



Appeal Decision

Site visit made on 26 November 2024

by **C Dillon BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/T0355/W/24/3345911

**Broom Lodge, Stanwell Road, Horton, Windsor and Maidenhead, Slough
SL3 9PA**

- 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 BMP Properties Limited against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/01387/FULL.
 - The development proposed is described as "subdivision of existing residential dwelling into 5 flats (including partial demolition and extension of the dwelling) and erection of 10 no. detached and semi-detached dwellings together with revised access, driveways and landscaping".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. My decision is made in the context of the recent revisions to the National Planning Framework (the Framework) and the main parties' subsequent responses to the relevant parts of this.

Main Issues

3. The appeal site is located within a Green Belt designation. It is located within the setting of Grade I listed "Church of St Michael" (List Entry Number (LEN): 1117644) and the associated Grade II listed "Lych Gate to the North of Church of St Michael" (LEN: 1135966) and Grade II listed "Churchyard Wall to West of Church of St Michael, Stanwell Road" (LEN: 1319363). The main issues for this appeal are therefore:
 - the effect on the character and appearance of the area;
 - whether the appeal proposal will make an appropriate contribution to addressing local affordable housing needs;
 - the effect on the setting, or any features of special architectural or historic interest of the neighbouring listed Church of St Michael, Lych Gate and the churchyard wall to the west of the Church;
 - whether the identified flood risk has been sufficiently assessed and will be appropriately managed;

- whether or not the appeal proposal is inappropriate development in the Green Belt and the effect on openness;
- whether any other harm will arise from the appeal proposal, with particular regard to the effects on climate change, existing trees, the living conditions of prospective residents and the future supply of commercial floorspace; and
- whether any harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances required to justify the appeal proposal.

Reasons

Character and Appearance

4. The appeal site comprises Broom Lodge, a large detached 2 storey dwelling with garden and parking areas, and other adjoining enclosed land beyond. At the time of my site visit that latter part of the appeal site was being used for the external storage of miscellaneous items, not too dissimilar to a scrap yard. This broadly rectangular site is accessed off Stanwell Road, a main route through the village of Horton. Its road frontage boundary is defined by a low brick wall with a very high and dense Laurel hedgerow behind. A high boundary fence, comprising mostly metal sheeting, mature trees and other vegetation separates the appeal site from the mainly grassed recreational ground situated to one side, and ploughed agricultural land located to the rear. A smaller detached dwelling, associated garage and parking area accommodating private and commercial vehicles are located just beyond the remaining side boundary.
5. The appeal site forms part of the more sporadic peripheral part of the village. The spatial distribution of the development of this part of Stanwell Road is fragmented due to the considerable set back position of the Church of St Michael and the intervening position of the recreation ground between the appeal site and remainder of the village.
6. The interior of the appeal site and storage activity is well-screened from public view from both within Horton and the surrounding agricultural land. Therefore, the site largely presents as a secluded, individually designed, large dwelling set within generous grounds on the edge of a village. The neighbouring Church, agricultural land and recreation ground reinforce the rural character of this peripheral part of Horton and provide a greener and more sporadically developed street scene appearance than that found further into the village.
7. The proposed number of residential units will significantly change the spacious, partially undeveloped appearance of the appeal site. The scheme will significantly intensify the amount of built form and human activity across the appeal site. This will alter its tranquil and secluded rural character. Furthermore, the proposed suburban appearance of the proposed house types for Plot Nos 5, 6, 7, 8 and 9 is insufficiently reflective of the attributes that positively define the grandeur of Broom Lodge itself, the informality of the land associated with it and the simplicity and smaller scale of properties nearby. In particular, the combination of steep roof pitches; asymmetrical main gable elevations; unbalanced garage roof planes; overly domineering mansard roof forms; and the scale and placement of chimneys will create a form of

development that will not successfully assimilate with its surroundings.

