of Case dated 30<sup>th</sup> November 2022. In this proof I will elaborate on the potential harm to the Green Belt caused by the proposed development. I will also comment on the planning policy framework and the potential changes to government policy which may be material to the determination of this appeal.

## GREEN BELT

4. As noted in the Statement of Common Ground, it is clear that the proposed development is inappropriate development in the Green Belt, as stated in paragraph 147 of the National Planning Policy Framework (NPPF). In their Statement of Case, the appellant contends that "very special circumstances" exist to outweigh the potential harm to the Green Belt which may result from the proposed development.
5. It is acknowledged that there is a presumption in favour of sustainable development, which is set out in paragraph 11 of the NPPF. For decision-makers, this means that *"where there no relevant development plan policies, or where the policies for determining the application are out-of-date, granting permission, unless:*
  - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - (ii) any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework, taken as a whole."*

It is clear from footnote 7 of the NPPF that land designated as Green Belt is an area of particular importance in terms of government policy.

6. The government's commitment to the protecting Green Belt land is elaborated in Chapter 13 of the NPPF. The five purposes of the Green Belt are set out in paragraph 138, as follows:

*(a) to check the unrestricted sprawl of large built-up areas;*

*(b) to prevent neighbouring towns from merging into one another;*

*(c) to assist in safeguarding the countryside from encroachment;*

*(d) to preserve the setting and special character of historic towns; and*

*(e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

In my submission, the first three of these purposes are relevant to the determination of this appeal.

7. Historically, Green Belt has been a key component of the planning system in Hertfordshire. In terms of the first Green Belt purpose, its primary function is to control the outward sprawl of London, as part of the London Metropolitan Green Belt. Designation of the Green Belt in the south of the county occurred in the context of MHLG Circulars 42/55 and 50/57. In the 1970s, the Green Belt was extended as part of the Hertfordshire County Structure Plan to cover more than 40% of the land area of the county.

8. I now refer to Appendix 2, which is a map showing the coverage of the Hertfordshire Green Belt. Its shape, of a "grasping hand", reflects the fact that the influence of Greater London extends along the main route corridors leading northwards from the capital. Thus, in Welwyn Hatfield and North Hertfordshire, the primary function is exercised along the A1 Great North Road and the East Coast main line railway. At the same time, the second purpose of the Green Belt is fulfilled in that it prevents the merger of the towns in the north-south route corridor. In Welwyn Hatfield, therefore, the Green Belt helps to maintain the gaps between the towns along the Great North Road – Potters Bar, Hatfield, Welwyn Garden City, and Stevenage. At the same time, it has protected the identity of the string of villages which are located between the towns. From south to north, these are Little Heath, Brookmans Park, Welham Green, Digswell, Oaklands & Mardley Heath, and Woolmer Green (with Knebworth).

9. The strategic importance of these gaps between second and third tier settlements was acknowledged in the series of district-wide local plans in Hertfordshire, including Welwyn Hatfield. An additional local purpose was enshrined in policy – to protect the existing settlement pattern. An overview of this local purpose was contained in the SKM study Green Belt Review Purposes Assessment (November 2013). Section 7.6 and Figure 7.6 of the report analysed the contribution that each Green Belt parcel made to the purpose. It was concluded that parcel GB45, between Brookmans Park and Welham Green, made a “significant contribution towards maintaining the settlement pattern.” This is also highlighted by Figure 7.7.3 which shows the contribution of GB45 to the overall functions of the Green Belt.
10. In support of the emerging Local Plan, a Stage 2 Green Belt Review was produced by Land Use Consultants (LUC) for the Borough Council. Following the Stage 2 Examination hearings, a more detailed Stage 3 Green Belt Study was completed by LUC in November 2018 (Examination Documents EX88 A-D). Using a slightly different methodology, the report also assessed the contribution of the gap between Brookmans Park and Welham Green (parcel P66) to the local purpose. The conclusion, in paragraph 4.43 of the report, shows that its contribution is high. The fragility of the gap is also depicted in Figures 4.1 and 6.5 of the report.
11. The above reports are consistent in showing that the appeal site has a key role in helping to maintain the gap between Brookmans Park and Welham Green. In their submissions, the appellant has argued that the proposed development would be contained by Peplins Wood, which would define a new Green Belt boundary to the north of Brookmans Park. Development of the site, however, would impact on the gap at its narrowest point, which is only 600 metres. The sensitivity of this area was also confirmed by the findings of the Green Gaps Assessment, produced for the Borough Council by Land Use Consultants in August 2019 (EX160). The report states as follows:

