

Town and Country Planning Act 1990

Section 77 Call-in

By

Burlington Developments London Limited

Council Ref: 25/1020/OUT

PINS Ref: APP/P1940/V/26/3378268

Proposals

Outline planning application for up to 256 homes (C3 use class) (including affordable and self/custom build housing), housing with care (C2 use class), a children's home (for looked after children) (C2 use class) together with associated access (including off-site highway works), parking, open space and landscaping (appearance, layout, landscaping and scale as reserved matters).

Land East of Oxhey Lane, Carpenders Park

Rebuttal Statement

of

Philip Allin BA (Hons) DipTP MRTPI

June 2026

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1. INTRODUCTION

- 1.1 My name is Philip Allin. My qualifications and experience are set out in my main Proof of Evidence submitted on the 2nd June 2026.
- 1.2 The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.
- 1.3 This Rebuttal has been prepared in response to points raised by TRDC and the Rule 6 Party in respect to matters relating to Green Belt purpose (a) and the sustainability of the Site having regard to Paragraph 155c of the NPPF.
- 1.4 This Rebuttal is deliberately limited in scope to those matters identified and should not be taken that I agree with wider planning evidence presented by Ms Fitzgerald (or other relevant grey belt evidence presented by other witnesses) in respect to points not raised here.

2. FURTHER COMMENT

2.1 I set out my further comments in respect to those matters where I consider a rebuttal is necessary. Before doing so and to provide context, from my reading of the relevant evidence of other parties I consider that the only Green Belt purpose in dispute, relevant to the consideration of grey belt, is purpose (a), specifically in respect to the Site's southern boundary. In addition, there are differing interpretations of the PPG. On this and for completeness, I enclose the complete extract of the PPG (at [Appendix 1](#)) which provides the guidance in respect to how the three relevant purposes should be assessed. The PPG in respect to Green Belt is also included as Core Document **CD3.1**.

Green Belt Purpose (a) – To check the unrestricted sprawl of large built-up areas

- 2.2 In the first instance, there are some matters around the interpretation of the PPG which has informed the conclusions of Mr Fitzgerald and Ms Fisher which I consider to be incorrect.
- 2.3 The proposition is put forward by Ms Fitzgerald (at paragraph 5.48 of her proof, **CD6.14**) that even if the assessment area does **not** “*lack physical feature(s) in reasonable proximity that could restrict and contain development*” (per the wording of the PPG), it would still perform ‘strongly’ against purpose (a) if its development would “*result in an incongruous pattern of development*”. That is an untenable approach to the interpretation of the PPG given the use of the word “*also*” in between these two phrases. For ease of reference the full text of the PPG is appended.
- 2.4 The Council's evidence also misinterprets the term “*lack physical feature(s) in reasonable proximity that could restrict and contain development*”, which is one of the cumulative criteria for a site to perform ‘strongly’ against purpose (a). It is clear from Ms Fitzgerald's proof this criterion will not be met unless the Site has such features **on all sides**, since her focus is exclusively on the southern boundary. That this is the Council's approach is also clear on the express terms of Mr Dawson's evidence (at paragraph 8.13 of his proof, **CD6.13**) which states that that the Site is not “**fully contained**” by physical features that could restrict and contain development. The evidence of Ms Fisher for the Rule 6 party takes essentially the same approach, focusing on the southern boundary as the critical reason why in her view the Site does not perform strongly against purpose (a) (third bullet point, paragraph 5.2.1, **CD6.15**).
- 2.5 This is a fundamental error of approach. It is clear from the PPG that a site which is “*fully contained*” would more likely fall in the category of sites whose contribution to purpose (a) would be “*Weak or None*”. It is also clear from the PPG that *partial* enclosure is reflective of a “*moderate*” contribution to purpose (a). Read in this context, the reference to a “*lack*” of such features as a hallmark of a “*strong*” contribution to purpose (a) means a site that has no (or no significant) such features. A site which has them on (at least) three sides plainly does not fall in this category.

