

A. LODGED

4/01049/19/FUL Perryman
REMOVAL OF PITCHED ROOF STRUCTURE AND CONSTRUCTION OF
MANSARD ROOF TO PROVIDE 2 ONE BEDROOM FLATS AT SECOND
FLOOR
1 CHRISTCHURCH ROAD, HEMEL HEMPSTEAD, HP2 5BX
[View online application](#)

4/01589/19/OUT OPM Property Services Ltd
OUTLINE APPLICATION (ALL MATTERS RESERVED) FOR DEMOLITION
OF EXISTING BUNGALOW AND CONSTRUCTION OF DWELLING HOUSE
WITH 08 FLATS WITHIN THE EXISTING ENVELOPE.
26 PANCAKE LANE, HEMEL HEMPSTEAD, HP2 4NQ
[View online application](#)

B. WITHDRAWN

4/00659/19/FUL Platinum Land and Developments Ltd
DETACHED ONE BED DWELLING
LAND ADJ. TO 16 CHARLES STREET, HEMEL HEMPSTEAD, HP1 1JH
[View online application](#)

Application withdrawn

C. FORTHCOMING INQUIRIES

None

D. FORTHCOMING HEARINGS

None

E. DISMISSED

4/00926/19/FUL Cosgrave
TWO NEW DETACHED RESIDENTIAL DWELLINGS (AMENDED SCHEME)
TWO BAYS, LONG LANE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0NE
[View online application](#)

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted additional plans with the appeal referenced 4/00926/19/FUL A-X and requested that they are considered as part of the appeal. For the most part these plans seek to illustrate and compare the appeal proposal with the existing dwelling, as well as the permission to extend the existing dwelling reference 4/01975/18/FHA and a scenario referring to permitted development rights.

However, 7 drawings referenced 4/00926/19/FUL R-X show a proposal whereby the footprint and volume of proposed plot 2 has been reduced and is referred to in the appellant's case as the 'Reduced Volume Option' or 'Reduced Volume Scheme'. Whilst this Option was submitted to the Council for discussion prior to them making their decision, it is reasonably clear from the Planning Casework Delegated Report that it was considered to be indicative and did not supersede the original proposal. Nor were the plans subject to public consultation, which the Council consider would otherwise have been necessary¹.

3. The advice given in relation to appeal procedure states that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application. Furthermore, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I am aware that a notable number of representations were received in relation to the original proposal, and therefore I consider that my consideration of the reduced volume option upon which third party views have not been sought, would be prejudicial to them.

4. Accordingly, whilst I will take account of drawings 4/00926/19/FUL A-Q in my determination, which seek to illustrate and compare the original proposal, I will not consider the reduced volume option set out in drawings 4/00926/19/FUL RX. Main Issues

5. The main issues are: • Whether the proposal would be inappropriate development in the Green Belt, including its effect upon openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; • The effect of the proposal on the character and appearance of the area; • The effect of the proposal on the living conditions of the neighbouring occupiers at Bienvenida, with particular regard to privacy, outlook and light, and; • If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal. Reasons Whether inappropriate development

6. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, as the essential characteristics of Green Belts are their openness and their permanence.

7. New buildings within the Green Belt are inappropriate with the exceptions of the types of development listed in Paragraph 145 of the Framework. It is the appellant's view that the proposal is not inappropriate by virtue of the exceptions contained in either sub paragraph d) or sub paragraph g) of paragraph 145. Criterion d) of Paragraph 145 allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Criterion g) allows for the limited infilling or the partial or complete redevelopment of previously developed land. However, the caveat to paragraph 145 g) is that the development should not have a greater impact on the openness of the Green Belt than the existing development.

8. Policy CS5 of the Dacorum Borough Council, Core Strategy 2006-2031, September 2013 (CS) indicates that national Green Belt policy will be applied to protect the openness of the Green Belt, and therefore, accords with the Framework policy.

9. At the time of my site visit the site accommodated a detached bungalow. Although the evidence indicates that, there was previously a large outbuilding within the garden³, the appellant states that it was dismantled in 2017. Furthermore, whilst my attention has been drawn to a permission for a significant extension to the existing dwelling⁴, which I shall return to later, I did not observe buildings arising from that permission at the point of my visit.

10. Paragraph 145 d) refers to the replacement of a building not being materially larger than the one it replaces. Similarly, paragraph 145 g), amongst other matters, indicates that the proposal should not have a greater impact on the openness of the Green Belt than the existing development. In order to make that comparison, it follows that, if buildings are not currently in existence, they cannot be replaced by the appeal proposal or currently have an impact on the openness of the Green Belt.