Moreover, combined with the density proposed and the proposed linking of garages, those design features will further exacerbate the cramped layout and the reduction in the openness provided by the sporadic development of this peripheral part of the village.

8. For these reasons, when taken as a whole the appeal proposal will harm the existing character and appearance of the area.
9. Policy QP1 of the Council's Borough Local Plan 2013 -2033 (adopted 2022) (the Local Plan) requires that all new developments positively contribute to the places in which they are located; be of a high quality design that fosters a sense of place; and conserve and enhance the Borough's rich historic environment. Policy QP3 of that Plan requires that new development respects and enhances the local, natural or historic character of the environment, paying particular regard to the urban grain, layouts, rhythm, density, height, skylines, scale, bulk, massing and proportions.
10. In addition, Policy NP/HOU1 of the Horton and Wraysbury Neighbourhood Plan (2011-2026) (the Neighbourhood Plan) requires that new developments make a positive contribution to the character and sense of place by responding to the local distinctiveness of the area through the appropriateness of its height, layout, scale, massing, design and layout which takes account of location and context. Policy NP/HOU2 of that Plan requires that new development respects the separation, scale, bulk and height of the buildings in the surrounding area unless it can be demonstrated that the proposed development would not harm local character.
11. In view of my findings on this main issue, I conclude that the appeal scheme conflicts with all of these policies.

Affordable Housing

12. The appellant proposes that 5 of the proposed units will be affordable. However, there is no mechanism before me to secure this. Furthermore, the tenure of these flatted units has not been agreed as being reflective of the needs of those on the housing waiting list.
13. During the appeal process the appellant confirmed that no legal agreement had been prepared to secure such provision. No viability assessment has been provided which demonstrates that a policy compliant level of affordable housing provision cannot be borne by the appeal proposal. Given the prescribed tests for conditions, securing a policy compliant level and mix of affordable housing is not a matter that can be satisfactorily addressed through the imposition of a planning condition.
14. In conclusion, the appeal proposal will not make an appropriate contribution to addressing local affordable housing needs. Regardless of the appellant's intentions on this matter, in the absence of an appropriate legal mechanism the appeal proposal conflicts with Policy HO3 Local Plan as it fails to secure the necessary affordable housing provision.

Heritage

15. The Church of St Michael dates back to 12th century. Of particular note are its 3 bay nave with chamfered crown posts and collar purlins; a fine Norman

doorway facing towards the appeal site; and a later north transept and flint tower. Within the chancel is a ledger stone to the mother of the local poet John Milton which dates back to 1637. The Lych Gate is a late 19th century addition to the church grounds dating back to the restoration of the Church. Of particular interest is its timber and brick plinth construction under a plain tiled roof, with natural oak carved and decorated bargeboards. The western churchyard wall dates back to the late 16th century. It comprises buttresses, posts and a coping of sloping bricks with a raised course under and some unusually large bricks. It is what physically remains of Place House, a large mansion on neighbouring land to the Church which was demolished in 1785.

