

A. LODGED

- 4/00091/18/ENA Peters
APPEAL AGAINST ENFORCEMENT NOTICE - COMMERCIAL USE OF
BUILDING AND METAL FRAMED BUILDING
LAND ADJ. TWO BAYS, LONG LANE, BOVINGDON, HP3 ONE
[View online application](#)
- 4/01060/17/FUL Land Key Developments
DEMOLITION OF EXISTING PROPERTY AND REPLACEMENT WITH TWO
3-BED DWELLINGS
- 2 KITSBURY ROAD, BERKHAMSTED, HP4 3EG
[View online application](#)
- 4/02713/17/FUL Mr Forbes
DEMOLITION OF GARAGE AND CONSTRUCTION OF TWO SEMI
DETACHED DWELLINGS
LAND R/O, 50 LOCKERS PARK LANE, HEMEL HEMPSTEAD, HP1 1TJ
[View online application](#)

B. WITHDRAWN

None

C. FORTHCOMING INQUIRIES

None

D. FORTHCOMING HEARINGS

- 4/01845/17/MFA McCarthy & Stone Lifestyles Ltd
DEMOLITION OF FOUR EXISTING DWELLINGS. REDEVELOPMENT TO
FORM 40 UNITS OF RETIREMENT LIVING (CATEGORY II SHELTERED
HOUSING) APARTMENTS FOR THE ELDERLY WITH ASSOCIATED
COMMUNAL FACILITIES, PARKING AND LANDSCAPING
27-33 HEMPSTEAD ROAD, KINGS LANGLEY
[View online application](#)

E. DISMISSED

- 4/00221/17/LDP Mr K Pritchard
CONSTRUCTION OF 2 DETACHED OUTBUILDINGS WITHIN THE
CURTILAGE OF THE PROPERTY.

6 HIGHCROFT ROAD, FELDEN, HEMEL HEMPSTEAD, HP3 0BU
[View online application](#)

The Inspector found that the refusal of the LDC for gym and indoor bowling green was well founded. He found that the appellant had not provided sufficient justification for the size of the facilities and that the spaces proposed would exceed what is reasonably incidental to the enjoyment of a dwelling for two people.

The Inspector detailed that the appellant is clearly not required to specify how he proposes to use every inch of space. That said, whether the building is reasonably required for a purpose incidental to the enjoyment of the dwelling house must retain an element of objective reasonableness.

Additionally the size of the proposed outbuildings would have been significantly greater than the footprint of the main dwelling even taking into account the permitted extensions.

Considering all the evidence submitted, it had not been demonstrated that on the balance of probabilities that the proposed scale of activities and size of the buildings that would enclose them, are genuinely and reasonably required or necessary in order to accommodate the proposed uses as incidental to the enjoyment of the dwelling house as such, the proposed development would not, therefore, constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the GPDO.

4/00579/17/FHA

Mr West & Miss Cordell
TWO STOREY SIDE AND REAR EXTENSION
102 BELMONT ROAD, HEMEL HEMPSTEAD, HP3 9NX
[View online application](#)

Decision

1. The appeal is dismissed.

Procedural matters

2. The name of the appellants on the application form does not correspond with the appeal form. I have as a consequence used the above names following clarification from the appellants'.

3. The certificate of ownership signed on the application form (Certificate A) does not correspond with that on the appeal form (Certificate B). The appellants' have subsequently confirmed that the application form is correct (Certificate A).

4. The reason for refusal relates to the impact on living conditions for the occupiers of No 100 Belmont Road ('No 100'). Although the Council has referred to Policy CS11 of the Core Strategy¹ and Appendix 5 of the Local Plan², I have concluded that these are not applicable as they relate to design and character, and parking standards. Furthermore, I have also concluded that the Council's references to parts (b), (f) and (g)(vi) of Policy CS12 of the Core Strategy are also not relevant as they relate to parking, streetscape character and respecting adjoining properties in terms of bulk.

Main issue

5. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the proposed development on the living conditions of No 100, with specific regard to loss of light and visual outlook.

Reasons

6. The appeal site slopes upwards in a south-easterly direction and contains a mature 2-storey bay-fronted detached property. The road is characterised by detached properties of a similar design, with regular gaps between dwellings incorporating garages, pedestrian walkways and 1 and 2-storey extensions. The road slopes down in a south-westerly direction and as a consequence, No 100 is set below the garden and

ground level of the appeal dwelling.

7. No 100 has a range of window and door openings to its side elevation that would face the development, which include a first floor WC window and landing window, and a ground floor WC window, hallway window, brick shed door, and kitchen window and door. The proposed 2-storey development would extend up to the dividing boundary line with No 100 and replace an existing single storey garage and rear extension.