11. Accordingly, for the purpose of paragraph 145 d) the central question is whether the proposed development would be materially larger than the building that would be replaced, rather than developments that were present in the past or might be undertaken in the future whether under permitted development or a specific permission. Furthermore, for the purpose of assessing paragraph 145 g) the impact of the proposed development on the openness of the Green Belt would need to be compared with the impact of the existing development at the site.

12. The appellant refers⁵ to the existing volume and footprint on site, which includes the outbuilding that has been dismantled, as amounting to 445.84 cubic metres and 154.04sqm respectively. He further indicates that the proposed dwellings, with sheds, would have a volume of 1455.25 cubic metres and a footprint of 226.68sqm⁶ which would, by comparison, result in a considerably larger volume and footprint of built form across the appeal site. In addition, drawing number 4/00926/19/FUL E illustrates the difference in height and mass between the existing bungalow and dismantled outbuilding with the proposed dwellings, the front view of which is calculated to increase from 70.9sqm to 103.08sqm.

13. Taking these factors together, the increase in volume, footprint and mass would result in two dwellings

that would be materially larger than the existing bungalow even when accounting for the dismantled outbuilding. As such, the proposal would not fall within the remit of paragraph 145 d) of the Framework.

14. For similar reasons, it follows that the appeal proposal would markedly increase the size of the overall built form at the site causing spatial harm to the openness of the Green Belt. Moreover, the sub-division of the plot into two separate dwellings would increase the associated lighting, activity, boundary treatments and domestic paraphernalia within the site. The layout⁷ plan shows a significant area of gravel hardstanding to the front of both plots which would provide 4 parking spaces for each dwelling. This would be at the most visually prominent part of the site with views possible from Long Lane that as a consequence, would result in visual harm to the openness of the Green Belt.

15. Accordingly, the proposal would have an adverse spatial and visual impact on the openness of the Green Belt that would have a greater impact than the existing development. On that basis, it would not fulfil the criteria of paragraph 145 g). However, given the relatively minor scale of the proposal for 2 dwellings, this would result in moderate harm to the openness of the Green Belt.

16. I have not seen evidence to suggest that the appeal proposal would comprise any of the other exceptions for new buildings listed within paragraph 145 of the Framework. It therefore follows that the appeal proposal amounts to inappropriate development in the Green Belt. Character and appearance

17. In terms of built form, the section of Long Lane nearest to the appeal site predominantly comprises clusters of detached dwellings set within generous verdant grounds, which is interspersed with pockets of woodland and fields. The dwellings, although of mixed style and materials, generally take a traditional form utilising pitched roofs which assists in reducing their visual profile in the street. When this is combined with the generous setbacks often employed and planting and hedgerows along the front boundaries, the built form generally takes an unassuming role in the street scene conveying a pleasant, spacious, semi-rural character.

18. The appeal site currently accommodates a conventional, detached bungalow, with a hipped roof set within a large garden. Its modest scale and appearance combined with the set back from Long Lane allows for considerable space and planting that positively contributes towards the sense of spaciousness and semi-rural character of the area.

19. The proposal would introduce two detached two-storey dwellings with rectangular footprints and flat roofs that would result in a somewhat boxlike appearance. The shorter ends of the dwellings would comprise the most visible front elevations facing towards Long Lane, that notwithstanding the mix of materials, would, due to the mass of the structures have an abrupt appearance at odds with the prevailing form of residential development nearby.

20. Furthermore, given the increased amount and height of the built form overall, it would be more conspicuous from Long Lane, and would diminish the sense of spaciousness. The appellant indicates that the new front boundary and central access point would allow for increased views into the site⁸.

Nevertheless, the significant area of gravel hardstanding and parking between the dwellings and Long Lane with limited opportunities for planting would result in a harder, more urban appearance that would be harmful to the semi-rural character of the area.

21. The Design and Access statement indicates that the design strategy for the appeal proposal is a modern interpretation of the traditional, agricultural Black Barn. However, to my mind, given that all the examples shown⁹ incorporate a pitched roof, the use of a flat roof in the appeal proposal ignores an integral part of the simple form of the agricultural building that is intrinsic to its character. Therefore, the design falls short of being clearly derived from the traditional Black Barn, and consequently, would have a discordant, harmful impact on its surroundings.

22. The appellant points to the diversity in housing style along Long Lane. Whilst I accept that there is some variety in the style of building and the use of materials, as identified above, there is coherence derived from the use of pitched roofs¹⁰ which in turn assists in reducing the profile and massing of buildings in the vicinity of the appeal site. I am referred to several decisions at a site whereby flat roofed housing was found acceptable by the Council. However, the characteristics of each individual site and settlement are different and the example given is some miles away from the appeal site. Based on the limited information provided, I am unable to make a meaningful comparison with the appeal proposal. In any event, I have determined the proposal on its own merits based on the evidence before me.