16. The significance of these 3 associated designated heritage assets is mainly derived from the historic architectural, associative and cultural interests of the Church. Whilst listed in their own right, the Lych Gate and churchyard wall also contribute to the historic quality, authenticity and integrity of the setting of this Grade I listed Church. This wall also provides a historic reference to and association with the prior existence of the former neighbouring mansion as well as defining part of the churchyard.
17. A high degree of mutual intervisibility exists between the appeal site and the 3 neighbouring designated heritage assets. This relationship is apparent from within the Church grounds and in either direction along this part of Stanwell Road. As such, the appeal site forms part of the setting of these important heritage assets. This historic juxtaposition currently maintains an important sense of separation between the surrounding built form of Horton and the Church and its grounds and reinforces the rurality of the edge of village setting of these assets, contributing to their significance.
18. The appeal scheme includes the relocation of the existing site access to midway along the frontage onto Stanwell Road; the demolition of part of Broom Lodge; its extension and conversion to provide self-contained 5 flats and car parking, cycle and refuse storage; and the erection of 10 dwellings across the remainder of the site. This will result in the removal of the existing gated entrance, boundary wall and high hedge behind. The existing access to the site will be relocated to a more central position in the frontage of the site. This and the proposed new build dwellings on Plots 1 and 2 will front directly onto these important heritage assets. An intensified use of the site access will arise, commensurate to the occupation of 15 homes.
19. The appeal proposal does not involve any alterations to these neighbouring listed buildings. However, the proposed dense suburban layout, including the forward building lines of Plot Nos 1 and 2, along with the positioning of the new entrance will reduce the existing openness of their mutual setting. It will also bring increased residential activity much closer to them within their setting. This proposed change to the setting will undermine the historic peripheral positioning and the tranquil contemplation and intimacy which this more open rural setting has historically offered to its visitors. This change will reduce the ability to appreciate and experience the historical interest of the role and function of the Church and its component parts in their historic setting.
20. Consequently, the proposal will not preserve the setting of the Grade I listed Church of St Michael or the Grade II listed Lych Gate and the churchyard wall. Therefore, the appeal scheme does not meet the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

21. The identified harm to the setting of these assets transposes to the appreciation and experience of the significance of Church, which enjoys the highest order of listing. The effects on the significance of these listed buildings are of a nature and level which constitute less than substantial harm in the context of the approach of the Framework to heritage matters. In line with paragraph 213 of the Framework, any harm to the significance of a designated heritage asset, including from development within its setting requires a clear and convincing justification.
22. There is no mechanism before me to secure a public benefit in terms affordable housing provision. However, the contribution that the appeal scheme will make to the existing housing land supply shortfall is a public benefit of significant favourable weight. The appeal proposal will also provide an opportunity to secure improvements to the appearance of the existing side and rear boundary enclosures. There will be a more effective use of the existing site in line with paragraph 124 of the Framework. There will be an economic benefit to the local economy arising at both the construction and occupation phases, albeit the level has not been quantified. These matters each weigh moderately in favour of the appeal proposal.
23. In view of the ecological evidence supporting this appeal and, subject to the imposition of a planning condition to secure the proposed enhancements, biodiversity is no longer a matter of dispute between the main parties. The submitted Preliminary Ecological Appraisal confirms that the appeal site is currently of low ecological value but that appropriate enhancements can be secured as part of the appeal scheme. There is no evidence that any protected species or their habitats will be harmed. There is no basis for me to disagree with the Council's revised stance. As such, there is no conflict with Policy NR2 of the Local Plan and Policy NP/OE2 of the Neighbourhood Plan. As the level of benefit arising from the proposed biodiversity net-gain has not been quantified, this benefit carries limited favourable weight.
24. The identified heritage harm, whilst less than substantial, nonetheless carries considerable importance and weight against the appeal scheme. In line with the Framework, I also give great weight to the conservation of these neighbouring listed buildings, including one of Grade I listed status. Overall, the public benefits of the scheme will not outweigh the less than substantial harm to the significance of these neighbouring ecclesiastical designated heritage assets. Therefore, the identified heritage harm to each is unjustified in terms of the national approach to conserving and enhancing the historic environment. For these reasons, overall the appeal proposal will not preserve the setting of the Church of St Michael and the Lych Gate and western churchyard wall but will harm it.
25. Policy HE1 of the Local Plan states that the historic environment will be conserved and enhanced in a manner appropriate to its significance. Development proposals are required to demonstrate how they preserve or enhance the character, appearance and function of heritage assets and their settings, and respect the significance of the historic environment. In view of my findings on this matter, overall the appeal proposal conflicts with this policy.

