

Appendix 2: Grey Belt Case Law

Examples of recent decisions

Ministerial Decisions

M56 Motorway Service, Tatton, Cheshire – SOS agreed with Inspector's conclusion to approve and decided to grant planning permission for Erection of a Motorway Service Area (MSA), demolition of all existing buildings except for the retention and conversion of one residential building (existing farmhouse) and the part retention and conversion of the Eastern Barn for MSA operational purposes, including associated access and buildings (Amenity Building, MSA Hotel and Fuel Filling Station including photovoltaics and ancillary structures), Service Yard, parking for all categories of vehicle (including electric vehicle charging), open space, landscaping and planting, drainage, vehicular circulation, pedestrian and cycle links (including diversion of cycle track) and earthworks/enabling works [Reference: APP/R0660/V/24/3345318](#)

Land off Bedmond Road, Abbots Langley – SOS agreed with Inspector's conclusion to approve and decided to grant planning permission for 84,000 sqm. (GEA) data centre and country park [Reference: APP/P1940/W/24/3346061](#)

Inspector and LPA decisions

North-West Harpenden, St Albans – committee approved development for 550-home residential scheme with community facilities [2023-0327 North West Harpenden.pdf](#)

Surrey Heath – appeal allowed for 135 homes including a minimum 50% affordable homes, with associated landscaping, parking, open space, play areas, etc; and the construction of a new vehicular access [Reference: APP/D3640/W/24/3347530](#)

South Mimms, Hertfordshire – committee approved development for Data Centre (Use Class B8) comprising of up to 187,000 sqm. Including ancillary offices, internal and external plant and equipment (including flues) and substation (external plant excluded from maximum floorspace). Provision of car parking; servicing areas; associated services (including waste, refuse, cycle storage, lighting); laying out building, routes and open spaces within the development [20250123PL-5A Land East of South Mimms Report.pdf](#)

Basildon District Council – committee approved development for 250 homes; new vehicular access off Laindon road; new pedestrian and cycle access points; together with car parking, landscaping / green infrastructure, surface water drainage basins and associated works [BASILDON DISTRICT COUNCIL](#)

Burcot Farm, Oxford – appeal allowed for 49.9MW solar farm with co-located battery energy storage scheme [Reference: APP/Q3115/W/24/3350890](#)

Wrotham Water Farm, Tonbridge and Malling – appeal allowed for 24-hour truck stop facility for up to 200 HGVs incorporating fuel station, amenity building of up to 1,100 sqm, creation of new access to A20, landscaping and other works [Reference: APP/H2265/W/24/3347410](#)

Tonbridge and Malling – appeal allowed for 57 dwellings with a children’s day nursery, access and open space [Reference: APP/H2265/W/24/3346228](#)

Tandridge – appeal allowed for infill 2-3 dwellings [Reference: APP/M3645/W/24/3347815](#)

Tandridge – appeal allowed for gypsy caravan site and 6 day room chalets [Reference: APP/M3645/W/23/3331609](#)

Windsor & Maidenhead – appeal dismissed for conversion of dwelling to five flats and ten new dwellings [Reference: APP/T0355/W/24/3345911](#)

Guildford – appeal dismissed for Three dwellings, extension to commercial building and access [Reference: APP/Y3615/W/24/3352713](#)

St Albans – appeal dismissed for 12 bungalows [Reference: APP/B1930/W/23/3325998](#)