23. I further accept that the careful use of colours for the external materials and the employment of a green roof may assist in softening the appearance of the development to a degree. Nevertheless, this would not be sufficient to entirely overcome the harm to the semi-rural character and appearance of the area that I have identified.

24. Accordingly, I find that the proposal would be harmful to the character and appearance of the area contrary to policy CS¹² of the CS which, amongst other matters, requires a quality of site design for new development which integrates with the existing street scape character and respects adjoining properties in terms of the bulk of the development. In addition, it would conflict with saved Appendix 3 of the Dacorum Borough Council Local Plan 1991-2011, April 2004 which sets out relevant criteria to be considered in relation to the layout and design of residential areas. This includes that new residential development

should respect the character of the surrounding area and that the design of individual buildings should respect the overall street scene.

25. The Council has also referred to policies CS11 and CS13 of the CS, and saved Appendix 7 of the LP in the refusal reason on the decision notice. However, policy CS11 relates to the quality of neighbourhood design within settlements and neighbourhoods and policy CS13 relates to the quality of the public realm. On that basis, it is not shown that either policy is particularly relevant to the circumstances of the appeal proposal which lies in a semi-rural area outside of a defined settlement and does not propose significant development within the public realm. Furthermore, Appendix 7 sets out advice in relation to small-scale house extensions. However, the appeal proposal is for 2 new dwellings and so it is of little relevance. As such, I do not find that the proposal would conflict with these policies. Living conditions

26. There is an established tall hedgerow along the boundary between the appeal site and the adjacent property, Bienvenida, that provides a significant degree of screening. 27. Plot 2 of the appeal proposal would in part align with the flank wall of Bienvenida but in part would be positioned forward of the property. Two windows are shown in the first floor of the elevation of Plot 2 that would face towards the boundary, both of which serve bathrooms, and therefore, would be obscure glazed. This could be secured by condition such that the proposed development would safeguard a reasonable level of privacy for the occupants of Bienvenida.

28. Notwithstanding that plot 2 is higher than the existing bungalow, and more directly aligned with Bienvenida, the degree of separation that would be maintained between the built form would allow for the existing planting to be retained or a similar boundary treatment planted. Based on the limited evidence presented, the resulting relationship with Bienvenida in terms of the levels of light and outlook for the occupants from the windows on the south facing elevation, would not be significantly different to the existing situation.

29. Accordingly, the evidence does not show that the appeal proposal would result in an unacceptable impact on the living conditions of the occupants of Bienvenida in terms of a loss of privacy, outlook or light. Therefore, I do not find that the proposal would conflict with policy CS12 of the CS which, amongst other matters, requires new development to avoid visual intrusion, loss of sunlight and daylight and loss of privacy to the surrounding properties. Neither would the proposal be contrary to the criteria set out in saved Appendix 3 of the LP in order to achieve privacy and a satisfactory level of sunlight and daylight for existing residents. Other considerations

30. The appellant refers to two alternative fallback positions that, in each case, he asserts, would be less preferable than the appeal proposal. The first is in relation to a previously permitted proposal for a large extension to the bungalow and detached double garage at the appeal site. I accept that, if the appeal proposal were not permitted, there is a realistic prospect of this permission being carried out given the express statements of the appellant and that he indicates construction has commenced. As such, consistent with the findings of the case law and Council decision to which I am referred, this permission does amount to a fallback position, and is therefore of considerable relevance.

31. However, in comparison to the appeal proposal, the extended dwelling, would have a lower volume and footprint than the proposed development and the evidence does not indicate that a similar degree of hardstanding and parking would result to the front of the proposal. In addition, the approved development would incorporate a pitched roof that would assist in reducing the visual impact of the mass of the building. Therefore, notwithstanding the sight line drawings and analysis of site coverage, site width and mass and bulk provided by the appellant, this fall-back position would be likely to have less impact on the spatial and visual openness of the Green Belt. Hence, I do not agree that it is shown that the fallback position would be preferable to the appeal proposal and therefore, the existence of it does not attract weight in support of the appeal proposal.

32. The second, alternative fallback position relied upon by the appellant relates to the potential extensions to the existing dwelling that might be carried out under permitted development as established through a series of recent prior approvals and certificates of lawfulness. Drawing 4/00926/19/FUL B shows a footprint and calculated volume of the extended dwelling if all the permitted development established were to be carried out, which would be larger than the appeal proposal.