Flood Risk

26. The submitted flood risk evidence confirms that the appeal site falls within Flood Zone 1 and 2 and is at very low risk of flooding from fluvial or tidal

sources over the lifetime of the development. The appeal site has also been identified as being located in an area at low risk of reservoir flooding. Small, localised areas of low risk surface water flooding have been identified within the appeal site. Another area adjacent to the southern boundary is part of an offsite overland flow route. Stanwell Road, from which sole access is to be taken, is partly located in Flood Zone 2 within the vicinity of the site.

27. Furthermore, the mapping of Flood Zone 2 relative to proposed Plots 1 and 2 is not sufficiently precise. In addition, the latest drainage evidence provided indicates that on-site infiltration is the only viable means of surface water discharge for the site. Although there is a risk of groundwater flooding, a groundwater investigation has not been undertaken to confirm the level of the ground water table at the site and to demonstrate that the proposed permeable paving will be able to perform effectively. There is an absence of any infiltration testing in line with BRE 365 regulations.
28. Therefore, consistent with the Lead Local Flood Authority's concerns, it has not been adequately demonstrated that the submitted drainage strategy will be effective in managing through all stages of the development the 1 in 30 allowance for climate change and 1 in 100 (+ 40% allowance for climate change) storm events and 10% allowance for urban creep. Neither have details been provided of exceedance flow routes (during periods of rainfall greater than design events or during a blockage) or how properties within and beyond the site will be protected from any increased flood risk. This poses uncertainty about whether appropriate onsite drainage flows can be achieved for this specific scheme. The dense layout does not provide scope to address any underperformance. Therefore, the imposition of a planning condition would not meet the prescribed test in terms of reasonableness.
29. Paragraph 175 of the Framework states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk). In the absence of an adequate Sequential Test, the appeal scheme before me does not accord with the national policy approach to assessing and responding to managing flood risk.
30. Overall, it has not been clearly demonstrated that identified flood risk has been sufficiently assessed and will be appropriately managed. The submitted evidence does not provide me with sufficient certainty as to whether this matter could be addressed or not. Consequently, I can only conclude that there is conflict with Policy NR1 of the Local Plan and Policy NP/HOU5 of the Neighbourhood Plan.

Whether Inappropriate Development in Green Belt

31. The Green Belt designation includes the appeal site, the remainder of the village and surrounding countryside. The main purpose of this Green Belt designation is to prevent urban sprawl and keep land permanently open.
32. Policy QP5 of the Local Plan requires that development within villages in the Green Belt is limited to small scale infilling. The supporting text confirms that

amounts to the development of a small gap in an otherwise continuous frontage, or the small scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. Policy NP/HOU4 of the Neighbourhood Plan supports change of use of existing buildings and the redevelopment for residential use, including within the Green Belt. However, it requires that the development concerned should have no greater impact on the openness of the Green Belt than that of the existing building or buildings.

33. The national approach to protecting the Green Belt is set out in the recently revised Framework that postdates the adoption of these local policies and the Council's decision. Nonetheless, it continues to recognise that 'inappropriate' development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also provides some explicit exceptions to development that is not inappropriate development. However, Paragraph 155, provides a new exception, whereby the development of homes should not be regarded as inappropriate where the development would utilise 'Grey Belt' land; would not fundamentally undermine the purposes taken together of the remaining Green Belt; and where there is a demonstrable unmet need for the type of development proposed, the development would be in a sustainable location and where applicable meets the 'Golden Rules'. Consequently, Policies QP5 and NP/HOU4 do not reflect that more recent national policy approach to protecting the Green Belt.
34. Grey Belt is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not 'strongly contribute' to purposes (a) checking the unrestricted sprawl of large built up areas; (b) preventing neighbouring towns merging into one another; or (d) preserving the setting and special character of historic towns. These purposes are set out in paragraph 143 of the Framework. Land does not benefit from Grey Belt status where the application of the policies relating to the areas or assets in footnote 7 of the Framework (other than Green Belt) would provide a "strong reason" for refusing or restricting development.
35. In terms of the status of the appeal site, at the very least it falls within the scope of 'any other land'. In view of my earlier findings on flood risk, the submitted evidence does not indicate that is a matter that provides a strong reason for refusing or restricting development. However, my heritage findings do provide such a strong reason. Therefore, I conclude that the particular circumstances before me mean that the appeal site does not meet the definition of Grey Belt.
36. Overall, the appeal proposal does not meet the terms of paragraph 155 of the Framework as it does not meet the definition of Grey Belt in the first instance. It serves no useful purpose to assess the site against the remaining criteria of that part of the Framework given they form part of an inclusive list.
37. In terms of applying local Green Belt policy, the definition of a continuous frontage does not specifically refer to the built form. The position of both the Church within its grounds and the adjoining recreation ground relative to the positioning of Broom Lodge positively contribute to the openness of this part of the Green Belt. It is not until further into the village, past the appeal site that the continuity of the existing street scene on either side of the road becomes apparent. Therefore, I do not find that the appeal site is located within a