8. In view of;- (a) the orientation of No 100 (its side elevation faces north-east); (b) the path of the sun; (c) the lower ground level of No 100; and (d) the substantial increase in height of built form immediately adjacent to the dividing boundary, the scheme would result in a significant loss of direct sunlight during the morning to No 100's side elevation windows and doors, particularly those at ground floor. Furthermore, it would also result in a significant loss of indirect daylight throughout most of the day to these same apertures.

9. I recognise that most of the openings to No 100's side elevation are not linked to main-habitable rooms and hence the scheme's sunlight and daylight impact on these would be minimal. However, two openings (a ground floor window and door) are connected to the kitchen, which I consider to be a main habitable room. In view of this, and because these are the only openings to this room, I have concluded that the development would cause substantial harm to the living conditions of its occupiers when using it.

10. Furthermore, because the development would also result in a large 2-storey expanse of wall immediately adjacent to the dividing boundary with No 100, it would appear visually intrusive and oppressive to its occupants when viewed from their kitchen window and door. This harm would be intensified by No 100 being set below the appeal site's ground level.

11. The appellants' have drawn my attention to a number of other extensions and planning decisions on Belmont Road which they feel help to justify the appeal being allowed. However, I am not aware of the relationship of these other extensions to the full range of existing windows and doors on neighbouring properties, their internal layouts and the particular circumstances where planning permission was granted, but in any event, I must consider the appeal scheme on its own merits. The existence of these other developments does not therefore justify the harm I have identified.

12. I note the appellants' frustrations regarding the timing of the application, the Article 35 statement and the lack of comments from the neighbouring occupiers at No 100 within the original consultation period, but these have little bearing on the planning merits of the scheme before me and are a matter between the parties.

13. In view of the above, I have concluded that the development would be harmful to the living conditions of neighbouring occupiers at No 100 with regard to the sunlight, daylight and visual impact on their kitchen. The proposal would not as a consequence accord with Policy CS12(c) of the Core Strategy and Appendix 7 of the Local Plan, which collectively seek, amongst other things, to ensure that new development safeguards the amenities of neighbouring occupiers with regard to sunlight, daylight and visual impact.

14. Although the appellants' state that the development would improve the visual appearance of the road and provide enhanced living accommodation, I have concluded that these benefits would not outweigh the significant harm to the living conditions of the occupiers at No 100, and the scheme's conflict with the development plan.

Conclusion

15. I have found that the appeal proposal would be harmful to the living conditions of neighbouring occupiers at No 100 Belmont Road. All representations have been taken into account, but no matters, including the benefits of additional living accommodation and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

4/01135/17/FUL

WILLIAMS

DEMOLITION OF EXISTING PART TWO STOREY, PART SINGLE STOREY BUILDINGS AND THE CONSTRUCTION OF 9 RESIDENTIAL APARTMENTS ON 2 AND A HALF FLOORS WITH PART UNDERGROUND PARKING. THE STORES, ST PAULS ROAD, HEMEL HEMPSTEAD, HP2 5BD

[View online application](#)

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council states that amended plans were provided before the application was determined. For the avoidance of doubt and in view of the fact that there does not appear to be any dispute between the Council and appellant on this matter, I have proceeded on the basis that the plans under consideration in this appeal are Drawing Nos 1:1250 Location Plan, 930.1, 930.2b, 930.3b, 930.4c, 930.5c, 930.6b, 930.7b, 930.8c, 930.9b and the design and access statement. I am satisfied that dealing with the appeal on this basis would not prejudice the interests of any party.

Main issues

3. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are:

- the effect of the development on the character and appearance of the area;
- the effect of the development on highway and pedestrian safety, with specific regard to whether the scheme makes adequate provision for safe manoeuvrability into and out of the proposed off-road parking spaces and for vehicles to subsequently exit the site in forward gear; and
- whether future occupiers would be likely to experience acceptable living conditions in terms of amenity space provision.

Reasons

Appeal site and development context

4. The appeal site is located on a highly prominent junction at the corner of Lower Adeyfield Road and St Paul's Road ('the corner junction'). It contains a 2-storey detached building with ground floor shop and a large single storey outbuilding being used for commercial/retail purposes. The proposed development consists of four 2-bedroom apartments and five 1-bedroom flats, together with 11 off-road parking spaces.

5. The St Paul's character appraisal¹ describes the area as a small-estate of inter-war pebble-dashed semi-detached houses with a group of 1970s houses. Lower Adeyfield Road slopes down in a northerly direction from its junction with Midland Road until it reaches the appeal site, where it then starts to level out.