33. Even so, there is little basis to suppose that the appellant would realistically carry out all the approved extensions to the existing dwelling given that he states he would carry out the planning permission already obtained and has discharged the relevant conditions and started work in relation to the footings of the double garage. Moreover, the Planning Casework Delegated Report indicates that the permitted development position was established principally in order to support the case for that planning application. As such, I am less certain that, in the absence of the appeal proposal, all the extensions would be implemented, which reduces the weight I can give to it as a fallback position.

34. Furthermore, domestic extensions and outbuildings under permitted development are primarily single storey and I have not seen evidence to suggest otherwise in this case. By comparison, the appeal proposal comprises development of a greater height and prominence within the street scene. On the evidence presented, it is not shown that the permitted development fallback position would result in greater harm to the openness of the Green Belt in comparison to the appeal proposal, and therefore, overall, it is

of limited weight.

35. The appeal proposal would result in the net gain of one family dwelling towards the overall housing supply that would bring some associated economic benefits and utilise some sustainable construction methods, including solar panels. I have had regard to the representations received in support of the development that amongst several matters, refer to the benefit that a wider mix of housing would bring to the area. Nevertheless, the scale of benefits likely to accrue from one additional dwelling overall, would be comparatively small and therefore, notwithstanding that there is no dispute that the Council cannot demonstrate a five year supply of deliverable housing sites, I give this limited weight in favour of the proposal.

36. The appellant refers to the appeal site making effective use of previously developed land as defined in the Framework. However, the definition does advise that it should not be assumed that the whole of the curtilage should be developed. Moreover, whilst paragraphs 117 and 118 of the Framework encourage the use of 'brownfield' land, the footnote to paragraph 117 clarifies that this is only where it would not conflict with other policies in the Framework. Paragraph 145 g) of the Framework sets out the approach to new buildings on previously developed land in the Green Belt stating that new buildings must not have a greater impact on the openness of the Green Belt than the existing development. I have found that the proposal would cause harm to openness and therefore, this exception would not apply. Accordingly, I attribute little weight to the reuse of brownfield land in these circumstances.

37. The appellant has referred to a Council decision and appeal decision¹⁹ as accepting residential development within Long Lane. However, I have not been provided with the details of either case and so cannot make a direct comparison with the proposal before me. Furthermore, I do not consider that the use of planning conditions, including the restriction of householder permitted development rights, would be able to overcome the harm to the Green Belt that would result from the appeal proposal.

38. Further concerns are outlined by the appellant in relation to the length of time it took the Council to determine the decision. However, this is a matter that falls outside the scope of my decision, which is based on the planning merits of the case. Green Belt balancing exercise

39. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and in addition, moderate harm would be caused to the openness of the Green Belt. These factors attract substantial weight. In addition, significant weight is given to the harm the would result to the character and appearance of the area.

40. Limited weight is given to the permitted development fallback position outlined and the benefits of the scheme identified. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have found. Consequently, the very special circumstances necessary to justify the development do not exist.

41. Therefore, the proposal would be contrary to the Framework and to policy CS5 of the CS which seeks to protect the Green Belt from inappropriate development.

42. Furthermore, notwithstanding that the Council is currently unable to demonstrate a 5 year supply of deliverable housing land, as the proposal is inappropriate development it would conflict with the advice in paragraph 143 of the Framework and this provides a clear reason for refusing the development proposed in line with paragraph 11(d)(i) of the Framework in relation to the presumption in favour of sustainable development.

Conclusion

43. For the reasons given above, I conclude that the appeal should be dismissed.

4/02587/18/FUL

Mr Pritchard
DEMOLITION OF EXISTING PROPERTY AND CONSTRUCTION OF 6
BEDROOM DWELLING
6 HIGHCROFT ROAD, FELDEN, HEMEL HEMPSTEAD, HP3 0BU
[View online application](#)

Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposed development is described differently, on the planning application form; the Council's decision notice; and on the appeal form. The convention is to use the description contained on the planning application form and I have used this in the banner heading above. However, the wording used in the Council's decision notice provides a clear and concise description i.e. 'demolition of existing property and construction of a 6 bedroom dwelling'. I have considered the appeal on this basis. I have also taken into account the planning history of the site, including the granting of Lawful Development Certificates and other planning permission.

Main Issues

3. These are: • Whether the appeal development would be inappropriate development for the purposes of the National Planning Policy Framework 2019 (the Framework) and Development Plan Policy. • The effect of the development on the openness of the Green Belt and the purposes of including land within it. • The effect of the proposal on the character and appearance of the area. • If found to be inappropriate development, 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

Inappropriate Development

4. The appeal site is comprised of a relatively modest sized bungalow, which is situated on a large plot on a private residential estate. The bungalow is in poor condition and a garage that was adjacent to the property has been demolished. The site is within the Metropolitan Green Belt. Highcroft Road contains dwellings that vary in terms of their size and appearance. A number have been extended and altered over the years.