*“The gap at this narrowest point comprises small blocks of woodland set in mixed farmland – the hedgerows and copses prevent inter-visibility between the two settlements and ensure a robust gap.”*

12. The Green Gaps Assessment made a strong case for keeping the area open to protect the settlement pattern and to prevent coalescence between the two settlements. A “green gap policy area” was recommended, but that approach was rejected by the Examination Inspector as an unnecessary extra layer of policy. Nevertheless, the analysis in the study confirms the conclusion in the earlier about the value of the gap as a Green Belt function.
13. It is also clear, acknowledged in the Statement of Common Ground, that development of the appeal site would be contrary to the third purpose of the Green Belt, in that it would encroach severely into an area of countryside. In strategic terms, the site is part of a swathe of open countryside which sweeps from west to east and contains Brookmans Park. As the appellant’s photographs show, it is an attractive area of grassland, bordered by woodland and the landscaped expanse of the Brookmans Park golf course. I would stress that it is also part of a working farm, producing 110 bales of hay at the 2022 harvest.
14. There is no doubt that development of the site would result in a considerable loss of Green Belt openness, contrary to the fundamental aim set out in the NPPF (paragraph 137). This is countered by the appellant who maintains that the development would be screened by existing woodlands and hedgerows, and by new landscaping. In recent years there has been a wide-ranging debate about the legal definition of “openness” in the Green Belt, especially the relationship between openness and visual impact of development.
15. I would draw this Inquiry to the case of *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council [2020]* which has clarified the matter. In its judgement, the Court determined that the interpretation of openness was a matter of planning judgement. In addition, it was ruled that openness was not necessarily a statement about the visual qualities of the land. Essentially it was a counterpoint to urban sprawl - defined as an absence of “urbanising development.” In my view, there is no doubt that this definition applies to the appeal site.
16. In the Planning Statement accompanying the original planning, and in the subsequent statement of case, the appellant’s consultants have argued that “very special circumstances” exist where the benefits of the scheme would outweigh the harm to the Green Belt. In my view “very special circumstances” is a very precise definition and should only be applied to the truly exceptional case. It is not simply a weighting exercise, but an identification of exceptional circumstances that warrant a departure from the clear and consistent planning policy in favour of respecting and retaining the Green Belt.

17. With regards to “very special circumstances”, much emphasis was given in the Planning Statement to the appeal decision at Bullens Green, Colney Heath (Reference APP/C1950/W/20/3265926), where the Inspector gave substantial weight to the provision of affordable housing in allowing the appeal. The Planning Statement contends that the reasons for the Bullens Green approval apply equally, if not more, to the Bradmore Way case.
18. I disagree most strongly with this analysis. The circumstances at Bullens Green were markedly different, on a site split between Welwyn Hatfield and the City & District of St. Albans. The landscape at Bullens Green is of a much lesser quality. Reference was made to the lack of a five year land supply in both local authorities, but in Welwyn Hatfield this is about to be rectified. Similarly, the Local Plan, when adopted is expected to overcome the lack of affordable housing in the Borough. The “tilted balance” does not apply to this appeal.
19. The Bullens Green decision does not establish a precedent which should be applied in all cases where there is a deficiency in housing land supply and a shortage of affordable housing. I refer to the recent appeal decision at Beaconsfield in Buckinghamshire (Reference APP/N0410/W/22/3299849). Here, the Inspector acknowledged the land shortfall to be “significant” and noted that the proposal would provide some much-needed affordable housing. Nevertheless, he judged that the scheme would have an “acute effect” effect on openness and would harm the Green Belt as an “evident” large-scale extension to the town of Beaconsfield.

## **PLANNING POLICY**

20. In the Statement of Common Ground between the appellant and the Council, reference is made to the current and emerging planning policy context in Welwyn Hatfield. In particular there is a summary (paragraphs 6.4 – 6.13) of the position on the Emerging Welwyn Hatfield Local Plan 2016-2036, which is still at examination. I have been an active participant at most of the public hearing sessions, representing the North Mymms District Green Belt Society and other clients (including CPRE).
21. Since the publication of the SOCG, there has been further progress on the Local Plan, following the receipt of a further letter from the Examination Inspector setting out draft Main Modifications. At a Special Council Meeting on 20<sup>th</sup> December 2022, the Borough Council resolved to publish the Main Modification for public consultation for the period from 4<sup>th</sup> January to 15<sup>th</sup> February 2023. This means that, at the time of the Inquiry, the consultation period will be active.

