
Headline findings

1. Since the NPPF changes in 2024 introduced grey belt policy, there has been a significant number of successful appeals against rejected planning applications in the Green Belt. It appears that the policy change has stimulated a flurry of appeals in cases that were refused prior to grey belt being introduced.
2. Almost all of the major appeal cases that were deemed to qualify as grey belt have been approved, and in most cases these are greenfield sites. The cases we examined that have been determined since the policy was introduced provide 1,250 homes, of which just 152 are on previously developed land. Non-residential appeals have permitted 421 hectares of greenfield development and 77 hectares of brownfield development. A majority of the commercial developments approved have been for renewable energy and battery storage.
3. The notion that grey belt policy is intended to enable the re-use of derelict land in the Green Belt – as it was communicated by government on its introduction – contrasts sharply with a strong greenfield emphasis to what is being approved. Of the grey belt cases approved, 10 sites (77% of the total) are greenfield, and these greenfield sites will accommodate the vast majority of the housing to be built (88%). The cases we examined that have been determined since the policy was introduced provide 1,250 houses, of which just 152 are on previously developed land, brownfield (12%).
4. The Golden Rules do appear to be having a positive impact on the proportion of affordable housing being brought forward, with appellants increasing their affordable housing delivery in order to meet the test. The approved appeal cases provide 47% affordable homes overall, compared to the UK average of 34%. Only about a third of these affordable homes are expected to be social housing (32%). However, it remains to be seen whether this housing will be delivered in practice as the schemes are built out.

Purpose of the analysis

CPRE commissioned this research to understand the impact of the 'grey belt' policy on planning decisions affecting Green Belt, since the introduction of a 'grey belt' policy in the National Planning Policy Framework (NPPF) in December 2024.

In particular, the research focuses on planning appeals that have been made against a local council's decision to refuse permission. This means that if a council refuses permission for a planning proposal and a developer appeals against the decision, it then goes to the Planning Inspectorate to either approve or dismiss the appeal. Our research investigates 'major development' cases, which for residential means 10 or more housing units.



This research aims to establish:

- how the introduction of grey belt policy has affected planning appeal decisions since its introduction on 12 December 2024;
- whether the policy is leading to an increased likelihood of development being allowed in the Green Belt on appeal;
- whether these planning appeals are on previously developed land, known as brownfield, or on greenfield land, both within the Green Belt;
- whether grey belt development approved on appeal is fulfilling the 'Golden Rules'.

PART ONE: METHODOLOGY

Methodology stage 1: Compass database search and filtering

A Compass search for major appeals with the key words 'grey belt' from 12/12/2024 - when the policy was introduced formally into NPPF – returned 190 results. To narrow this down to cases where the decisions were likely to be significant – in terms of understanding on-the-ground impact or in shaping future decisions – the following filters were applied:

- An award of costs on an allowed case (suggesting difficult or contested deliberations);
- Residential appeals for more than 50 dwellings;
- Residential appeals for 10-49 dwellings;
- Residential appeals for specifically affordable and/or specialist housing and Gypsy Traveller sites;
- In non-residential categories, selecting larger development proposals for offices, warehouses, data centres, manufacturing, energy, infrastructure, and minerals;
- Removing duplicate cases returned in more than one of those filters provided a working list of 20 residential and 19 non-residential appeals schemes. These 39 cases were submitted for analysis.

Methodology stage 2: Case-by-case analysis

Generally, the analysis has relied on reading the Inspector's or Secretary of State's decision. Where necessary, a closer look at the planning application documentation has been needed, for example to establish land hectarages.

For each case, the spreadsheet entry records:

- the local authority application URL for easy future reference;
- whether the scheme has been deemed to be grey belt;
- whether the appeal was allowed or dismissed;

- whether the refusal was made against an officer recommendation to approve;
- a brief summary of the decision reasoning.

Additionally, for residential appeals, the spreadsheet entry records:

- the tenure mix of the dwellings*;
- whether the Golden Rules were deemed to be met.