5. The proposal is to demolish the existing dwelling and construct a two storey detached dwelling. The property would have 6 bedrooms and would be positioned centrally on the site.

6. Paragraph 145 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate within the Green Belt, unless it accords with one of a list of exceptions. One of these exceptions is the replacement of a building, provided the new building is in the same use and is not materially larger than the one it replaces.

7. Policy CS5 of the Council's adopted Core Strategy 2013 (CS) states that the Council will apply national Green Belt policy in order to protect the openness and character of the Green Belt. The policy allows for the replacement of buildings, provided they are for the same use. However, it makes no reference to size. As the Framework is a more recent document, I consider that it carries greater weight than the CS in my assessment of this appeal.

8. The site has a relatively lengthy planning history. This includes applications for Lawful Development Certificates for proposed extensions and outbuildings; a planning permission for extensions to the existing (original dwelling); and a proposal for a replacement dwelling in 2015, which was subsequently dismissed at appeal (APP/A1910/X/15/3135676). The Council states that the current appeal proposal is similar to that dismissed at appeal.

9. There has been considerable debate between the parties regarding the size of the replacement dwelling and the comparative size between it and a dwelling that could be constructed through a combination of permitted development and an extant planning permission. However, on the evidence before me, it is quite clear that the replacement dwelling (the subject of this appeal) would be significantly and materially larger than the existing property, due to its overall mass, volume and floor area.

10. Therefore, I conclude that the proposal would amount to inappropriate development within the Green Belt. I shall return to the history of the site and the matter of permitted development and extant permissions later in this decision. Openness and Purposes

11. The Framework (paragraph 133) advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial dimension and it is evident that the proposed dwelling would result in a loss of openness to the site and the Green Belt, because of its size and prominent position. This adds to the harm that I have already identified by reason of inappropriateness. Character and Appearance

12. Policies CS11 and CS12 of the CS seek to ensure that new development respects the built form and character of the area. Saved Policies 10, 18 and 21 of the Dacorum Borough Local Plan contain a similar requirement. I consider these policies to be consistent with the provisions of paragraph 127 of the Framework.

13. Highcroft Road contains dwellings that vary in terms of their size and appearance. A number of these are large two storey properties. The existing dwellings are generally laid out in a traditional linear form,

facing Highcroft Road with front and rear gardens. In that regard, the proposed replacement dwelling would display a similar character and form and it would not appear out of context with its surroundings. Accordingly, the proposal would not conflict with the Development Plan or with the Framework, as referred to above. Other Considerations

14. There has been considerable reference by both the appellant and the Council to the planning history of the site. I consider the history to be a material consideration and it is a significant matter in assessing the planning balance. The appellant considers that the appeal dwelling would be no larger than that which could be constructed under permitted development and by the grant of planning permission (the alternative development). He also shows that the alternative development, which includes an adjoining garage/outbuilding, would occupy a wider area of the plot than the appeal dwelling. As a result, the appellant contends that it would have a greater impact on the openness of the site, because it would be built closer to the side boundaries and would reduce the spacious character and open appearance of the area.

15. I consider that there is substance to the appellant's argument in some respects and I have given the matter careful consideration. However, the proposed appeal dwelling would be taller than the alternative development, with a greater mass and bulk. In addition, the appellant explicitly states that the alternative proposal 'will not be implemented' because he considers it to be a poor design, which 'lacks any architectural merit'. Furthermore, the Council states that the garage/outbuilding cannot be considered as being lawful as it is attached to the dwelling. Because of these factors, I conclude that the weight that I am able to give to the appellant's argument is limited. Green Belt Balance

16. The development amounts to inappropriate development in the Green Belt. Paragraph 143 of the Framework advises that inappropriate development, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, I have found that the proposed dwelling would lead to a loss of openness. Paragraph 144 of the Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

17. After giving careful consideration to the evidence, I find that the other considerations in this case either individually or cumulatively, do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

18. The appellant has made reference to procedural issues between himself and the Council regarding the processing of the planning application and to correspondence between the parties. These are matters between the appellant and the Council and it is not within my remit to comment on such matters.

19. Concerns have been expressed by the occupants of neighbouring property regarding the effect of the proposal on their living conditions, with particular regard to overlooking and loss of privacy. The Council addressed this issue in some detail when considering the planning application and concluded that the proposal would not have an adverse effect, subject to the imposition of conditions requiring the fitting of obscure glazing to side facing windows. I have no substantive reasons to reach a different conclusion on this matter.