continuous frontage. As such, when interpreted in the context of the purposes of this particular Green Belt designation, the Council's approach is justified. Moreover, the size of the appeal site and the number of new homes proposed do not represent a development that could be reasonably regarded as 'limited'. Therefore, the appeal proposal is not supported by Policy QP5 of the Local Plan in those regards.

38. As the appeal scheme is not limited infilling, neither does it constitute the exception to inappropriate development contained in paragraph 154(e) of the Framework.
39. There is no mechanism before me to secure the affordable housing referred to by the main parties and precise agreed details are not before me. The appeal proposal does not therefore fall within the scope of the limited affordable housing exception to inappropriate development provided for in paragraph 154(f) of the Framework.
40. There is no evidence of a relevant planning permission or Certificate of Lawful Use relating to the use of the rear portion of the appeal site. The definition of previously developed land set out in the Framework excludes residential gardens. However, even if I were to accept the appellant's stance that the proposed scheme represents the partial or complete redevelopment of previously developed land, the appeal proposal must not cause substantial harm to the openness of the Green Belt to meet the terms of paragraph 154(g).
41. The concept of openness has both spatial and visual dimensions. The majority of the appeal site is devoid of buildings. Much of the existing dwelling, its hard standing area and current uses are obscured from view by the high boundary enclosures and vegetation. The sporadically developed appearance and peripheral location of the appeal site and relatively unfettered skyline provide a transition to the countryside and contribute to the openness of this part of the Green Belt in both visual and spatial terms. The appreciation of this openness is evident from short and medium distance vantage points from the Church grounds and recreation ground, across the adjoining agricultural land and upon approach in either direction along Stanwell Road. This is because of the local topography, the juxtaposition of the site with the developed form of the village and the straight alignment of this part of Stanwell Road.
42. The proposed conversion works will not constitute disproportionate additions over and above the size of the original building. Therefore, that component of the appeal scheme falls within the scope of the exception to inappropriate development contained in paragraph 154(c) of the Framework.
43. The proposed conversion works will not notably reduce openness that aspect also complies with Policy NP/HOU4. Nonetheless, the new build element of the appeal proposal will introduce a significantly greater built development from the combination of its footprint, volume and massing in the form of 2 storey dwellings and associated gardens, parking areas, cycle and refuse storage, road and footpath. These will extend across the whole of the site. This scheme will consolidate the built form of the village into parts of the site previously devoid of buildings, eroding the open aspects that form part of the sporadic character and appearance of this part of the Green Belt. Furthermore, the increased built bulk, form and height combined with the massing of the proposed new build houses will substantially reduce the current open skyline

view across the site which affirms the presence of the adjoining undeveloped open agricultural land beyond it. This change will be accompanied by increased activity from prospective occupiers and visitors that can be reasonably expected to be associated with the proposed more intensive residential occupation and use of the site.