Grey Belt and appropriateness tests

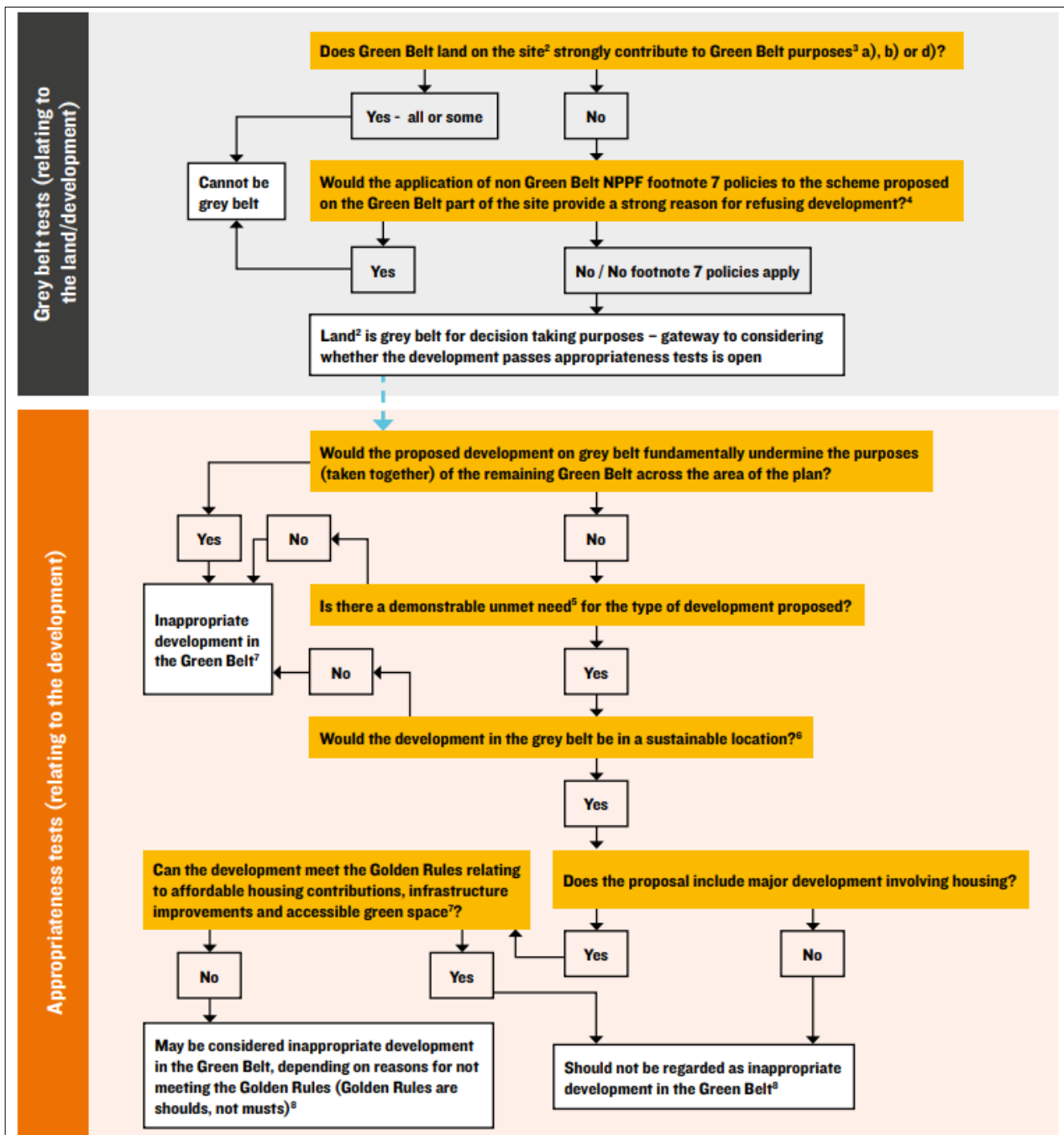


Figure 1: Grey Belt Development Assessment (Lichfields, 2025)

Considering recent decisions and steps outlined in Grey Belt Guidance Note:

Step 1:

- Based on the recent planning reforms and approach to Grey Belt, the previous Grey Belt Assessment (GBA) undertaken by the authority is no longer fit for purpose. SBC is currently working with neighbouring authorities

to produce an updated GBA but until this is complete applications will require a site-specific Green Belt Assessment and judgement on harm to green belt.

Step 2:

- Assess purposes a), b) and d) of the NPPF Green Belt purposes and the contribution that the site and any relevant parcels or sub areas make to each of these:
- **Purpose a) to check the unrestricted sprawl of large built-up areas**
 - Check how much of the application site is within Green Belt sub areas, for sub areas use Stage 2 [Report](#)
 - Assess physical properties of the site – no encroachment of features such as woodland and topographically contained for example being within a natural feature such as a valley
 - Is there a strong relationship to existing built area
 - Are there new features as a result of development - new woodland park creating a physical edge which limits sprawl
 - Prominent topographical, natural and physical infrastructure features within close proximity to the site weaken its contribution
 - Judgement if development is contained, has a defined edge and relationship to existing built area means its contribution to checking unrestricted sprawl is weak
- **Purpose b) to prevent neighbouring towns merging into one another**
 - Is site within a sub area that acts as a strategic gap or space between higher tier settlements i.e. towns
 - If within a strategic gap or space will any small to medium reduction compromise the separation of settlements considering physical and visual terms, and overall openness. Use Landscape and Visual Impact Assessment if available.
 - Assess contribution to physically separating from neighbouring built up areas – towns only
 - If reduction in gap or space is judged not of sufficient scale to result in physical or perceptual merging between the neighbouring built up areas contribution to this purpose is not strong
- **Purpose d) to preserve the setting and special character of historic towns**
 - Does site abut an identified historic place?
 - Does site have views to a historic place?
 - If the above is not met the contribution to this purpose is weak

