

# How Grey is Your Green Belt?



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Green Belt policy in this country has remained unchanged for many years with the “very special circumstances” test for “inappropriate development” being a very high bar to meet. With most development proposals in the Green Belt attracting a high degree of public opposition, the task of reviewing the national policy to make it more fit for purpose has been a thistle too thorny to grasp for previous governments. However, faced with a severe housing shortage and the immense tasking of seeking to deliver 1.5m homes, plus stimulating economic growth, the Labour mantra of “build, build, build” has resulted in a radical overhaul of Green Belt policy as set out in the December 2024 NPPF revisions. This was followed at the end of February with updated Planning Practice Guidance (PPG) which elaborates on the new NPPF policy.

Together these documents very significantly widen the scope for development of sites that are currently in the Green Belt, both by requiring local authorities to undertake Green Belt reviews to identify sites for release where needed to meet housing and economic needs, and also by setting out a revised approach to assessing proposals for development on sites still within the Green Belt. The latter means that there is now far wider scope for development to be deemed “not inappropriate”. The most significant change is the introduction of the concept of “grey belt”. This is a subset of the Green Belt where controls on development are significantly loosened if specific criteria are met.

This is a radical shift in policy and provides immediate opportunities both for promoting sites for consideration in Green Belt reviews and for advancing development proposals in the Green Belt – prompting the question – how grey is your Green Belt?

## What is Grey Belt?

### Grey Belt NPPF definition

“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” (*our emphasis*)

The definition is clear that it is not just previously developed land (PDL) that can qualify. Any other land that meets the criteria will also qualify i.e. grey belt can include 'green' sites. This opens the gates much wider for identifying grey belt sites.

In terms of the criteria, land will be disqualified if it "strongly contributes" to any one of the three identified Green Belt purposes (shown in Text Box 2). Therefore, anything less than a strong contribution (i.e. a "modest contribution") will clear one of the tests for grey belt status. Helpfully, the PPG provides details on how to assess the strength of contribution, but we expect this will still be an area of debate in pre-application discussions and at appeals.

The final part of the grey belt definition refers to Footnote 7 of the NPPF which sets out a list of designations where policy protections on environmental, nature or heritage grounds apply (e.g. conservation areas, Natural Landscapes or National Parks). In this case it is only where the application of the policies provides "a strong reason for refusing or restricting development" that grey belt status is precluded. Albeit it is acknowledged in the PPG that it may not be possible to assess this until specific development proposals are brought forward.

## Development in the Grey Belt

Once a site is established as grey belt, residential or commercial development will **not** be inappropriate where a further four tests are met as shown in Figure 1, which also shows the route to follow should a site not be classed as grey belt.

**Green Belt purposes (as they relate to grey belt)**

- 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.

In terms of point a) "fundamentally undermining" the purposes of the remaining Green Belt in the plan area, would indicate a very major impact, and we anticipate that many sites will meet this test. However, demonstrating this may be complicated where a number of sites in the vicinity are being promoted as grey belt as cumulative impact issues may arise.

For point b), there is an established method for calculating housing need and the recently updated Standard Method (December 2024) means that many local authorities are facing major hikes in housing numbers and will struggle to identify sites to meet their need and will have shortfalls in their five-year housing land supply.