- 2.6 Essentially, what the Council's proofs do is to treat the distinction in the PPG between those sites whose contribution to purpose (a) is "*weak or none*" and those sites whose contribution is "*moderate*" as instead being the distinction between a "*moderate*" and a "*strong*" contribution.
- 2.7 It is common ground between all main parties that there are indeed physical features that would restrict and contain development. For the reasons already set out in my evidence I do not rely on a single physical feature, rather there are multiple features that enclose the Site but even so there is clearly no necessity for a Site to be '*fully contained*' in order to make a 'moderate' contribution.
- 2.8 I note that when considering whether the Site makes a moderate contribution Ms Fisher (at paragraph 5.2.1, second bullet of her proof, **CD6.15**) refers to '*other urbanising influences*'. Ms Fisher then provides a subsequent interpretation which whilst may be her opinion is not reflected in the PPG. Ms Fisher continues by stating that the existing Care Home is insufficient to give rise to an urbanising influence across the *entire* Site. Again, this is not the correct test as the PPG is not explicit on the extent of urbanising influence, rather it is whether such influences exist. In this case, the scale and proximity of the care home to the Site together with Oxhey Lane (a busy 'A' road with street lighting), the substantial phone mast and more generally the urban edge of Carpenders Park are all factors that result in urbanising influences across significant parts of the Site.
- 2.9 Turning to those physical features that could restrict and contain development, as noted above my reading of the evidence of Ms Fitzgerald and Ms Fisher is that it is not disputed that there are features immediately to the north, east and west that would restrict and contain development, rather the point is made (for different reasons) that development would not be restricted and contained along the Site's southern boundary.
- 2.10 As I say, there is no requirement for the Site to be enclosed on all sides by physical features that could restrict and contain development. Notwithstanding this, I consider that Ms Fitzgerald and Ms Fisher are incorrect when it comes to the southern boundary.
- 2.11 As I state in my proof (see paragraph 6.7, **CD6.11**) whilst there is no permanent body of water associated with the Flood Storage Area the upstream area forms part of the functional flood plain as designated by the SFRA (section 4.4.1, p35, **CD4.2**), the purpose of which is to safeguard this key flood risk asset from development. This has been confirmed by the EA who state that the extent of the flood storage area (as illustrated on Figure 2 of Appendix 2 of my proof) is very much part of the operational asset and not part of the modelled Flood Zones. The EA therefore advise that this area, which extends along the entirety of the Sites southern boundary, cannot be developed in any way. This confirmation is set out within the email trail contained at [Appendix 2](#).
- 2.12 In light of the above and contrary to what Ms Fitzgerald states at paragraph 5.35 of her proof (**CD6.14**) this would preclude any development in this area such that, in practical terms, the Flood Storage Area would represent a physical feature, which is in reasonable proximity of the Site, that would restrict and contain development along the Site's southern boundary.

- 2.13 Ms Fisher seemingly accepts that the Flood Storage Area would itself would not be developed but that development could extend beyond it further to the south (paragraph 5.2.1, third bullet, **CD6.15**). I consider that this misinterprets the PPG as in accepting that the Flood Storage Area cannot be developed (for obvious reasons) then it stands to reason that it performs a role of restricting and containing development. Whether future development would occur beyond this area is simply not relevant as it goes beyond what is required to be assessed by the PPG.
- 2.14 I do not consider the proposed development to be incongruous for the reasons set out in my proof (at paragraph 6.12, **CD6.11**), rather it would form a logical part of the eastwards growth of Carpenders Park. I note that Ms Fitzgerald comments on the origins of the Care Home and Phone Mast (at paragraphs 5.40-.43 of her proof). Whilst I do not dispute this, the fact remains that they exist, representing development that has occurred on the eastern side of Oxhey Lane immediately adjacent to the Site. On this point, Ms Fisher refers to the proposed secondary school to be individual buildings and so of a different form to the proposed development. The only comment I would make on this is that the new school is planned to be 10FE and so could accommodate in the region of 1,500 secondary school aged children¹. This being the case means that it would constitute a substantial campus of buildings (and associated parking and playing fields) and so therefore should be seen in this context.
- 2.15 For all the above reasons I remain of the firm view that the Site makes no more than a 'moderate' contribution to Green Belt purpose (a).