For non-residential appeals, the greenfield/brownfield split was recorded where possible.

* The tenure mix has been determined either from the decision letter or, if not clear there, using the S106 agreement or affordable housing statement. Where it has not been possible to find the tenure mix from these sources, the social rent element has been estimated at 35% (approximately half of the remainder after First Homes are provided). If the Inspector has not confirmed that a legal agreement is in place to secure affordable homes, then the affordable provision must be assumed at zero.

PART TWO: ANALYSIS

1. Analysis: Residential and mixed-use appeals

Almost all (13 out of 15) of the housing appeal cases that were deemed to qualify as grey belt have been approved (86%) and of the grey belt cases approved, the vast majority of the housing will be built on greenfield sites (88%). The cases we examined that have been determined since the policy was introduced provide 1,250 houses, of which just 152 are on previously developed land, brownfield (12%).

5 out of the 20 appeals were deemed not to be grey belt, of which 2 were allowed. Specifically:

- One was Previously Developed Land (PDL) but was dismissed, as it was deemed to cause substantial harm in relation to Green Belt purpose (c);
- One was allowed based on very special circumstances, where beneficial impact on the openness of the Green Belt weight in its favour.

15 appeals were deemed to be grey belt, of which 13 were allowed. Specifically:

- A dismissed appeal met the grey belt criteria as a whole but failed the Golden Rules.

All the allowed appeals were deemed to meet the Golden Rules apart from a small Gypsy Traveller site.

2. Analysis: Non-residential appeals

6 appeals were found to not to be grey belt, of which 1 was allowed. Specifically:

- Two met the definition of grey belt but failed the tests in NPPF para 155;

- One was found to strongly contribute to Green Belt purpose (a) and therefore did not qualify as grey belt;
- One could have qualified as grey belt, but the appellant had not made a case for it to do so;
- The allowed appeal failed the grey belt definitions and the tests in NPPF para 155, but the Inspector found that very special circumstances existed to outweigh the harm to the Green Belt.

13 appeals were found to be grey belt, of which 12 were allowed. Specifically:

- The dismissed appeal was partially on previously developed land and also met the grey belt definitions but failed the tests in NPPF 154(g) and 155(c) as it was deemed to be in an unsustainable location for commercial buildings.

Therefore, in fact only 2 of the 19 non-residential appeals were for sites that did not meet the definition of grey belt.

3. The Golden Rules

The residential appeal cases delivered an overall percentage of 47% in affordable tenures (noting that these include First Homes for sale) which is a significant uplift compared to the 2023-4 UK average of 34%¹ With 8 out of the 13 allowed appeals being outline permissions there is a risk that not all of the affordable units will ultimately be delivered, although Inspectors were rigorous in not giving weight to affordable housing that was not secured by a condition or legal agreement. There were several cases where the appellant increased the affordable housing delivery in order to meet the Golden Rules and therefore remove the need to show very special circumstances. In principle at least, this does indicate that the Golden Rules are operating as intended at this early stage in their life.

Approximately about a third of these affordable homes are expected to be social housing (32% of the affordable homes). The approval on appeal of 1,250 homes in total includes approx. 189 social rent homes (15% of the overall total of housing approved) .

4. How the grey belt definition and NPPF para 155 are being applied

There was only one case that featured lengthy deliberation about whether affected settlements should be considered towns or villages, to deal with Green Belt purpose (b). This is unsurprising because in most instances Local Plan settlement hierarchies will provide a pre-existing frame of reference. Purpose (d) can also be applied in a binary way because it is well-established as to whether or not an affected town qualifies as 'historic'. Consequently,

¹ <https://www.gov.uk/government/statistics/affordable-housing-supply-in-england-2023-to-2024/affordable-housing-supply-in-england-2023-to-2024>

most often the disagreement and deliberation for whether the definition of grey belt is met has been around how strongly Green Belt purpose (a) – preventing the sprawl of large urban areas - is being fulfilled.