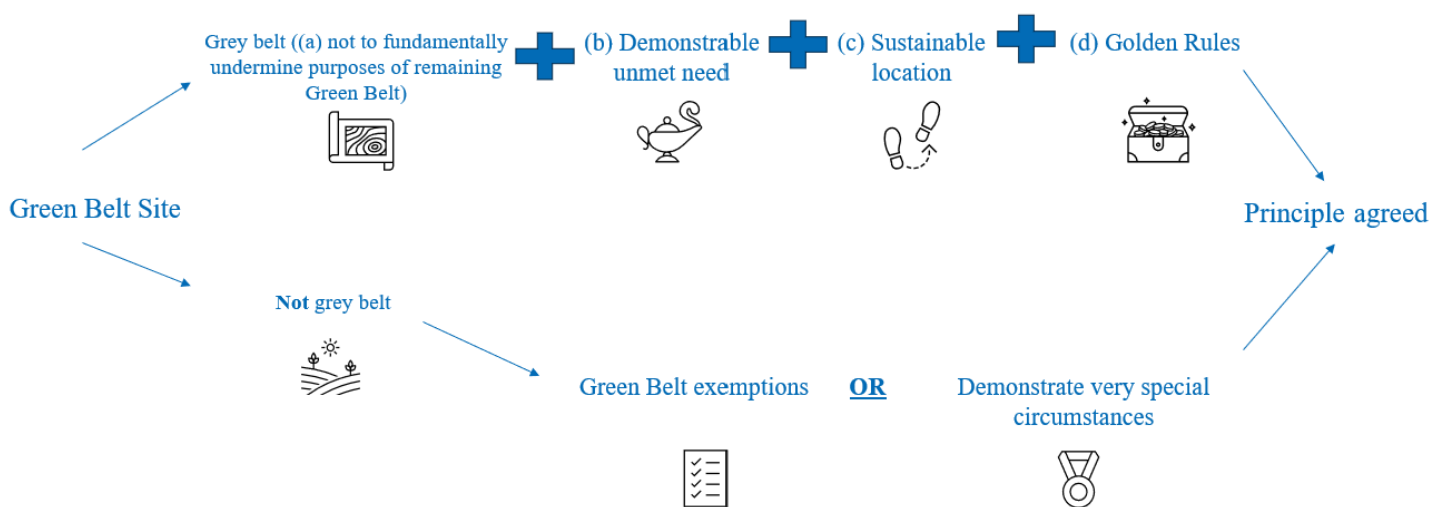


Figure 1: Development in the Grey Belt

However, establishing the need for commercial and industrial space is less straightforward as currently there is not a standard method for calculating this and approaches may vary amongst local authorities, as well as levels of understanding of different sectors - such as data centres, or industrial and logistics (which covers a diverse range of large and small occupiers with different accommodation and locational requirements).

Point c) requires a sustainable location. The PPG explains that this means the site must be in a location that already benefits from sustainable travel options, or it can be made sustainable. This is a helpful clarification, but it may require significant investment in public transport in order to make a location sustainable.

Point d) introduces the new "Golden Rules" (as set out in Text Box 3). Housing schemes must deliver an enhanced affordable housing package compared with non Green Belt sites, and this may give an advantage to other uses, such as employment uses, which would not have this requirement imposed.

In advance of local planning authorities adopting specific affordable housing policies for the Green Belt, the NPPF at paragraph 157 requires a premium of 15%. This is over and above the highest existing affordable housing requirement in the plan area subject to a cap of 50% e.g. a policy stating up to 30% would result in a Green Belt requirement of 45%.

A developer, should they wish, can provide affordable housing contributions which exceed 50%. The Viability PPG (December 2024) currently states that site specific viability assessments cannot be used *"where development takes place on land situated in, or released from, the Green Belt"* to reduce planning contributions including affordable housing.

Schemes must also follow the remaining Golden Rules i.e. a requirement to provide necessary improvements to local or national infrastructure and the provision of new, or improvements to existing, green spaces that are accessible to the public.

Paragraph 158 of the NPPF states that a development which complies with the Golden Rules should be given significant weight in favour of the grant of permission. It is important to note that the Golden Rules will apply to any development in the Green Belt (not just grey belt), or on sites released from the Green Belt.

A key aspect of the new grey belt policy set out in Footnote 55 of the NPPF is that in respect of planning applications the requirement for decision takers to give substantial weight to any harm to the Green Belt, including harm to its openness, does not apply on previously developed land or grey belt land, where development is not inappropriate. Therefore, the scale/height/massing of the development will not be an issue in terms of Green Belt policy (although it might be for other policy reasons).