6. The development would encompass almost the full width of its Lower Adeyfield Road plot frontage, and its main roof ridgeline would extend horizontally for approximately three quarters of this, starting at the southern end of the building, just below the ridgeline to the neighbouring dwelling at No 5. As a consequence, the height of the development would increase in relation to the adjacent highway ground level the further it extends towards the corner junction, and result in the centre of the building facing Lower Adeyfield Road appearing excessively tall and bulky (where flats 2, 3, 7 and 8 are positioned). This mass and height would be further accentuated when viewed from the rear as the lower ground floor would also be visible.

7. As a consequence of the above factors, the development would appear significantly out-of-scale with the existing semi-detached houses to the south of the site and fail to reflect the consistent rhythm of their narrow built frontages, open gaps, and roofs stepping down at short intervals to reflect the topography of the road.

8. The development footprint would also project beyond the existing building line of the dwellings to the south and incorporate most of the existing grassed area within the appeal site adjacent to the corner junction. This would result in the building having a very short set back from the public footway and leave insufficient space for soft landscaping to adequately soften and filter views of the scheme's frontage on Lower Adeyfield Road and the corner junction. Although there would be some new Silver Birch trees planted adjacent to the public footway on St Paul's Road, these would not address the visual impact of the development from Lower Adeyfield Road and would only provide limited mitigation when viewed from St Paul's Road because of the overall scale of the building. The potential for additional landscaping to the rear of the building to provide further mitigation would be significantly restricted because of the amount of space dedicated to off-road parking.

9. In view of the above factors, I have concluded that the building would dominate the area and create the impression of a development that has been tightly squeezed onto the site with insufficient space for soft landscaping. This would be harmful to the character and appearance of the area, and the public Appeal views of the proposal from Lower Adeyfield Road and St Paul's Road would intensify this negative impact.

10. The appellant states that the area has been extensively developed in recent years and has drawn my attention to a modern 2.5 storey development opposite the appeal site at the corner of Lower Adeyfield Road and Christchurch Road, and a modern 2 and 3-storey development at the corner of St Paul's Road and Lower Adeyfield Road. However, the cited schemes are not directly comparable to current proposal in terms of architectural style, scale, proportions, building lines, landscaping space and set-backs from the

highway. I am also not aware of the particular circumstances where planning permission was granted for these and in any event, I must consider the appeal scheme on its own merits. The existence of these other developments does not therefore justify the harm I have identified.

11. In view of the above, I have concluded that the development would be harmful to the character and appearance of the area. The proposal would as a consequence conflict with Policies CS11, CS12 and CS13 of the Core Strategy², which collectively seek, amongst other things, to ensure that new development is of a high quality design that integrates with the streetscape and incorporates suitable trees and soft landscaping to improve the public realm.

12. The scheme would also fail to comply with the development principles for the St Paul's character appraisal, which state, amongst other things, that residential development will only be acceptable if it does not result in bulky buildings and follows prevailing building lines.

Highway and pedestrian safety

13. The development would result in the provision of 11 off-road parking spaces for a total of 9 apartments. The Council has not raised any concerns in respect of this figure, which I also consider to be appropriate given its urban location and access to other services and facilities by walking and public transport.

14. However, parking spaces 5, 6, 7 and 8 would be in close proximity to a number of pillars supporting the ground floor of the building and the Council states that a 6 metre reversal distance would not be possible from all of these. In the absence of tracking drawings demonstrating that cars could reverse from these spaces safely and turn around, drivers would be required to reverse through the car-park and over the public footway onto St Paul's Road, which would jeopardize the safety of pedestrians and give rise to dangerous road traffic conditions close to a junction. I therefore share the concerns of the Council that the development would be harmful to highway and pedestrian safety.

15. Although the appellant states that there should be some flexibility in the amount of parking to be provided, I must consider the scheme on the basis of the parking layout provided. The appellant also states that the Local Highway Authority has not raised any objections, but this in itself does not demonstrate a lack of harm.

16. In view of the above, I have concluded that the development would be harmful to highway and pedestrian safety. The proposal would not therefore comply with Policies CS12 and CS13 of the Core Strategy and Policies 51, 58 and Appendix 5 of the Local Plan³, which collectively seek, amongst other things, to ensure that new development provides satisfactory parking areas that do not have a negative impact upon vehicle, cycle and pedestrian routes, and contain spaces capable of independent usage.

17. The scheme would also fail to comply with the development principles for the St Paul's character appraisal, which state, amongst other things, that effective off-street parking should be provided to limit the need for on-street parking.

18. The appellant states that the development would result in an efficient use of the land and end the highway congestion and visibility problems brought about by commercial vehicles associated with the existing business. However, Paragraphs 56 and 64 of The Framework⁴ state that good design is a key aspect of sustainable development and that poorly designed development which fails to take the opportunity to improve the character and quality of an area should be refused.