The NPPF definition of grey belt is open to interpretation. Inspectors appear to be finding that the word ‘strongly’ reduces the weight given to purposes (a), (b) and (d), whilst the weight given to purpose (c) remains unchanged. Therefore, a site that is contributing strongly to purpose (c) may still not be deemed grey belt even if it does not contribute strongly to purposes (a), (b) or (d).

In APP/B1930/W/24/3338501 (115 homes at Lye Lane, St Albans – dismissed) the Inspector found that substantial harm to purpose (c) would fundamentally undermine the purposes of the Green Belt, and that the site therefore did not qualify as grey belt. By contrast, in APP/A1910/W/24/3345435 (390 homes at Leighton Buzzard Road, Hemel Hempstead – allowed) the Inspector found that *“Even though there is moderate harm to purpose (c), the evidence before this Inquiry does not indicate that the appeal site has a wider strategic role in the functioning of the Borough’s Green Belt as a whole.”*

Comparing these two cases it appears that – other things being equal – the level of harm to purpose (c) can become a deciding factor as to whether a scheme qualifies as grey belt. It is important to note here that the Inspectors in these two cases were assessing *harm* to purpose (c), which can vary according to the nature of the proposal. A large housing scheme is likely to cause more *functional* harm to the openness of the Green Belt than would, say, a solar farm; because the housing will populate the area with people and traffic, whereas the harm caused by a solar farm is principally *visual*. Consequently, there is potential for a judgement as to whether a scheme qualifies as grey belt under NPPF 155(a) to be influenced not just by the location of the site, but also by what form of development is proposed.

Inspectors appear to be consistent in ensuring that all four criteria in NPPF para 155 are met if a scheme is not to be deemed inappropriate development. 155(a) requires that a scheme should qualify as grey belt, there are two interesting cases that set the standard here.

In APP/Z2315/W/25/3363564 (battery storage facility, Padiham - dismissed), the Inspector used 155(a) as a gateway test, whereby failing this test means the development remains inappropriate and no further consideration of the question is necessary:

“The first consideration under paragraph 155a is whether the development would utilise ‘grey belt’ land. If it would not, it is not necessary for the other criteria, including the remainder of 155a to be considered.”

In APP/T3725/W/24/3347315 (renewable energy park, Kenilworth – allowed) the Inspector made clear that 155(a) requires an assessment against all five Green Belt purposes:

“(155a) [requires] that the development would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. This goes beyond a judgement relating to purposes a, b, and d. Purposes c and e are brought into play.”

5. Greenfield/brownfield split

For most of the non-residential cases it has been straightforward to find the greenfield/brownfield split within each case, which indicates a total of 375ha of greenfield and 31ha of brownfield land being approved for development through appeals deemed to be in grey belt – an 8% brownfield ratio. 346 of the 375ha are for solar and battery schemes. As a general pattern, national need for renewable energy is carrying substantial weight in terms of the 'unmet need for the type of development' test in NPPF para 155(b), which helps to explain the uptick in these proposals being pursued at appeal.

By contrast, 1,250 homes were granted permission through the sample of appeals. With residential development it is difficult to robustly establish the greenfield/brownfield split in terms of hectareage, but only three of the allowed appeals appear to be on Previously developed Land (PDL) and account for 152 of the dwellings allowed on appeal.

Even if the new homes were 100% greenfield land at a traditionally low gross development density of 20 dwellings per hectare, this would amount to 66ha of greenfield land. This would indicate that housing is accounting for only around 15% of the total greenfield land-take resulting from successful grey belt appeals, with renewable energy sites having by far the biggest grey belt land-take.

A finding that seems anomalous is a dramatic variation in the land-take associated with different solar and battery storage schemes: at one extreme, a 50MW solar farm with associated battery storage occupying 1.7 hectares; and at the other extreme a scheme of the same energy capacity occupying 105.8 hectares.

Planning Committee interventions

4 of the non-residential appeals were refused by committees against officer recommendation, of which 1 (non-grey belt) was dismissed and 3 were allowed by the Secretary of State. None of the residential appeals were refused against officer recommendation.