This can be seen in the recent Secretary of State (SoS) call-in decision for a motorway service station in Cheshire where under the previous NPPF the inquiry Inspector assigned substantial weight to harm to the Green Belt but following the publication of the December 2024 NPPF and the introduction of grey belt, the SoS concluded that as the site was grey belt, it was not inappropriate development and she therefore was not required to give substantial weight to any harm to the Green Belt. This underlines the importance of ensuring that sites are correctly classified as either PDL or grey belt at the earliest opportunity through formal Green Belt Assessments undertaken by the LPA, or in pre-application discussions.

### 'Golden Rules'

Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review, or on sites in the Green Belt subject to a planning application, the following contributions ('Golden Rules') should be made:

- a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 the NPPF; or (ii) until such policies are in place, the policy set out in paragraph 157;
- b. necessary improvements to local or national infrastructure; and
- 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.

## Green Belt Assessments

The NPPF advises that where an authority cannot meet its identified need for homes, commercial or other development through other means, it should review its Green Belt boundaries and propose alterations to meet these needs in full, unless the review provides clear evidence that doing so would fundamentally undermine the purposes (taken together) of the remaining Green Belt, when considered across the area of the plan. It explains that where it is necessary to release Green Belt land for development, plans should give priority to PDL, then consider grey belt which is not previously developed, and then other Green Belt locations (as shown in Figure 2). When selecting sites for release the need to promote sustainable patterns of development will also be an important consideration.

Given the major increases in housing numbers that the Government is proposing, we expect that many local authorities across the country will need to commence Green Belt reviews in order to meet their needs and inform new local plans. In December 2024, the Government announced funding to support local authorities with the costs of undertaking Green Belt reviews. Green Belt assessments should also inform the preparation of Spatial Development Strategies where these will be setting the strategic context for land release.

It will be important for landowners/developers with Green Belt assets to closely monitor and get involved in these reviews because establishing a site as PDL or grey belt will significantly enhance its potential for development in the future.

## Viability and Development Considerations

The Golden Rules seeking to enhance green space and ensure the delivery of necessary infrastructure, in isolation, are unlikely to cause a headache for developers. For any site within the Green Belt (or indeed undesignated land bordering open countryside) you would anticipate following this approach. It not only represents good planning but can also help to support and enhance the value of the proposed market housing. Though providing these elements, combined with a significantly higher affordable housing requirement, will be a challenge in many areas.

As noted above, on an interim basis, in advance of updated Local Plan policies for the Green Belt, the NPPF requires affordable housing contributions to be 15% higher than existing requirements, capped at 50%. The PPG (December 2024) currently states this cannot be reduced through site specific viability assessment.

