

**THE GREY BELT / GREEN BELT DEBATE -  
WHAT THE MOST RECENT CASES AND  
DECISIONS TELL US.**

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# THE STRUCTURE OF PRESENTATION

1. THE POLICY REVOLUTION – NPPF DECEMBER 2024 AND GREY BELT
2. THE STATUTORY AND POLICY FRAMEWORK – PARAS 148, 155–158, FOOTNOTES 7 AND 55, AND THE PPG
3. THE KEY LEGAL QUESTIONS EMERGING
4. THE HIGH COURT DECISIONS – MOLE VALLEY AND WROTHAM
  1. SECRETARY OF STATE DECISIONS – MARLOW FILM STUDIOS
  2. APPEAL DECISIONS – THE APPEALS ALLOWED ON GREY BELT
  3. RECURRING THEMES AND THE GOLDEN RULES IN PRACTICE
  4. THE COSTS DECISION – RADLETT
5. KEY LESSONS AND PRACTICAL TAKEAWAYS
6. QUESTIONS AND DISCUSSION

# THE POLICY REVOLUTION - NPPF DECEMBER 2024

- ▶ On 12 December 2024 the Government published a substantially revised NPPF.
- ▶ Introduction of the “grey belt” concept - the most significant relaxation of Green Belt restrictions since the war.
- ▶ Key changes to Green Belt policy:
  - ▶ New definition of “grey belt” in the Glossary.
  - ▶ New paragraph 155 - exception to inappropriate development.
  - ▶ New paragraphs 156-158 - the “Golden Rules”.
  - ▶ Revised paragraph 148 - order of priority for release.
  - ▶ New footnote 55 - openness carve-out.
- ▶ Designed to unlock land for housing, infrastructure, commercial and other development.
- ▶ Followed by PPG guidance on grey belt in February 2025.

# WHAT IS “GREY BELT”? - THE NPPF DEFINITION

- ▶ From the NPPF Glossary:
  - ▶ “For the purposes of plan-making and decision-making, ‘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 any of purposes (a), (b), or (d) in paragraph 143.”
  - ▶ “‘Grey belt’ 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.”
- ▶ The Green Belt purposes (paragraph 143) referenced are:
  - ▶ (a) to check the unrestricted sprawl of large built-up areas;
  - ▶ (b) to prevent neighbouring towns merging into one another;
  - ▶ (d) to preserve the setting and special character of historic towns.
- ▶ Note: purpose (c) - safeguarding countryside from encroachment - is deliberately OMITTED.
- ▶ “Strongly contribute” replaced “limited” contribution from the consultation draft - a lower threshold.

## PARAGRAPH 155 - THE NEW EXCEPTION TO INAPPROPRIATE DEVELOPMENT

- ▶ Development of homes, commercial and other development in the Green Belt should NOT be regarded as inappropriate where ALL of the following apply:
  - ▶ (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;
  - ▶ (d) where applicable, the development proposed meets the “Golden Rules” set out in paragraphs 156-157.
- ▶ All four limbs must be satisfied - cumulative, not alternative.
- ▶ Paragraph 158: development complying with the Golden Rules is to be given “significant weight” in favour of the grant of permission.

## THE GOLDEN RULES - PARAGRAPHS 156-157

- ▶ Paragraph 156 - Major housing development on Green Belt land released through plan or decision should provide:
  - ▶ (a) affordable housing in accordance with paragraph 157;
  - ▶ (b) necessary improvements to local or national infrastructure; and
  - ▶ (c) the provision of new, or improvements to existing, green spaces accessible to the public.
- ▶ Paragraph 157 - Affordable housing requirement (transitional):
  - ▶ Until plan policies are updated, the contribution = 15 percentage points above the highest existing affordable housing requirement which would otherwise apply.
  - ▶ Capped at a maximum of 50% affordable housing.
- ▶ Paragraph 159: nature recovery considerations on Green Belt release.
- ▶ 50% affordable housing is emerging as the standard on grey belt sites.

# ORDER OF PRIORITY FOR GREEN BELT RELEASE - PARAGRAPH 148

- ▶ Paragraph 148 establishes a clear hierarchy for plan-making and decision-taking on Green Belt release:
  - ▶ FIRST: previously developed land (PDL), whether in the Green Belt or grey belt.
  - ▶ SECOND: grey belt land which is not previously developed.
  - ▶ THIRD: other Green Belt land (the “remainder”).
- ▶ The hierarchy reinforces a presumption in favour of brownfield-led release.
- ▶ Plan-makers must demonstrate they have considered each tier in turn.
- ▶ For decision-takers, the hierarchy informs the assessment of whether the release would “fundamentally undermine” remaining Green Belt purposes (paragraph 155(a)).