Paragraph 155c – Sustainability

- 2.16 Matters relating to the sustainability of the Site, raised by Ms Fitzgerald and Mr Walpole, are dealt with in detail by Mr Hamshaw within his rebuttal. Irrespective of this, given that this matter is relevant in forming a view as to whether development accords with paragraph 155 of the NPPF (and thus is appropriate in principle) means that this is also a matter I comment on.
- 2.17 As per paragraph 5.88 of Ms Fitzgerald's proof, it is common ground that Carpenders Park is a sustainable settlement, well served by buses and trains, rather the dispute is with the accessibility of the Site. I concur with Mr Hamshaw in respect to the proximity to local services and facilities, rather I make/reiterate three general points, namely the need to be flexible when applying guidance on walk distances, the relevance of context when assessing whether paragraph 155c is met and consistency in approach when assessing sustainability.
- 2.18 As I set out at paragraph 6.26 of my proof, and by reference to the Horsham Golf Course decision (**CD5.11**), there is a need to be flexible when applying stated walk distances on greenfield sites at the edge of higher order settlements (such as Carpenders Park) in order to bridge the gap between housing supply and requirement which is significant in Three Rivers. This principle is becoming well established and is reflected in recent appeal decisions at Ashford Road, Great Chart (paragraph 65, **CD5.12**) and Narcot Lane, Chalfont St Giles (paragraphs 14-16, Mr Hamshaw rebuttal).

¹ 30 children x 10FE x 5 years = 1,500 children

- 2.19 In assessing whether a site is sustainable (in the context of paragraph 155c) I consider it relevant to have appropriate regard to context. Notwithstanding my view that the Site is sustainable in the current circumstances, the proposals will fund the establishment of a new bus service serving the Site which will operate on an hourly basis from approximately 6am to 8pm Monday to Saturday whilst the Site would be a 15 minute walk to Carpenders Park railway station, one of only 6 stations in the District which offer a high frequency service into central London.
- 2.20 This in my view would clearly result in residents having a genuine choice of transport modes whilst the proposals would maximise sustainable transport solutions, a position that is common ground with HCC (see paragraph 3.3.1 of the Highways Statement of Common Ground, **CD6.7**). These factors mean that when compared to other locations in the District (and indeed other parts of the County), the Site should be considered sustainable in accordance with paragraph 155c of the NPPF.
- 2.21 I consider the above view is consistent with conclusions reached by the Council in respect to the determination of the planning application at Woodlands Cottage (ref: 25/1055/FUL), as set out within paragraphs 6.20-.23 of my proof. In light of the principle of consistency in decision-making and given the close proximity of the two Sites means that it is not clear how a different view can be substantiated for this Site especially in the context of the findings of the Council's Access to Services Study (**CD4.62**).
- 2.22 This Study ranks all 360 SHLAA assessed sites in terms of Site Sustainability (see Appendix 12). The application Site (CFS69a) is ranked joint 89th with an overall 'Fair' score (achieving 84.1% of achievable sustainability points) whereas the Woodlands Cottage Site (CFS14) is ranked joint 173rd with a 'Poor' score ((achieving 71.4% of achievable sustainability points). On the basis of this assessment, the Site is clearly in a more sustainable location than Woodlands Cottage which was itself considered by both officers and Members to be sustainable.
- 2.23 Overall, I remain of the view that the proposals would be in full accordance with paragraph 155a-d of the NPPF and so would constitute appropriate development in the Green Belt.