Living conditions of future occupiers

19. The Council states that the development would not accord with Appendix 3 of the Local Plan as it would constitute a residential development designed for multiple occupancy and not provide a private communal amenity area to the rear of the building. However, Appendix 3 also states that a reduced rear garden may be acceptable for small starter homes and development in close proximity to open land, public open space or other amenity land.

20. It is not clear if the scheme would constitute a development designed for multiple occupancy as the Local Plan does not provide a definition. Notwithstanding this, I am in any event satisfied that the proposed flats would constitute small starter homes, and that the provision of a private terrace or balcony for each unit, when considered collectively with the appeal site's close proximity to public open-space at Keen's field to the south-east, would result in satisfactory amenity space provision.

21. In view of the above, I am satisfied that the development would not be harmful to the living conditions of future occupiers, with specific regard to private amenity space. The proposal would as a consequence accord in part with Core Strategy Policy CS12 in this particular regard and Appendix 3 of the Local Plan, which seek, amongst other things, to ensure that future occupiers have sufficient access to functional amenity space. This does not however outweigh my findings in respect of the other main issues.

Other matters

22. The appellant has emphasized their attempts to address the concerns raised by the occupiers of No 5 Lower Adefield Road by reducing the number of units proposed. However, this does not in itself demonstrate a lack of harm and I must consider the appeal scheme on its own merits.

Conclusion

23. I have had regard to the appellant's comments concerning accessibility and agree the site is located in a sustainable location where the principle of development is acceptable. However, for the reasons set out above, I conclude that the harm to the character and appearance of the area, and to highway and

pedestrian safety, would significantly and demonstrably outweigh the modest amount of social and economic benefits that the development would contribute, namely, making an efficient use of land, a reduction in commercial vehicles parked on the road, and the provision of 9 additional dwellings.

24. I have found that the appeal proposal would be harmful to the character and appearance of the area, and to highway and pedestrian safety. All representations have been taken into account, but no matters, including the benefits of additional housing and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

4/01194/17/FHA

MR ANIL PATEL

LOFT CONVERSION TO FORM HABITABLE ROOM WITH REAR DORMER WINDOW

12 KITSBURY ROAD, BERKHAMSTED, HP4 3EG

[View online application](#)

Decision

1. The appeal is dismissed.

Procedural matter

2. Although the Council has referred to Policy CS25:Landscape Character of the Core Strategy¹ in its reason for refusal, I have concluded that this is not applicable as it is aimed at conserving the borough's natural landscape, whereas the reason for refusal relates to the impact of the development on the character and appearance of the host property and conservation area.

1 Core Strategy 2006-2031, adopted 25 September 2013, Dacorum Borough Council

2 Berkhamsted Conservation Area, designated 1969, revised 1994 and extended in 2009

3 Character Area 3: Charles Street, Paragraph 6.184, Character Appraisal and Management Proposals Document, Published 2015

Main issue

3. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is considered to be the effect of the development on the character and appearance of the host property and conservation area.

Reasons

4. The appeal site contains a narrow-fronted Victorian 2-storey mid-terrace house, which has access to its loft via an internal staircase and two rooflights to its rear roof slope.

5. Kitsbury Road lies within the Berkhamsted Conservation Area² and slopes upwards in a south-westerly direction. The area surrounding the appeal site is characterised by 2-storey Victorian and Edwardian terrace housing, some with single and double-height bay windows, together with 1920s semi-detached properties to its northern end set on more spacious plots

6. The proposed dormer extension would contain two sash windows and extend across most of the rear roof slope of the host dwelling. Although the appellant states that it has been realigned from that considered at the previous appeal⁴, it would, by reason of its bulk and scale, significantly alter the shape of the dwelling's original roof form, appear cramped and dominate its rear elevation. This would be clearly noticeable from the rear gardens of neighbouring properties in Kitsbury Road and Boxwell Road, which would intensify this harmful impact.

7. Although I agree with the appellant and previous Inspectors that the public elevations of properties in the area are of greater significance and that the rear elevations are less sensitive to alteration, this does not justify the harm identified to the character and appearance of the conservation area, which extends to the front and rear of the dwelling.

8. The appellant has drawn my attention to other rear dormer extensions granted permission by the Council and at appeal, but none appear to be directly comparable in size, shape and proportion or width of the host dwelling. In any event, the construction of other dormer window extensions does not justify the harm I have identified and I must consider the appeal scheme on its own merits.

9. In view of the above, I have concluded that the development would be harmful to design of the existing dwellinghouse and the character and appearance of the conservation area. As a consequence, it would also fail to preserve or enhance the character and appearance of the conservation area⁵. The scheme would therefore conflict with Policies CS12 and CS27 of the Core Strategy and Policy 120 of the Local Plan⁶ which collectively seek, amongst other things, to ensure that the new development is of a high quality design, integrates with the streetscape, and conserves and enhances the character and appearance of conservation areas.