Conclusion

20. For the reasons given above, it is concluded that the appeal should be dismissed.

F. ALLOWED

4/01496/18/FUL

Crimson Investments Assets Inc.
THE RETENTION OF 4 NO. STORAGE CONTAINERS AND THE
PLACEMENT OF 3 NO. ADDITIONAL STORAGE CONTAINERS
ASSOCIATED WITH THE BUILDERS YARD.
WOODLAND WORKS, WATER END ROAD, POTTEN END, BERKHAMSTED,
HP4 2SH
[View online application](#)

Decision

1. The appeal is allowed and planning permission is granted for the retrospective placement of 4 no. storage containers and the placement of 3 no. additional storage containers (Use Class B8) at Woodland Works, Water End Road, Potten End, Berkhamsted, HP4 2SH, in accordance with the terms of the

application Ref 4/01496/18/FUL, dated 12 June 2018, subject to the following conditions: 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing Numbers: 1410/100, 1410/101, and 1410/102; Environment Noise Survey Report October 2018; and Planning Design and Access Statement - June 2018. 2) Prior to the three new containers being brought into use, they shall be fitted with the sound reduction measures (rubber bumps stops and soft closing mechanisms for the doors) as set out in the Environmental Noise Survey Report October 2018. These measures shall also be fitted to the four existing containers within 3 months of the date of this decision. The sound attenuation measures shall be retained in place at all times throughout the life of the development. 3) The containers hereby approved shall only be accessed (opening and closing of the doors) between the hours of 08:00 – 18:00 on Monday – Friday (excluding Bank Holidays) and between the hours of 08:00 – 13.00 on Saturdays.

Application for costs

2. An application for costs was made by Crimson Investments Assets Inc against Dacorum Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. Four of the storage containers that form part of the appeal development have already been placed on the site. Consequently, I have dealt with the proposal as being for the retrospective placement of 4 no. storage containers and the placement of 3 no. storage containers (Use Class B8). I have used this description in my decision above.

4. It is common ground between the two main parties that the containers are considered to be 'buildings' because of their permanence. In addition, the parties also agree that the lawful use of the site is storage (Use Class B8) and that no change of use is involved. I have no substantive reasons to disagree with the parties on both of these matters and I have, therefore, dealt with the appeal on that basis.

Main Issues

5. These are; • Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework 2019 (the Framework) and Development Plan Policy; • The effect of the proposal on the character and appearance of the area; • The effect of the proposal on highway safety.

Reasons Inappropriate Development

6. The appeal site is an area of land which is situated between the rear of a motor vehicle repair and MOT garage and the rear gardens of residential dwellings. Residential properties on the opposite side of Browns Spring face the site. It is partially screened by fencing and vegetation, although the site and the existing containers are visible when entering Browns Spring from Water End Road. Browns Spring is a relatively narrow no-through road, comprising a mixture of detached and semi-detached residential properties. The site is within the Metropolitan Green Belt.

7. Paragraph 145 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate within the Green Belt, unless the development accords with one of the listed exceptions. One of the exceptions is limited infilling in villages (paragraph 145 e). Policy CS6 of the Council's adopted Core Strategy 2013 (CS) also allows for limited development in villages, but it refers only to infill being affordable housing for local people. The Framework places no restrictions on the type of infill development in terms of use.

8. In that regard, there is some tension between the provisions of the Framework and the wording of Policy CS6. The Council argues that the proposal is unacceptable because it conflicts with the requirement of the Development Plan and that no very special circumstances have been put forward to justify the proposal.

9. It is a statutory requirement that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The provisions of the Framework are material considerations and it is a matter for the decision maker to determine how much weight should be given to its content. In this case, the Framework is a more recent document and because of this, I consider that where there is a conflict, it should be given greater weight in decision making.

10. The appeal site is relatively small and is contained by existing built development and gardens. In my opinion, the proposal represents infill development and it accords with paragraph 145 e) of the Framework. Consequently, the appeal proposal is not inappropriate development within the Green Belt. Furthermore, because the development is not inappropriate, there is no requirement to consider the effect of the proposal on the openness of the Green Belt.

Character and Appearance

11. Policy CS1 of the CS requires that the rural character of the Borough be conserved. In addition,

Policies CS11 and CS12 seek to ensure that new development respect the built form and character of the area. These policies are consistent with the provisions of paragraph 127 of the Framework.