## FOOTNOTE 7 AND THE GREY BELT EXCLUSION

- ▶ Footnote 7 lists policy designations that “may provide a clear reason for refusing the development proposed”:
  - ▶ Habitats sites and/or sites protected under the Wildlife and Countryside Act 1981.
  - ▶ Land designated as a National Landscape (formerly AONB), National Park or within the Broads.
  - ▶ Designated heritage assets (and other heritage assets of archaeological interest).
  - ▶ Areas at risk of flooding or coastal change.
- ▶ Land is excluded from being “grey belt” if the application of footnote 7 policies would provide a strong reason for refusing or restricting development.
- ▶ Wrotham PC (2026) clarifies: in decision-taking the test is applied to the actual development proposed, not hypothetical development.
- ▶ “Refusing” = decision-taking; “restricting” = plan-making.

## FOOTNOTE 55 - THE OPENNESS CARVE-OUT

- ▶ Paragraph 153 (general) - substantial weight is given to harm to openness when considering Green Belt proposals.
- ▶ Footnote 55 modifies that for grey belt and PDL:
  - ▶ “Other than in the case of development on previously developed land or grey belt land, where development is not inappropriate...”
- ▶ Effect: where grey belt or PDL development is “not inappropriate” under paragraph 155, no “substantial weight” assessment of openness harm is required.
- ▶ Mole Valley DC (2025) confirms this is consistent with the long-standing position in Lee Valley Regional Park Authority v Epping Forest DC [2016]: development which is not inappropriate is not, by definition, harmful to openness.
- ▶ Footnote 55 provides “practical clarification” - it does not weaken the principle, it confirms it.

# THE PPG ON GREY BELT (FEBRUARY 2025)

- ▶ MHCLG published Planning Practice Guidance on grey belt on 27 February 2025.
- ▶ Key guidance on assessing whether land is grey belt:
  - ▶ The grey belt assessment is a matter of planning judgement based on evidence.
  - ▶ “Strongly contribute” is a higher bar than mere contribution - contribution must be of significant degree to a Green Belt purpose.
  - ▶ Decision-makers should focus on the contribution of the LAND itself to the relevant purposes.
  - ▶ The presence of physical features, containment, and existing development can reduce contribution.
  - ▶ Authorities are encouraged to commission Green Belt reviews / assessments to identify grey belt.
- ▶ PPG indicates the assessment is site-specific - there is no national mapping exercise.
- ▶ Local Green Belt assessments (e.g. AECOM Bucks GBA) are increasingly relied on by Inspectors.

# THE KEY LEGAL QUESTIONS EMERGING

- ▶ Four questions have dominated the early case law:
  - ▶ 1. What does “strongly contribute” mean? Where is the threshold pitched?
  - ▶ 2. Is the assessment focused on the LAND or on the DEVELOPMENT proposed?
  - ▶ 3. How does the footnote 7 test operate in decision-taking vs plan-making?
  - ▶ 4. Does “openness” remain a separate test for grey belt development that is “not inappropriate”?
- ▶ The High Court has now answered (3) and (4): see *Mole Valley* and *Wrotham*.
- ▶ Questions (1) and (2) continue to be worked out in appeal decisions.
- ▶ The SoS in *Marlow* has shown willingness to disagree with Inspectors on (1).

# HIGH COURT DECISIONS

- ▶ Two leading High Court decisions have shaped the early interpretation of the grey belt regime:
  - ▶ Mole Valley DC v SSHCLG [2025] EWHC 2127 (Admin) - Choudhury J, 15 August 2025.
  - ▶ Wrotham Parish Council v SSHCLG [2026] - 30 January 2026.
- ▶ Both challenges were brought by the local authority / parish council seeking to overturn Inspector decisions allowing grey belt appeals.
- ▶ Both challenges FAILED.
- ▶ Key takeaway from both: the grey belt regime is a “permissive policy change” which the courts will not allow to be “potentially hamstrung” by interpretive narrowing.