10. Although the proposal would be harmful to the character and appearance of the conservation area, I would consider this to be less than substantial because of the dormer extension's more obscure position, which would reduce the development's overall effect on the significance of the designated heritage asset.

11. I have accordingly assessed the scheme against paragraph 134 of The Framework⁷, which states that when a development leads to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal.

12. The appellant states that the development would result in additional living accommodation to enable the occupants to live in a modern way and also enable the optimum viable use of the dwelling in accordance with Paragraph 134 of The Framework. However, it has not been demonstrated that the loft cannot be used without the dormer extension and in any event, the benefit of additional living accommodation in the roof would not outweigh the harm identified to the significance of the conservation area as a designated heritage asset.

13. The appellant has also referred to Paragraph 61 of the Framework which states that planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment, and that the proposal would also result in an efficient use of land. However, I have concluded that the development would fail to integrate into its historic environment and not accord with Paragraphs 56 and 64 of The Framework, which state that good design is a key aspect of sustainable development and that poorly designed development which fails to take the opportunity to improve the character and quality of an area should be refused.

Conclusion

14. No public benefits of the proposal have been found that outweigh the harm that would be caused to the significance of the conservation area, and the failure to preserve or enhance the character or appearance of the conservation area. All representations have been taken into account, but no matters, including the benefits of additional living accommodation and the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal should be dismissed.

4/03503/16/ENA

Todd

APPEAL AGAINST ENFORCEMENT NOTICE - EXTENSIONS
BARNES CROFT, BARNES LANE, KINGS LANGLEY, WD4 9LB

[View online application](#)

Three appeals were conjoined into this decision. Appeal A was against the serving of an Enforcement Notice requiring the removal of the garage, link extension and sun room. Appeal B was against the refusal to vary Condition 3 of 4/00421/15/ROC, which related to the removal of permitted development rights. Appeal C was against the refusal of an application to alter and retain a detached garage block. All three appeals were dismissed.

The Council had previously granted a substantially increased dwelling in this Green Belt site and gave considerable weight to the extent the original house could have been extended using permitted development rights. In return the Council removed permitted development rights for extensions and outbuildings.

The Inspector dealt first with Appeal B. The Inspector considered that the Council had clear reasons for imposing the condition and that it had been consistent in doing so "to protect the visual amenity of the locality and the openness of the Green Belt". The Inspector also considered that the great importance the Government attaches to the Green Belt (para.79 of the NPPF) met the 'exceptional circumstances' test to justify the removal of PD rights in this case. Overall, the Inspector concluded that the condition meet the six tests in para.206 of the NPPF and there was no justification for its deletion.

The Inspector then moved onto Appeal A - the Enforcement Notice appeal. It should be noted that no appeal was made against the link extension or the sun room and therefore this solely related to the garage. The Inspector agreed with the Council that earlier Lawful Development Certificate and planning applications had not granted planning permission for the development concerned. As such the ground (c) appeal failed. The Inspector noted that the increase in floor area was 101% and in cubic volume was 50% and that this was material and one which must have an effect on the openness of the Green Belt. Being materially larger the Inspector concluded that the garage block constituted inappropriate development in the Green Belt. The Inspector then identified other harms (the incongruous appearance of the garage block detracting from the appearance of the dwelling; the garage contributed to a cramped appearance of development across the site). The existence of the new Kings Langley school in the surrounding landscape did not diminish these harms, whilst there were no very special circumstances to overcome the Green Belt and other harms. As such the ground (a) appeal failed. The Inspector considered that there were no lesser steps that would remedy the breach of planning control and therefore the ground (f) appeal also failed.

Finally, in terms of Appeal C, the Inspector stated that the same considerations applied as for Appeal A (a). The Inspector concluded that there were no other factors to take into account and therefore dismissed this appeal.

F. ALLOWED

4/00829/17/FUL MR C ALLAND
CONSTRUCTION OF 4-BED DWELLING
BAG END, HOGPITS BOTTOM, FLAUNDEN, HEMEL HEMPSTEAD, HP3
0PX
[View online application](#)

Decision

1. The appeal is allowed and planning permission is granted for a single detached dwelling at Bag End, Hogpits Bottom, Flaunden, HP3 0PX in accordance with the terms of the application, Ref 4/00829/17/FUL, dated 29 March 2017, subject to the conditions set out in the attached schedule.

Procedural matters

2. Although the Council has referred to Policy CS4: The Towns and Large Villages in its reason for refusal, I have concluded that this is not applicable to the proposal as Hogpits Bottom and Flaunden are not defined as a town or large village in Table 1: Settlement Hierarchy of the Core Strategy¹.