12. The appellant and the Council both accept that the lawful use of the site is storage. In that regard, it is perfectly reasonable that buildings for storage purposes are an ancillary part of the operation. In addition, the appeal site is viewed in the context of the adjoining motor vehicle repair garage building and its associated outside yard area. In my opinion, the appeal development does not appear out of context with its immediate surroundings. Furthermore, the additional containers proposed would be set back towards the rear of the site and they would not be highly visible due to their position; their relatively low height; and because they would be largely screened by the existing garage building.

13. For these reasons, I consider that the appeal development (both existing and proposed) does not (and would not) have an unacceptably harmful effect on the character and appearance of the area.

Accordingly, there is no conflict with the policies of the CS or with the Framework, as referred to above.
Highway Safety

14. The Council argues that the appeal development would result in the intensification of vehicle movements on Browns Spring, which would be detrimental to highway safety and on the operation of adjoining highways. It also refers to the access onto Browns Spring being shared with the adjoining garage.

15. One of the principles contained in Policy CS8 of the CS is to improve road safety, whilst Policy CS12 requires new development to provide a safe and satisfactory means of access for all users. In addition, Policies 57 and 58 of the Dacorum Borough Local Plan seek to ensure the provision of on-site parking in accordance with a list of criteria. I have also taken into account paragraph 109 of the Framework, which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

16. The appellant states that visits to the site will be infrequent, amounting to three visits per week during normal working hours. In addition, the appellant's supporting Transport Statement concludes there would not be a substantial increase in vehicle movements along Browns Spring as a result of the development and accident data shows that there is no record of recent incidents. In reaching my decision on this appeal, I have also taken into account the consultation response from the Highways Officer at Hertfordshire County Council, who raised no objection to the proposal.

17. At the time of my site visit cars were parked along Browns Spring in the vicinity of the appeal site. However, road works were being undertaken in the area and temporary traffic lights were in operation. Consequently, it is not possible for me to conclude if on-street parking is a normal occurrence. Nevertheless, I have taken into account the statement by the Council that the existence of the existing containers causes 'severe parking and access difficulties' for neighbouring residents. In addition, I have considered the submissions from local residents in relation to this issue. These include detailed comments in relation to visibility, road widths and existing vehicle movements, amongst other things.

18. Whilst there is no guarantee that vehicle movements to and from the site will not exceed three per week, on the basis of the substantive evidence before me, I am not persuaded that appeal proposal would lead to an unacceptable increase in traffic generation and that any increase is unlikely to create a danger to highway users, particularly as vehicle speeds in the vicinity of the appeal site are likely to be relatively low and any vehicles using the access will be visible to other drivers and pedestrians. Consequently, I conclude on this issue that the proposal would not have an unacceptable impact on highway safety or on the convenience of other highway users. Therefore, it would not conflict with the provisions of the Development Plan or with the Framework, as referred to above.

Other Matters

19. Concerns have been expressed by local residents regarding the impact of the development on residential amenity. In particular, reference is made to noise and disturbance from the proposed development. In that regard, I have also considered the conclusions of the appellant's Environmental Noise Survey and the comments of the Council's Environmental Health Officer. Given the proposed hours of use, together with the noise attenuation measures proposed by the appellant, both of which can be controlled by planning conditions, I consider that the development would not have an unacceptably adverse effect on the living conditions of the occupants of nearby dwellings.

Conditions

20. The Council and the appellant have suggested conditions in the event of the appeal being allowed. These have been considered in the light of the advice contained within the Planning Practice Guidance.

21. As part of the proposed development has been carried out, there is no need for the standard condition relating to the commencement of development.

22. For clarity and the avoidance of doubt, a condition requiring the development to be carried out in accordance with the approved plans and documents is necessary.

23. Conditions are also imposed that restrict the hours during which the containers can be accessed and to

ensure the fitting of sound attenuation measures. At the request of the appellant, the condition relating to hours includes access to the containers on Saturday mornings. These two conditions are necessary to protect the living conditions of the occupants of nearby dwellings. With regard to the sound attenuation measures, I have amended the Council's suggested condition to ensure that these are also fitted to the existing containers within 3 months of the date of this decision.

Conclusion

24. For the reasons given above, it is concluded that the appeal should be allowed.

Costs Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The appellant contends that the Council acted unreasonably in two respects. On a procedural matter, the appellant argues that the Council's Development Management Committee did not heed the professional advice of its officers, who recommended that the planning application be approved. The appellant considers that the Committee's decision was influenced by the representations received from third parties. Secondly, the appellant considers that the Council has failed to provide any evidence to substantiate the two reasons for refusal.