# MOLE VALLEY DC v SSHCLG [2025] EWHC 2127 (Admin) - FACTS

- ▶ Choudhury J, judgment of 15 August 2025.
- ▶ Site: Cidermill Hatch, Partridge Lane, Newdigate, Dorking.
- ▶ Application: traveller site comprising two caravans (one mobile home, one touring caravan).
- ▶ Inspector allowed the appeal:
  - ▶ Found the site to be grey belt land.
  - ▶ Found the development was “not inappropriate” under paragraph 155.
  - ▶ Concluded that no harm to openness could arise where the development was not inappropriate.
- ▶ Mole Valley District Council challenged on three grounds:
  - ▶ Ground 1 - openness / not inappropriate development.
  - ▶ Ground 2 - traveller pitch deliverability.
  - ▶ Ground 3 - failure to consider Examining Inspector’s Report on emerging Local Plan.

# MOLE VALLEY - GROUND 1: OPENNESS AND “NOT INAPPROPRIATE” DEVELOPMENT

- ▶ Council argued the Inspector erred by saying:
  - ▶ “The openness of the Green Belt cannot be compromised by development that is ‘not inappropriate’.”
- ▶ Council’s case:
  - ▶ Footnote 55 merely removes the “substantial weight” requirement, not all consideration of openness harm.
  - ▶ Some weight should still be given to openness impact even on grey belt.
- ▶ Court’s analysis:
  - ▶ Lee Valley Regional Park Authority v Epping Forest DC [2016] remains good law.
  - ▶ Development that is not inappropriate is, by definition, not to be regarded as harmful to openness.
  - ▶ Footnote 55 provides “practical clarification” for grey belt and PDL.

## MOLE VALLEY - KEY HOLDING [70]

- ▶ Choudhury J at [70]:
  - ▶ “The Claimant’s interpretation of the policy would undermine the purpose of the new exception for grey belt development as set out in [155] of NPPF 2024.”
  - ▶ “This new exception is designed to permit construction on the Green Belt that was not previously permitted.”
  - ▶ “If a decision-maker then still had to consider harm and give that some weight even where the development is otherwise not inappropriate, then the likelihood is that some grey belt development (which Government Policy seeks to permit) would nevertheless be restricted.”
  - ▶ “I do not think it could have been intended that a permissive policy change should be potentially hamstrung in this way.”
- ▶ All three grounds dismissed; permission refused.

# MOLE VALLEY - PRACTICAL IMPLICATIONS

- ▶ Where grey belt development is “not inappropriate” under paragraph 155:
  - ▶ No separate assessment of openness harm is required.
  - ▶ No weight to be ascribed to openness impact in the planning balance.
- ▶ The grey belt regime is a “permissive policy change” - the courts will not interpret the policy in a way that would “hamstring” that purpose.
- ▶ Lee Valley remains the bedrock principle: openness is a function of inappropriateness.
- ▶ Practical advocacy points:
  - ▶ Front-load the paragraph 155 analysis - establish “not inappropriate” first.
  - ▶ Resist any attempt by objectors to introduce an additional openness balancing exercise.
  - ▶ Cite Mole Valley as the authoritative answer on openness for grey belt.

# WROTHAM PARISH COUNCIL v SSHCLG [2026] - FACTS

- ▶ Judgment handed down 30 January 2026.
- ▶ Site: Moto motorway services / truck stop near Wrotham, Kent.
- ▶ Application: lorry parking and associated operational development on Green Belt land.
- ▶ Inspector allowed the appeal:
  - ▶ Found the site to be grey belt.
  - ▶ Applied the footnote 7 test to the SPECIFIC development proposed.
  - ▶ Concluded no footnote 7 designation provided a strong reason for refusal of THIS proposal.
- ▶ Wrotham Parish Council challenged the Inspector's decision.
- ▶ Issue: how should the footnote 7 exclusion be applied - to the actual development, or to development generally on the land?

# WROTHAM - GROUND 1: INTERPRETING THE GREY BELT DEFINITION

- ▶ Claimant (Parish Council):
  - ▶ The grey belt definition focuses on the LAND, not the development.
  - ▶ The footnote 7 test should be applied to the impact of development GENERALLY on the land.
  - ▶ Otherwise, sensitive land could be classified as grey belt simply because the proposal happened to be benign.
- ▶ Secretary of State / developer:
  - ▶ The footnote 7 test should be applied to the ACTUAL development proposed.
  - ▶ It would be artificial to assess hypothetical development in a decision-taking context.
- ▶ The court had to resolve the tension between the “land” focus of the definition and the “development” focus of footnote 7’s “refusing or restricting development”.