1 Core Strategy 2006-2031, adopted 25 September 2013, Dacorum Borough Council

2 Wood v Secretary of State for Communities and Local Government, Gravesham Borough Council [2014] EWHC 683 (Admin) and Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWCA Civ 195

3 National Planning Policy Framework, Communities and Local Government, March 2012

3. Although the Council and appellant agree that the appeal site falls within the parish of Flaunden, they do not agree as to whether it falls within the village of Flaunden. In view of the qualifying criteria in local and national policy that relate to inappropriate development in the Green Belt, it is necessary for me to adjudicate on this dispute between the Council and appellant and determine whether the appeal site falls within a village.

4. The Council has confirmed that the village of Flaunden does not have any designated boundaries identified by the Development Plan or shown on the Proposals Map. However, the Council and appellant are in agreement with case law² that; (a) whether or not a proposed development constitutes limited infilling in a village for the purpose of paragraph 89 of the Framework³ is a question of planning judgment for the inspector, and that this would depend upon their assessment of the position on the ground; and (b) while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector's assessment of the extent of the village on the ground.

5. The historic core of the village contains a church, village hall, recreation area and public house (the 'Green Dragon') and is separated from the built-up area to the north (referred to on maps as 'Hogpits Bottom') by an undeveloped gap of open fields. The latter area, which also contains a public house, appears to have been subject to much greater growth over the last century than the historic core of the village and its buildings are generally younger. These characteristics have led me to conclude that Hogpits Bottom may have originally been a small pocket of isolated dwellings or hamlet outside the built-up area of the village, which would account for satellite mapping referring to both parts by their original (and different) names.

6. However, villages and their setting change and evolve over time and it does not automatically follow that outlying pockets of development will always remain separate or small in scale. The Framework does not define what constitutes a village or its built-up area, but having appraised the matter on the ground, I consider the built-up area of Hogpits Bottom to no longer constitute an outlying small pocket of dwellings or hamlet, particularly as it is of a comparable size to the historic core of the village. It is also in close proximity to the latter, being approximately 0.3 miles away, and I would envisage that its residents contribute similar levels of support to the church, village hall, recreation area and Green Dragon Public House.

7. Furthermore, the position of the Flaunden signs do not align with the parish boundaries, but with the built-up areas of the historic core and Hogpits Bottom, which suggests that the latter forms part of the village. I also have no evidence to indicate that the position or name used on the village signs adjacent to Hogpits Bottom is disputed by residents, which would suggest a general acceptance by the local population that Hogpits Bottom forms part of the village and that this is clearly intended to be conveyed to

visitors passing through it. Whilst I recognise that both built-up areas do not physically abut each other, I see no reason why a village may not be comprised of more than one built-up area separated by an undeveloped gap, just as the built-up areas of towns and cities are often subdivided by parks, the open countryside and other natural features such as steep hills and rivers.

8. Having considered all of the above factors collectively together with my on-the-ground assessment, I have concluded that Hogpits Bottom now forms part of the overall built-up area of the village of Flaunden and contributes to its overall character and function. However, even if the historic core was not in close proximity and the name on the signs referred to Hogpits Bottom, I am satisfied that it has grown to such a size that it has become a village in its own right and no longer constitutes a small isolated pocket of dwellings or rural Hamlet.

Main issues

9. The Council has raised no concerns regarding the design of the dwelling or its impact on:- (a) the character and appearance of the area; (b) the living conditions of neighbouring occupiers; (c) the local highway network and pedestrian safety; (d) existing trees and landscaping; and (e) ecology. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issues are:-

- whether the proposal would be inappropriate development in the Green Belt;

- the effect of the development on the openness of the Green Belt;

- whether the development would be in an appropriate location;

- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Appeal site context

10. The appeal site forms part of the existing side garden to the dwelling currently under construction at the site⁴ and slopes gently upwards in a northerly direction. At the time of my inspection, the rear of the site was laid to gravel for construction parking, with the frontage laid to grass. It was enclosed by a mature hedge and Oak tree to its western boundary, a post and rail fence to its southern boundary and a stone Gabion wall with close-boarded fence to its northern boundary.

11. Hogpits Bottom is characterised by detached dwellings set on large spacious plots on both sides of the highway, varying in age, maturity and design. The area has a strong verdant character with a range of established trees and hedges lining the highway boundary together with grass verges. This part of the village also extends to the north with more detached housing on the western side of Flaunden Lane and the southern side of Venus Hill. The Bricklayers Arms Public House lies to the east of Flaunden Lane and the original historic core of the village lies approximately 0.3 miles to the south, separated from Hogpits Bottom by open fields. The village, which is washed over by the Metropolitan Green Belt, is therefore both partly-separated by the open countryside and wholly surrounded by it.