If land strongly contributes to NPPF Green Belt Purposes a), b) or d) it cannot be Grey Belt

If land does not strongly contribute to NPPF Green Belt Purposes a), b) or d) move to step 3

Step 3: Application of Footnote 7

- Check if any land within site boundary falls within the designations under footnote 7 of the NPPF (excluding Green Belt) and which would form a *strong* reason for refusal
- SBC this includes:
 - Sites of Special Scientific Interest
 - SPA, SAC or Ramsar
 - Local Green Space (emerging Local Plan)
 - Areas at risk of flooding
 - Conservation Areas
 - Scheduled Ancient Monuments
 - Nationally Listed Buildings/Structures (& curtilage)
- Consider which of the policies within footnote 7 if in conflict would present a strong reason for refusing or restricting development
- Substantial conflict with national policy will often constitute a strong reason for refusal

If policies within footnote 7 apply it cannot be Grey Belt

No policies within footnote 7 apply move to step 4

Step 4: Identification of grey belt land

- Following steps 2 and 3 if relevant parcels or sub areas of land are deemed to not contribute strongly to purposes a), b) or d) and
- application of footnote 7 policies (other than Green Belt) does not provide a strong reason for refusal; land can be identified as grey belt.

Land being determined as Grey Belt opens gateway for considering whether the development passes appropriateness tests move to step 5

Step 5: Impact on the remaining Green Belt (appropriateness tests)

- Assess how the site meets criteria to determine if development is appropriate:
- **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**
 - Through undertaking steps 2 and 3 it will be determined if the site is Grey Belt and therefore utilising Grey Belt land
 - What percentage of the Green Belt would be lost? Considering both scale and function
 - Does the site, relevant parcels or sub areas make an important contribution to the strategic function of the Green Belt?
 - What is the level of site containment?

- Is the impact localised?
- How would the openness of the Green Belt be impacted? What is the size of the built form as a proportion of the overall site?
- Has a Landscape and Visual Impact Assessment been submitted with the application? Does this outline any landscape and visual impact in respect to openness?
- Effect on the perception of openness within the wider Green Belt?
- Are planting and landscaping mitigations proposed?

If site does utilise grey belt land and does not fundamentally undermine purposes of remaining green belt move to criteria b). If not utilising grey belt land and/or fundamentally undermining remaining Green Belt it is inappropriate development

- **b) There is a demonstrable unmet need for the type of development proposed**

- Housing Delivery Test figure
- Does the authority have a five year supply of housing
- Particular need for certain types and tenure of housing being met
- Meeting requirements of Local Plan policies
- Meeting employment land needs

If no it is inappropriate development in Green Belt, if yes move to criteria c)

- **c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of NPPF**

- Is site in a sustainable location
- Does the proposal include sustainable transport improvements
- Does the proposal encourage alternative methods of transport

If no it is inappropriate development in Green Belt, if yes move to Para 156 of NPPF

- **Para 156 Does the proposal include major development involving housing?**

If no it should not be regarded as inappropriate in Green Belt, if yes, the following golden rule requirements need to be met

- **a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of the Framework; or (ii) until such policies are in place, the policy set out in paragraph 157**
 - For Major Development does the affordable housing provision meet the minimum of 50% unless this would make the development of these sites unviable as set out in paragraph 67 of the Framework
- **b. necessary improvements to local or national infrastructure**
 - Contributions to primary, secondary or sixth form education
 - Contribution to library services
 - Contribution to youth services
 - Extra care housing
 - Highway improvements

- Active travel improvements
- Sports facilities
- NHS services
- **c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces**
 - Open space embedded into design
 - Any deficit of amenity green space, parks and gardens, and multi-functional green space in the area
 - How much amenity green space would proposal provide?
 - How much natural and semi-natural green space would the proposal provide?
 - Would the proposal provide parks and gardens?
 - Do submitted plans cover provision of planting, woodland, green corridors, grassland, meadows or wetland?
 - Any provision of allotments, children play areas and playing pitches?
 - What percentage of multi-functional green space covers the total site area?

If a site is grey belt and **fulfills all** of the golden rules criteria development is not regarded as inappropriate

If a site is grey belt and **does not fulfill all** of the criteria depending on the reasons for not meeting the golden rules criteria it may be considered inappropriate development in the Green Belt. Golden rules are 'should' not 'musts'.