# WROTHAM - KEY HOLDING

- ▶ Court's analysis at [63]:
  - ▶ “Decision-taking necessarily focuses on the application, and a decision-maker has a binary choice to either grant or refuse...”
  - ▶ “In decision-making a ‘strong reason for refusing... development’ would naturally be expected to depend on what development was being applied for, rather than making a hypothetical assessment.”
- ▶ At [66]:
  - ▶ “That purpose, as set out in NPPF paragraph 155, is to allow the release of Green Belt land where it does not strongly contribute to the purposes of the Green Belt; and where there is no strong reason for refusal by reference to the important policy safeguards in footnote 7.”
- ▶ HELD: Inspector was correct to apply footnote 7 to the actual development proposed. Challenge dismissed.

## WROTHAM - PLAN-MAKING vs DECISION-TAKING

- ▶ The grey belt definition applies to BOTH plan-making and decision-taking - but operates differently in each context.
- ▶ Linguistic clue in footnote 7 wording - “refusing or restricting development”:
  - ▶ “REFUSING” - naturally relates to decision-taking; assessment is of the specific application.
  - ▶ “RESTRICTING” - naturally relates to plan-making; assessment is of development generally / hypothetical future development.
- ▶ In plan-making, an authority allocating a site must consider whether footnote 7 designations would restrict the type of development envisaged.
- ▶ In decision-taking, the test is necessarily binary and tied to the application.
- ▶ Court agreed grey belt is a “permissive policy change” - referencing Mole Valley at [70].

# SECRETARY OF STATE DECISIONS

- ▶ The most significant SoS call-in / recovered appeal decision to date on grey belt:
  - ▶ Marlow Film Studios - SoS decision of 26 November 2025.
- ▶ The decision is important because:
  - ▶ It is the first occasion on which the SoS has DISAGREED with an Inspector on whether a site is grey belt.
  - ▶ It illustrates the planning judgement nature of the “strongly contribute” test.
  - ▶ It demonstrates that an inappropriate development on Green Belt may still succeed via VSCs even where it is not grey belt.
- ▶ Other recovered cases are progressing through the system; this is a developing area.

# MARLOW FILM STUDIOS - SoS DECISION (26 NOVEMBER 2025)

- ▶ Applicant: Dido Property Limited.
- ▶ Proposal: a film studio development near Marlow, Buckinghamshire, on Green Belt land.
- ▶ Inspector recommended ALLOWING the appeal:
  - ▶ Found the site to be grey belt.
  - ▶ Found a demonstrable unmet need for film studio capacity.
  - ▶ Found the location to be sustainable.
  - ▶ Concluded development was “not inappropriate” under paragraph 155.
- ▶ The Inspector noted that purpose (c) was omitted from the grey belt definition - “a signal that the Government is even more eager to change the previous Green Belt policy than was envisaged in the consultation draft.”
- ▶ SoS DISAGREED with the Inspector on multiple key points.

# MARLOW FILM STUDIOS - THE SoS DECISION

- ▶ SoS findings:
  - ▶ Site DOES strongly contribute to purpose (a) - checking the unrestricted sprawl of Marlow.
  - ▶ The development would result in an “incongruous pattern of development”.
  - ▶ NO demonstrable unmet need for film studios was made out.
  - ▶ Therefore the site is NOT grey belt - paragraph 155 does not apply.
  - ▶ Development IS inappropriate on the Green Belt.
- ▶ BUT: SoS found Very Special Circumstances existed and ALLOWED the appeal anyway.
- ▶ Lessons:
  - ▶ Inspector and SoS can legitimately reach different planning judgements on grey belt status.
  - ▶ VSC route remains alive in parallel with paragraph 155.
  - ▶ Change from “limited” to “not strong” contribution noted as a significant signal of Government intent.

# APPEAL DECISIONS - KEY THEMES FROM RECENT APPEALS

- ▶ Inspector decisions are doing the heavy lifting in shaping how grey belt operates in practice.
- ▶ Trends visible across the post-NPPF 2024 appeal portfolio:
  - ▶ A high allow-rate where grey belt status is established.
  - ▶ Containment by physical features (motorways, woodland, watercourses) is doing significant work in the purpose (a) and (b) analysis.
  - ▶ Housing land supply shortfalls amplifying the weight in favour.
  - ▶ Grey belt being applied beyond housing - solar, healthcare, traveller sites, freight, film studios.
  - ▶ 50% affordable housing emerging as the standard for major housing schemes.