APPENDIX ONE – PPG (GREEN BELT)

How should the contribution land makes to the relevant Green Belt purposes be assessed?

When making judgements as to whether land is grey belt, authorities should consider the contribution that assessment areas make to Green Belt purposes a, b, and d. Considerations for informing these judgements are set out below:

Purpose A – to check the unrestricted sprawl of large built up areas

This purpose relates to the sprawl of large built up areas. Villages should not be considered large built up areas.

Contribution	Illustrative features
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Strong	Assessment areas that contribute strongly are likely to be free of existing development, and lack physical feature(s) in reasonable proximity that could restrict and contain development. They are also likely to include all of the following features: <ul style="list-style-type: none">- be adjacent or near to a large built up area- if developed, result in an incongruous pattern of development (such as an extended “finger” of development into the Green Belt)
Moderate	Assessment areas that contribute moderately are likely to be adjacent or near to a large built up area, but include one or more features that weaken the land’s contribution to this purpose a, such as (but not limited to): <ul style="list-style-type: none">- having physical feature(s) in reasonable proximity that could restrict and contain development- be partially enclosed by existing development, such that new development would not result in an incongruous pattern of development- contain existing development- being subject to other urbanising influences
Weak or None	Assessment areas that make only a weak or no contribution are likely to include those that: <ul style="list-style-type: none">- are not adjacent to or near to a large built up area- are adjacent to or near to a large built up area, but containing or being largely enclosed by significant existing development

Purpose B – to prevent neighbouring towns merging into one another

This purpose relates to the merging of towns, not villages.

Contribution Illustrative Features

Strong	Assessment areas that contribute strongly are likely to be free of existing development and include all of the following features: <ul style="list-style-type: none">- forming a substantial part of a gap between towns- the development of which would be likely to result in the loss of visual separation of towns
Moderate	Assessment areas that contribute moderately are likely to be located in a gap between towns, but include one or more features that weaken their contribution to this purpose, such as (but not limited to): <ul style="list-style-type: none">- forming a small part of the gap between towns- being able to be developed without the loss of visual separation between towns. This could be (but is not limited to) due to the presence or the close proximity of structures, natural landscape elements or topography that preserve visual separation
Weak or None	Assessment areas that contribute weakly are likely to include those that: <ul style="list-style-type: none">- do not form part of a gap between towns, or- form part of a gap between towns, but only a very small part of this gap, without making a contribution to visual separation

Purpose D – to preserve the setting and special character of historic towns

This purpose relates to historic towns, not villages. Where there are no historic towns in the plan area, it may not be necessary to provide detailed assessments against this purpose.

Contribution Illustrative Features

Strong

Assessment areas that contribute strongly are likely be free of existing development and to include all of the following features:

- form part of the setting of the historic town
- make a considerable contribution to the special character of a historic town. This could be (but is not limited to) as a result of being within, adjacent to, or of significant visual importance to the historic aspects of the town

Moderate

Assessment areas that perform moderately are likely to form part of the setting and/or contribute to the special character of a historic town but include one or more features that weaken their contribution to this purpose, such as (but not limited to):

- being separated to some extent from historic aspects of the town by existing development or topography
- containing existing development
- not having an important visual, physical, or experiential relationship to historic aspects of the town

Weak or None

Assessment areas that make no or only a weak contribution are likely to include those that:

- do not form part of the setting of a historic town
- have no visual, physical, or experiential connection to the historic aspects of the town

Paragraph: 005 Reference ID: 64-005-20250225

APPENDIX TWO – EA EMAIL CORRESPONDENCE

Philip Allin

From: [REDACTED]
Subject: FW: Hartsbourne Stream Flood Storage Area
Importance: High

From: HNL - APT Enquiries <HNL-APTENQUIRIES@environment-agency.gov.uk>
Sent: 10 June 2026 09:47
To: Steven Gough [REDACTED]
Subject: FW: Hartsbourne Stream Flood Storage Area

Hello Steven,

The area indicated in the map provided shows the basin, the area in which water will be temporarily stored. I can confirm this area is very much part of the operational asset and not part of the modelled Flood Zones.