Whether the proposal would be inappropriate development in the Green Belt;

12. Policy CS5 of the Core Strategy states that small-scale development within the Green Belt will be permitted subject to a number of exceptions, which includes, amongst others, building for the uses defined as appropriate in national policy (exception 'a'). In view of there being only one dwelling proposed, I would consider the scheme to constitute small-scale development and have accordingly proceeded to assess the proposal against national policy in accordance with exception 'a' of Policy CS5.

13. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless, amongst other things, it would involve limited infilling in villages (bullet point 5). Although the Framework does not provide a definition of infilling, Paragraph 8.31 of the Core Strategy states that this should be taken to mean the infilling of small gaps between existing development. Given that the building would fall within an otherwise built up frontage between the dwelling currently under construction to the east and Rose Cottage to the west, I have concluded that the development would constitute infilling.

14. Despite the substantial size of the dwelling, it would nonetheless be small-scale in terms of number of units when compared with the overall size of the village. I have as a consequence also concluded that the extent of infilling proposed would be limited. This accords with the Council's view that if the appeal site were to fall within a village, it would constitute limited infilling.

15. In view of the above and my conclusion that the appeal site falls within the village of Flaunden, I have concluded that the scheme would fall within the exception category for limited infilling in villages identified by Paragraph 89 of the Framework (bullet point 5). The scheme would not therefore constitute inappropriate development in the Green Belt and would as a consequence comply with Policy CS5 of the Core Strategy.

16. Although the Council states that the development would compromise the openness of the Green Belt, case law⁵ has determined that where development is found to be 'not inappropriate' when applying paragraphs 89 or 90 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. In view of this, there is no need for me to consider the effect of the development on the openness of the Green Belt.

Whether the development would be in an appropriate location

17. I observed from my site visit and the evidence in this case that the village has very few facilities and that its occupants would as a consequence be almost totally reliant on other settlements for their day to day leisure, service and shopping needs. In view of this, and the low frequency of the local bus service outlined by the Council, and the site's distance to the other settlements referred to by the appellant, I have concluded that future occupants of the dwelling would be heavily dependent on the private car.

18. Paragraph 8.8 of the Core Strategy states that guidelines are necessary to determine the appropriate scale of future development for the borough and ensure that it is provided in accessible locations with the minimum need to travel, and that when travel is necessary, there is a choice which includes public transport. This accords with Paragraph 17 (bullet point 11) of the Framework which states that planning should actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus development on locations which can be made sustainable.

19. As a consequence, Policy CS1 of the Core Strategy states that decisions on the scale and location of development will be made in accordance with the settlement hierarchy in Table 1. On the basis that Flaunden has not been identified as a 'Large Village' (category 3); a 'Small Village within the Green Belt'; or a 'Small Village within the Rural Area' (category 4), I have concluded that it falls within category 5, which refers to 'Other Small Villages and the Countryside'.

20. Categories 4 and 5 of Table 1 are identified as falling within an 'Area of Development Restraint' ('ADR') on the basis that they are the least sustainable areas of the borough, where significant environmental constraints apply, such as the countryside between settlements.

21. Policy CS1 and Table 1 specifically refer to the need to conserve the rural character of the borough. Furthermore, the last paragraph of Policy CS1 also states 'Development that supports the vitality and viability of local communities, causes no damage to the existing character of a village and/or surrounding area and is compatible with policies protecting and enhancing the Green Belt, Rural Area and Chilterns Area of Outstanding Natural Beauty will be supported.'

22. Despite my concerns that the development would be heavily car dependent and inconsistent with the aims of Paragraph 8.8 of the Core Strategy and Paragraph 17 (bullet point 11) of the Framework, I am satisfied that it would:- (a) provide additional support to the vitality and viability of the local community; (b) cause no damage to the existing character of the village and the surrounding area; and (c) is compatible with policies protecting and enhancing the Green Belt. In view of this, I therefore conclude that the proposal would comply with Policy CS1 of the Core Strategy and that the environmental harm arising from the scheme's reliance on the private motor car would not outweigh this.

Other matters

23. The Council states that the development would be contrary to the environmental and social aspects of sustainable development, as outlined in Paragraph 14 of the Framework, and that the development would not therefore accord with Policy NP1 of the Core Strategy. However, I see no conflict with either of these policies as I have concluded that the proposal complies with the development plan and that material considerations do not indicate otherwise. The Council also states that the proposal would fail to assist in urban regeneration by encouraging the recycling of derelict and other urban land, but in view of its limited scale, I am satisfied that the proposal would not compromise this.