44. Overall, the proposed new build houses will substantially reduce both the visual and spatial sense of openness of the Green Belt. This constitutes substantial harm to its openness. Therefore, even if I accept that the appeal site is previously developed land, when assessed as a whole the appeal scheme does not meet the terms of paragraph 154(g) of the Framework.
45. Neither does the appeal scheme comply with any of the development exceptions contained in Policies QP5 and NP/HOU4 or the Framework.
46. Therefore, I conclude that the appeal proposal is inappropriate development which is harmful by definition.
47. The Council has assessed that the appeal site does not strongly contribute to the purposes of this Green Belt designation. However, from my findings it remains that the acceptance of this particular scheme will still undermine those purposes given the density, scale, massing, layout and design of the combination of the proposed new build houses and supporting ground level development.
48. Each of these harms to the Green Belt weigh substantially against the appeal scheme. Consistent with the Framework, Policy QP5 of the Local Plan directs the decision-maker to resist inappropriate development in the Green Belt except in very special circumstances.
49. According to paragraph 153, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. I address this matter of balance later.

Climate Change

50. The Council declared a climate emergency in June 2019. The Council's Interim Sustainability Position Statement (ISPS) has been superseded by a Sustainability Supplementary Planning Document subsequent to their decision to refuse planning permission. This provides guidance on how sustainable development will be secured in line with Policy SP2 of the Local Plan as part of the Council's response to climate change.
51. Even if I were to find that there is sufficient information before me to accurately calculate the Carbon Offset Fund requirement, no legal agreement has been provided to secure that necessary mitigation. Furthermore, no viability assessment has been provided which demonstrates that contribution cannot be borne by the appeal proposal. Again, this is not a matter that can be adequately addressed through a planning condition which meets the prescribed tests for conditions. The appeal scheme therefore does not accord with Policy SP2 of the Local Plan.

Existing Trees

52. The existing trees along one side and rear boundary of the appeal site currently play an important role in screening parts of it from external public views. Policy NP/OE1 of the Neighbourhood Plan states that development should amongst other things protect and enhance landscape features such as existing trees. These trees would need to be retained in the interests of safeguarding the character and appearance of the area and conforming with this policy.
53. However, from the submitted layout and my site observations the proposed new hard surfacing and buildings lines of Plot Nos 5, 6 and 7 will fall close to and partly within the root protection zones of trees on the northern and western boundaries, including the identified Category B Trees. It has not been adequately demonstrated that the close proximity of these parts of the appeal scheme to those trees will not hinder their future growth and health. Furthermore, it has not been sufficiently evidenced that these trees will not cause unacceptable overshadowing and loss of light to the usable parts of the rear gardens and ground floor habitable rooms of Plot Nos 5, 6 and 7.
54. Overall, an acceptable spatial relationship between the proposed dwellings and existing trees has not been demonstrated. Policy NR3 of the Local Plan requires that new development proposals carefully consider the individual and cumulative impact of proposed development on existing trees, including those that make a particular contribution to local character and distinctiveness. To avoid future nuisance, it also requires that adequate space shall be allowed for existing trees to grow. Policy QP3 of the Local Plan requires that all new development protects trees worthy of retention and has no unacceptable effect on the living conditions enjoyed by the occupants of adjoining properties in terms of light and access to sunlight and daylight. In view of my findings on this matter, the appeal proposal conflicts with these policies.

Living Conditions of Prospective Occupants

55. Insufficient communal amenity space is incorporated into the scheme to serve the needs of future occupants of the proposed first floor flatted development. The scheme does not fully conform to the separation distances specified in the Residential Design Guide (2020). As a consequence, the first floor nature and positioning of Plot No 15 relative to the rear of Plot No 10 will result in a high level of overlooking and perception of surveillance. Plot No 2 will endure a similar issue. The proposed positioning of the cycle and bin store falls in close proximity to the front elevation of Plot No 10. This too represents an unsatisfactory relationship for future occupants of that dwelling in terms of noise, disturbance and odours.
56. It has not been demonstrated that the shortfall in external private outdoor space can be offset by the availability of public provision nearby. Although obscurely glazed balcony panels and boundary landscaping may go some way to reducing these harmful effects on the living conditions of future residents, they are contrived responses to what amounts to the poor internal relationships which indicates that to me that this is not a well-designed scheme.
57. Overall, I conclude that the proposed development fails to provide a sufficiently good standard of accommodation for all future occupiers of the scheme. Consequently, there is conflict with Policy QP3 of the Local Plan which requires that new development provides sufficient levels of high quality private amenity