22. If the Main Modifications are approved and form part of an adopted Local Plan, there are important implications for Brookmans Park. In the list of proposed housing allocations, the Inspector has included the site to the west of Brookmans Park railway station (HS22), which had previously been rejected by the Borough Council at its meeting in September. The Inspector, however, pointed out that the site had been categorised as being sound by the Council in the Submitted Local Plan in 2017. It had also been found to be sound by him after the examination hearing - therefore the Council would have no choice but to include it in the Local Plan.
23. Following the hearings, the capacity of the site HS22 has been increased to a total of 428 dwellings. With the addition of two other “sound” sites – Brp13 (14 dwellings) and BrP14 (10 dwellings) – and 54 completions since 2016, the dwellings total for Brookmans Park 2016 – 2036 would be 526 units. Adding 125 dwellings at the appeal site would be well in excess of the calculated range of local needs of 109-506 dwellings. In terms of the Local Plan and the distribution of housing between the larger villages, Brookmans Park would have a disproportionate number of dwellings.
24. At the national level, the government has restated its commitment to changes to the planning system in England. Following a written ministerial statement on 6<sup>th</sup> November 2022, the Secretary of State for Levelling Up, Housing and Local Communities published on 22<sup>nd</sup> December an open consultation document *Levelling-up and Regeneration Bill: reforms to national planning policy*. The report contains a prospectus for possible changes to the NPPF and is currently on consultation until 2<sup>nd</sup> March 2023, and it is clear that the context for local plans will become more flexible, according to local circumstances. With regards to Green Belt, the following statement (Chapter4, paragraph 9) is relevant to Welwyn Hatfield:
- “Through a change to the Framework’s chapter on protecting Green Belt land, we propose to make clear that local planning authorities are not required to review and alter Green belt boundaries if this would be the only way of meeting (housing) need in full (although authorities would still have the ability to review and alter Green belt boundaries if they wish, if they can demonstrate that exceptional circumstances exist). This change would remove any ambiguity about whether authorities are expected to review the Green Belt, which is something which has caused confusion and often protracted debate during the preparation of some plans.”*
25. The prospectus also states that, in future reviews of local plans, housing needs forecasts would be based on the latest 2021 Census figures. Housing needs figures would be “advisory”, not “mandatory”. Changes to the NPPF would be made “immediately”, subject to and following consultation.

26. I recognise that consideration of these proposed changes to national policy may be speculative and may have very little direct bearing on the determination of this appeal. On the question of prematurity, however, I would refer to paragraph 49 of the NPPF, which states as follows:

*“.....arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*

*(a) the development proposed is so substantial, or its cumulative effect would so significant, that to grant planning permission would undermine the planning process by predetermining decisions about the scale, location, or phasing of new development that are central to an emerging plan; and*

*(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”*

In my view, I suggest that both sets of circumstances apply to Welwyn Hatfield, especially the latter, as I have explained below.

27. In the government’s current consultation, it is clear to me that there is a continued commitment to the protection of the Green Belt, which has important implications for local planning in Welwyn Hatfield. From a study of the Main Modifications to the Local Plan, I would suggest that the Borough Council has allocated more than enough housing land in the Green Belt to satisfy its housing needs requirement for the next ten years. Brookmans Park would have more than its fair share of the total. In these circumstances, I submit that there is no need for the proposed development on the appeal site.

28. In its Statement of Case, COG gave its support to the Borough Council on the highways reason for refusal (R3). More recently, the Council and the appellant have reached an agreement with the Highways Authority, leading to the withdrawal of R3. A Statement of Common Ground has been signed between the three parties, which was received by COG on 9<sup>th</sup> January 2023. The COG transport consultant will study the contents of the statement and give a view as to whether or not to pursue the objection. If necessary, the matter will be dealt with in chief at the Public Inquiry by the advocate for COG.



## SUMMARY

29. In summary, COG fully supports the Borough Council in its rejection of the proposed development which is the subject of this appeal. On **Green Belt**, no “very special circumstances” exist to outweigh the harm which would be caused to the openness of the Green Belt. There would be severe encroachment into an area of valued countryside, contrary to Green Belt purposes. In addition, the development would conflict with the purpose which seeks to prevent towns merging with one another.

30. The **planning policy** context for this appeal has changed since it was submitted to the Planning Inspectorate. Publication of the prospectus for proposed changes to the NPPF is a clear indication of the Government’s commitment to the protection of the Green Belt and a more flexible approach to the preparation of local plans. Current consultation Main Modifications to the Local Plan shows that the adoption of the Plan is likely to take place later this year. If so, the inclusion of site HS22 to the west of Brookmans Park would mean that the proposed development at Bradmore Way would be unnecessary.

31. For the reasons I have set out in this proof, the Inspector is respectfully urged to dismiss this appeal.

Jed Griffiths MA DipTP FRTPI

Hertford

10<sup>th</sup> January 2023