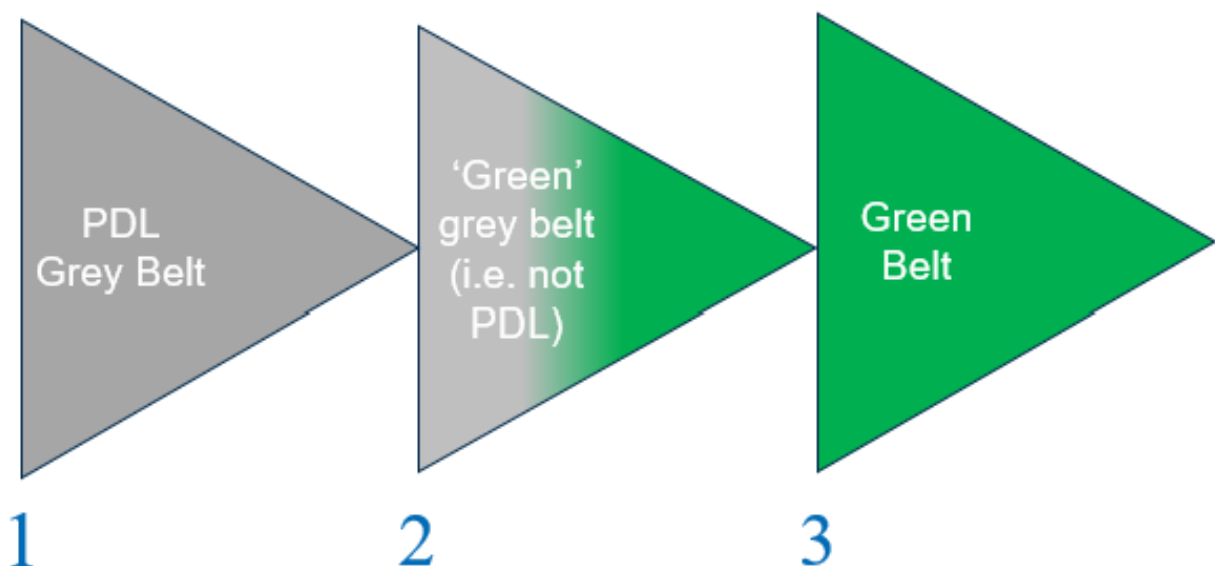


Figure 2: Green Belt Release Priority Order

The higher affordable requirement on Green Belt land comes at a time when the market is experiencing a sharp reduction in the ability of Registered Providers (RPs) to take on Section 106 schemes. Many RPs have no option but to prioritise existing stock, ahead of new acquisition. This is to ensure ageing stock meets housing standards, fire safety regulations and energy performance requirements. In some cases, developers and housebuilders are not receiving any offers on the affordable element of development schemes, which also prevents the delivery of consented market housing. Where offers are put forward, typically there are fewer parties bidding and offers are at significantly lower levels than the medium-term average. A recent study, published by the House Builders Federation, identified at least 17,432 affordable housing units with detailed planning permission have ground to a halt as the lack of Registered RPs participating in the market threatens supply.

In this context there is a risk that the bar has been set too high to facilitate the delivery of much-needed new homes. This is likely to be particularly challenging in the following circumstances:

1. Areas requiring a high proportion of social rent tenures (e.g. 70% of the affordable housing requirement), which can be loss making.
2. Lower value locations where there is less scope for market housing to subsidise the affordable component.
3. Contaminated land.
4. Infrastructure heavy strategic sites.

The PPG does touch upon the potential challenges and further viability guidance is expected shortly. While the interim arrangement is somewhat of a blunt instrument, through emerging plans local planning authorities can vary the rate, subject to area-wide viability testing. The rate must remain higher than for land outside the Green Belt. There is also the ability to set differential rates, which could enable local circumstances and key strategic sites to be more carefully considered.

It will be crucial for landowners and promoters to engage in the Local Plan process, collaborating on the evidence base, to help ensure Green Belt housing allocations are deliverable. The plan-making process is not an immediate solution, it takes time and across parts of the country could be further complicated by the current devolution proposals. In the interim, it may also be possible to use site specific viability assessment to vary the affordable tenure mix to enable delivery at the higher overall requirements.

### Key Takeaways

- This is a radical change to Green Belt policy and presents an immediate opportunity to enhance the development potential of some sites.
- Some policy guidance is yet to emerge, such as that on viability, and it will be important to monitor this. We will produce an update in due course.
- We are already seeing the impact of the policy change in planning decisions at a local, appeal and call-in level. Of the 16 SoS planning call-ins/recovered appeals (excluding DCOs) issued since Labour came into power, 7 have had Green Belt considerations and 6 of these have been approved.
- This will feed through to how planning committees view Green Belt applications, as even in the face of local opposition they will have policy support for making difficult decisions, and the prospect of losing appeals and costs awards on spurious refusals.

### Key Takeaways (continued)

- We expect an increase in appeals this year as applicants seek to test the application of the new policy and guidance.
- It will be important to get involved in Green Belt assessments where they affect your assets, as a PDL or grey belt classification will be enormously helpful if getting a site released from the Green Belt or in getting support for a planning application in the Green Belt.
- Landowners and promoters should engage with the plan making process to help inform affordable housing policies for Green Belt sites and contribute to the viability evidence base.

The Newmark planning and development team can advise on all of the above matters, so please do contact us if you have any questions.

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