24. Third party concerns have been raised in respect of loss of privacy to Rose Cottage to the west. However, given the extent of gap between the side elevation of the development and this property's garden, and the existence of a mature boundary hedge, I am satisfied that the scheme would not harm their privacy from any ground floor windows. I do nonetheless share their concerns in respect of first floor side elevation windows and have imposed a condition requiring these to be obscure glazed.

25. Third party concerns have also been raised that the scheme would constitute overdevelopment. However, it would be of a similar architectural style to the property currently under construction and be set well back from the road. There would also be generous open gaps between the dwelling and neighbouring properties, together with a satisfactory level of private amenity space. I am as a consequence satisfied that it would not be harmful to the spacious character and appearance of the area, and the wider landscape.

26. Further representations have been made that the development would not have its own garage. However, this is not a requirement of local or national policy and the scheme would benefit from a generous level of off-road parking provision. Concerns have also been raised that the proposed dwelling and neighbouring property under construction would be required to share a driveway because of land ownership constraints. However, even if this were the case, I would not consider this to be harmful to the character and appearance of the area or highway and pedestrian safety.

27. Representations have also been made raising concerns about the extent of development currently being constructed under permitted development rights. However, this has no bearing on the current scheme before me, which must be considered on its own merits.

28. Other representations have been made referring to Policy 4: The Green Belt, Areas of Development Restraint and Policy 6, but it is not clear which document these policies relate to. In any event, I am nonetheless satisfied that the development accords with the most up-to-date local policy contained in the

Core Strategy and the Framework.

29. Representations have also been made that the development would create an undesirable precedent. However, I have concluded that the development is acceptable in terms of development plan policy and the Framework, and in any event, I must consider the appeal scheme on its own merits.

30. Additional third party concerns have been raised about potential ecological harm. However, the appeal site is not designated as a Special Area of Conservation (SAC) or a Special Protection Area (SPA) and no European Protected Species have been found on the site. Furthermore, the site does not benefit from any local designation of nature conservation importance and no rare or legally protected species of Flora and Fauna have been found. I am as a consequence satisfied that conditions to protect the existing tree and hedge together with the provision of a new landscaping scheme would ensure that any ecological impact is minimised.

Conditions

31. The Council has suggested conditions which I have considered in the light of the Planning Practice Guidance and comments by the appellant. I have made some amendments to clarify certain details, assign different trigger deadlines or where the submitted information is unclear.

32. In addition to the conditions referred to above, a condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. A condition relating to external materials is necessary to ensure a high standard of development. Conditions are also needed to protect the existing Oak tree and boundary hedge during construction and require details of a hard and soft landscaping scheme.

33. In view of its location within the Green Belt, its limited rear garden space and the need to protect the spacious rural character of the village, I have imposed a condition withdrawing permitted development rights for all extensions, roof extensions, garages, buildings, other enclosures and front garden boundary treatments. However, I do not consider it necessary to remove permitted development rights for porches, roof alterations (other than roof extensions), hard surfaces, microwave antenna, means of access to a highway, exterior painting and the change of use to a House of Multiple Occupation (HMO).

Conclusion

34. I have found that the proposal would comply with the development plan and Framework as; (a) it would not constitute inappropriate development in the Green Belt; (b) it would conserve the rural character of the village and surrounding countryside. In view of this, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:- Drawing Nos LABE/02/17, LABE/03/17, LABE/04/17, LABE/05/17, LABE/06/17, the 1:1250 location plan and the Design and Access Statement dated March 2017 (Version 1).

3) No development shall take place above damp proof course level until details of all external facing materials and finishes have been submitted to and approved in writing by the local planning authority. The relevant works shall thereafter be carried out in accordance with the approved details.

4) No development shall take place until a tree and hedge protection plan has been submitted to and approved in writing by the local planning authority. No preparatory work or development shall take place until the approved tree protection measures have been installed and these shall remain in place until completion of the development and all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

5) The dwelling hereby permitted shall not be occupied until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

a) soft landscaping to include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of new trees, hedgerows and plants noting species, plant supply sizes and proposed numbers/densities;

b) an implementation programme for all soft landscaping works;

c) hard surfacing material samples for the access, driveway, parking, patios and any other hardstandings;

d) boundary treatments, to include design, materials, colours and finishes.

The hard landscaping and boundary treatment works shall be carried out in accordance with the approved details before the dwelling is first occupied.

6) Any trees, hedges or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No new tree or hedgerow planted in accordance with condition 5 shall be pruned or cut in any manner within 5 years from the date of the occupation of the dwelling hereby approved, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.

7) The dwelling hereby permitted shall not be occupied until the west-facing first-floor side elevation windows have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, roof extensions, garages, buildings or other enclosures, and fences, gates or walls forward of the south-facing front elevation, shall be erected within the curtilage of the dwelling hereby approved, other than any fences, gates or walls expressly authorised