As per my previous email the entire FSA, which includes the basin area marked on the map provided, cannot be developed in any way.

Regards
Ben

From: Steven Gough [REDACTED]
Sent: 09 June 2026 16:43
To: HNL - APT Enquiries <HNL-APTENQUIRIES@environment-agency.gov.uk>
Subject: RE: Hartsbourne Stream Flood Storage Area
Importance: High

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Dear Ben,

Thank you for this. Based upon what you say below, I attach a plan below indicating the extent of the area which we understand to be part of the Hartsbourne Stream Flood Storage Area (FSA). Please would you confirm that this is correct and that this area is not simply designated flood zone, but is in fact part of an operational flood defence system.

My understanding is that the FSA is not capable of being developed at any time due to its flood defence role. Please would you confirm this?

Kind regards

Steven

Steven Gough
Planning Director
[REDACTED]

Foresters Hall, 25-27 Westow Street, Crystal Palace, London SE19 3RY



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From: HNL - APT Enquiries <HNL-APTENQUIRIES@environment-agency.gov.uk>

Sent: 09 June 2026 11:50

To: Steven Gough [REDACTED]

Subject: FW: Hartsbourne Stream Flood Storage Area

Hello Steven,

Your summary is accurate for the most part.

Perhaps the only points I would alter are the method in which the asset is designed to operate and the comments around developments in the area.

With regards to its operation there is a fixed orifice plate at the inlet of the culvert running under the embankment and it is this which controls the flow of water downstream. Once a certain volume of flow has been reached it will then start to impound and temporarily store water in the basin as you mention. As we don't have any active control measures at this site the FSA will continue to discharge and impound dependant on the weather and river conditions, as such it will provide temporary storage but I would not state a specific amount of time.

You are right is stating the entire FSA will remain free from development, but I would also add that developments adjacent to the FSA would require consultation with the EA. This would ensure that the asset is not activated sooner than designed or overwhelmed in such a way that puts properties downstream at risk of flooding.

Regards

Ben

From: Steven Gough [REDACTED]
Sent: 08 June 2026 15:36
To: HNL - APT Enquiries <HNL-APTENQUIRIES@environment-agency.gov.uk>
Subject: Hartsbourne Stream Flood Storage Area
Importance: High

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Dear sir/madam,

My Company has an interest in the land to the north of the Hartsbourne Stream Flood Storage Area (FSA) situated adjacent Oxhey Lane, Carpenders Park, Hertfordshire. I would be extremely obliged if you would you confirm our understanding of this the status and purpose of this Environment Agency owned and operated facility.

We understand this facility to be significantly more than an area identified on a plan as likely to flood, but comprises substantial engineered flood protection measures created by impounding the Hartsbourne Stream with an earth bund, immediately above Oxhey Lane; together with a 280m long earth dam, with a crest height 4.1m above the valley floor. We understand the Hartsbourne Stream FSA to be a strategically important flood defence with a design standard of protection of 200 years, providing protection to properties within South Oxhey along the entire reach of the stream down to the confluence with the River Colne.

We understand these flood defence works direct river flows entering the storage area to be then controlled and slowly discharged downstream via a small pipe in the earth dam into a culvert beneath Oxhey Lane, whilst excess water spills into the adjacent field, allowing temporary flood storage over a period of a few hours.

Particularly given the design standard of protection afforded to the surrounding area by this facility, we understand that the Hartsbourne FSA will be required to remain in situ for the long term, free of any other form of development.

This matter is urgent for us and so your help in clarifying the above would be really appreciated.

I do not have a specific post code for this facility, but believe it may be either WD19 4NF or WD19 5AP.

Kind regards

Steven

Steven Gough
Planning Director



www.burlington-uk.com

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