## APPEALS ALLOWED ON GREY BELT - RECENT DECISIONS

- ▶ Land West of Longwood Lane, Walsall (11 Feb 2026) - 115 dwellings, 40% AH.
- ▶ Land at Broad Lane, Holtspur, Beaconsfield (18 Dec 2025) - 120 dwellings, 50% AH.
- ▶ Land at Longview, Shenley (5 Dec 2025) - 103 retirement homes.
- ▶ Land South of Shenley Hill, Radlett (23 Mar 2026) - 195 homes, 50% AH; 0.98 yr supply.
- ▶ Land Adjacent to Amersham Road, Beaconsfield (19 Mar 2026) - 330 dwellings, 50% AH.
- ▶ Nutfield (Laporte Works) (6 May 2026) - mixed development; 94% of Tandridge is GB.
- ▶ Woodford Garden Village Extension (13 Mar 2026) - 540 dwellings, 50% AH.
- ▶ Fillongley Solar Farm (11 Dec 2025) - solar farm on grey belt.
- ▶ Land at St Mary's Lane, Upminster (21 Jan 2026) - Acquired Brain Injury Unit.

# RECURRING THEMES IN APPEALS

- ▶ Assessment of purposes (a), (b) and (d):
  - ▶ Purpose (a) sprawl: physical features (canals, motorways, woodland, relief roads) repeatedly held to provide containment and reduce contribution.
  - ▶ Purpose (b) merging: distance and intervening features regularly mean only “moderate” contribution.
  - ▶ Purpose (d) historic towns: only engaged for genuine historic towns - Shenley, Radlett, Upminster all held NOT to be.
- ▶ What “strongly contribute” means in practice:
  - ▶ “Moderate” contribution is consistently held to be insufficient.
  - ▶ Threshold pitched relatively high; benefit of the doubt is increasingly given to applicants.
- ▶ Housing land supply crisis driving decisions - many authorities below 2 years (Holtspur 0.9; Radlett 0.98; Woodford 1.77).

# THE GOLDEN RULES IN PRACTICE

- ▶ Affordable housing:
  - ▶ 50% AH emerging as the standard offer on major grey belt housing sites.
  - ▶ Walsall (40%) sits at 15 percentage points above the local plan figure - consistent with paragraph 157 mechanism.
  - ▶ Several decisions allowing despite local plan policies materially superseded by NPPF 2024.
- ▶ Infrastructure contributions:
  - ▶ Highway, education, sports infrastructure all in play.
  - ▶ Woodford - Golden Rules compliance was the main contested issue.
  - ▶ Nutfield - community store debated as “necessary” infrastructure.
- ▶ Green spaces and paragraph 159 nature recovery - often satisfied by on-site POS, BNG and ecology corridors.

## THE COSTS DECISION - RADLETT (APP/N1920/W/25/3374962)

- ▶ Land South of Shenley Hill, Radlett - 195 homes appeal allowed 23 March 2026.
- ▶ Council had REFUSED the application on grey belt grounds despite officer recommendation to APPROVE.
- ▶ Appellant applied for an award of costs against the Council on grounds of unreasonable behaviour.
- ▶ Inspector REFUSED the costs application:
  - ▶ The grey belt assessment is a matter of planning judgement, not certainty.
  - ▶ It was reasonable for Members to take a different view from officers and from the Inspector.
  - ▶ Disagreement on a question of planning judgement is not unreasonable behaviour.
- ▶ Signal to practitioners: grey belt is contestable; costs awards will not automatically follow even where the appeal is allowed.
- ▶ Reinforces that “strongly contribute” is judgemental, not algorithmic.

# KEY LESSONS AND PRACTICAL TAKEAWAYS FOR PRACTITIONERS

- ▶ 1. Grey belt is the most significant relaxation of Green Belt restrictions since the war - treat it accordingly.
- ▶ 2. Purpose (c) (encroachment) is OUT - do not engage with it on grey belt classification.
- ▶ 3. “Strongly contribute” is the threshold; “moderate” is not enough.
- ▶ 4. Openness: no separate harm assessment for “not inappropriate” grey belt development (Mole Valley).
- ▶ 5. Footnote 7 in decision-taking: assess the actual development, not hypothetical (Wrotham).
- ▶ 6. 50% AH is becoming the standard on major grey belt housing sites.
- ▶ 7. Housing land supply shortfalls remain a powerful tilting factor.
- ▶ 8. Grey belt extends well beyond housing - solar, healthcare, freight, film studios, traveller sites.
- ▶ 9. SoS may legitimately disagree with Inspectors (Marlow) - planning judgement at every level.
- ▶ 10. Costs awards are not automatic: grey belt is judgment, not certainty (Radlett).

**QUESTIONS?**

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