4. These two matters are linked, insofar that members of planning committees are entitled to make decisions that are contrary to the recommendations they receive. In that regard, I do not agree that the Council acted unreasonably from a procedural point of view. It is also incumbent upon the Committee that it considers fully the representations made by third parties. However, when determining an application, the Committee's decision should be clear with evidence produced to substantiate the reason(s) for refusal.

5. It is a statutory requirement that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Consequently, the relevant policies of the Development Plan are the starting point for any decision. The provisions of the National Planning Policy Framework 2019 (the Framework) are a material consideration, with the weight attributed to the Framework being a matter for the decision maker.

6. With regard to the first reason for refusal, the Council's policy regarding infill development in the Green Belt is explicit and clear. I consider that members would have been aware of its content when considering the proposal. The Council Officer's report also made detailed reference to relevant wording of the Framework. Members would, therefore, be aware of the differences between the two when making its decision. I consider that the reason for refusal is clear and unambiguous and the fact that the Committee chose to give greater weight to the Development Plan (which it is entitled to do) does not, in my opinion, constitute unreasonable behaviour.

7. I now turn to the second reason for refusal in relation to highway matters. It is clear from the Officer's report that the Committee was made aware of the proposed intensity of the use; the number of vehicle trips that would be likely to be generated; and the comments of the Highway Authority. In addition, it was also made clear that the site has a lawful use as a builders yard.

8. Nevertheless, set against these points, a number of objections from local residents were submitted pointing to existing highway issues and to additional difficulties that may arise as a consequence of the development. Some of these objections included detailed information and I have no reason to consider that these comments were unfounded or lacked substance.

9. Although I have found in favour of the appellant and allowed the appeal, I do not find it unreasonable that the Council gave weight to the concerns of the local residents when making its decision. Furthermore, the appellant should have been aware of the concerns expressed by local residents during the planning application process and could have submitted additional supporting evidence at that stage.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

4/02423/18/FUL

BENLEY DEVELOPMENTS LTD
CONSTRUCTION OF FIVE 3-BED TERRACED DWELLINGS WITH
ASSOCIATED CAR PARKING (12no. SPACES), LANDSCAPING ON THE
EXISTING CAR PARK SITE. SEPARATE CAR PARKING FOR THE SPICE
VILLAGE RESTAURANT (14no. SPACES) WITH REINSTATED ACCESS OFF
CHAPEL CROFT.

THE SPICE VILLAGE, THE STREET, CHIPPERFIELD, KINGS LANGLEY,
WD4 9BH
[View online application](#)

Decision

The appeal is allowed

The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework ('the Framework') having regard to the nature of the development and its effect upon the openness of the Green Belt, and
- Whether the proposal amounts to poor quality design, with particular regards to layout, access arrangements and landscaping

There is no dispute between the parties that the site is an infill site, and from my observations on site I have no reason to disagree

The proposal would see dwellings visually and spatially fill the gap between existing dwellings, but this would not result in any encroachment into the countryside or the adjacent settlement and would not harm the wider openness of the Green Belt as a whole or locally. Moreover, when compared to the fallback scheme, the proposal with its slightly longer terrace, the two extra residents' parking spaces, reduction in some of the landscaping areas, and reduction in both the restaurant parking and width of the shared driveway, would not have a greater impact on openness.

Policy CS6 states that infilling will only be permitted where it is limited in scale, which it defines in the preceding explanatory text to be no more than 2 dwellings. The proposal for 5 dwellings would exceed the quantum limit of 2 dwellings and would not be affordable. The Council has therefore accepted that 4 dwellings can be limited infilling, partly because it considered the footprint would not be dissimilar to 2 large dwellings. I consider the same logic could be applied to the terrace of 5 dwellings, which would be staggered as 2 dwellings and 3 dwellings, and the terraced properties would be limited in scale.

It seems to me that in recent years the Council has not been unduly perturbed by granting non-affordable housing in Chipperfield under CS Policy CS6. I have not been presented with any substantive evidence for the reasons for the Council no longer referring to some of these various figures, or that in the intervening year since the fallback scheme was granted there has been a material change in circumstances to now warrant taking a different view. I find that the Council has taken an inconsistent approach to the application of affordable housing requirements. There is also no requirement in national policy to require an infilling limit of only two dwellings or that only affordable housing for local need would be acceptable. For these reasons, I give the conflict with CS Policy CS6 only moderate weight

I conclude that, despite some conflict with Policy CS6, I find the proposal would be limited infill in a village and would not be inappropriate development under the Framework.

Despite some policy conflict with the parking standards, I find the changes to the layout, access arrangements and landscaping would not be significant when compared to the fallback scheme. I am therefore not persuaded that the changes would, alone or in combination, result in an overly poor quality residential scheme to warrant refusal