space. It requires that there should be no unacceptable effect on the amenities enjoyed by the occupants of adjoining properties in terms of smell, privacy and disturbance. It also requires that adequate measures for the storage of waste are integrated into the scheme to minimise visual impact. Furthermore, there is conflict with Policy NP/HOU1 of the Neighbourhood Plan as it requires a locally appropriate design and layout which takes account of the location of the site and its context, including the buildings in its immediate vicinity. These conflicts could not be satisfactorily resolved through the imposition of planning conditions.

Supply of Commercial Floorspace

58. From the submitted evidence, which includes the planning history of the appeal site, the lawfulness of the commercial use is unclear. Therefore, I do not concur that it has been demonstrated that an unjustified loss in commercial floorspace will arise which is in conflict with Policy ED3 of the Local Plan.

Whether Very Special Circumstances Exist

59. The identified heritage harms have not been justified and do not meet the provisions of the Act. I give considerable importance and weight to that finding and great weight to the conservation of those neighbouring designated heritage assets.
60. The appeal proposal represents inappropriate development in the Green Belt, which is harmful by definition. It will also cause harm from the reduction in its openness. In line with paragraph 153 of the Framework, the harm to the Green Belt carries substantial weight against the appeal scheme.
61. I attribute substantial weight to the identified harm to the character and appearance of the area. The harm associated with the existing trees, living conditions of occupants of the appeal scheme and potential for flood risk each weigh moderately against the appeal proposal. In this case, the harms arising from the failure to comply with the adopted affordable housing and carbon offsetting requirements each carry limited weight against the appeal proposal. This is because there is no basis to indicate that these could not have been secured had a legal agreement been submitted.
62. The contribution to the current housing land supply shortfall is a benefit which carries substantial favourable weight. For the reasons set out earlier, the identified economic benefits, visual improvements to the existing boundary treatment and more effective use of the existing site each carry moderate favourable weight. The potential for a biodiversity net-gain carries limited favourable weight as the level to be provided is uncertain.
63. The demonstration of very special circumstances is an extremely high policy bar to exceed. Overall, I conclude that these other considerations do not 'clearly outweigh' the harm identified by reason of inappropriateness and those other identified harms.
64. Therefore, the very special circumstances required to justify this proposal do not exist in this instance. As such, the appeal proposal conflicts with paragraph 153 of the Framework. Moreover, the appeal scheme conflicts with Policy QP5 of the Local Plan in this regard.

Conclusion

65. For the reasons set out earlier, I have found that overall the appeal proposal does not accord with Policies HE1, HO3, NR1, NR3, QP1, QP3, QP5 and SP2 of the Local Plan and Policies NP/HOU1, NP/HOU2, NP/HOU4, NP/HOU5 and NP/OE1 of the Neighbourhood Plan. The nature and level of those conflicts is such that the appeal proposal does not accord with the development plan taken as a whole.
66. In view of my findings relating to heritage and Green Belt matters, the application of policies in the Framework that protect areas or assets of particular importance provide strong reasons for refusing the development proposed. Therefore, the presumption in favour of sustainable development of the Framework is not met in this instance.
67. In conclusion, the conflict with the development plan as a whole is not outweighed by any material considerations, including the substantial weight afforded to the contribution that the scheme will make to the existing shortfall in the housing land supply for the area. Therefore, the appeal should be dismissed.

C Dillon

INSPECTOR