6. APPEALS UPDATE

APPEALS LODGED

Appeals received by Dacorum Borough Council between 01-03-2020 and 14/04/2020

Our Reference: 4/0153/19/FUL
PINS Reference: APP/A1910/W/20/3247367
Greymantle, Hempstead Road, Bovingdon, Hemel Hempstead, HP3 0HF
Procedure: Written Representations

Our Reference: 4/01853/19FUL
PINS Reference: APP/A1910/W/20/3246014
Sharlowes Farmhouse, Flaunden, HP3 0PP
Procedure: Written Representations

Our Reference: 4/01828/19/MFA
PINS Reference: APP/A1910/W/20/3250417
Nash Mills Methodist Church, Barnacres Road, Hemel Hempstead HP3 8JS
Procedure: Written Representations

Our Reference: 19/03228/OUT
PINS Reference: APP/A1910/W/20/3249252
Land Between Bremhill and South Winds, The Common, Potten End, HP4 2QF
Procedure: Written Representations

Our Reference: 19/02580/FUL
PINS Reference: APP/A1910/W/20/3247462
Garden Cottage, Green Lane, Bovingdon, HP3 0LD
Procedure: Written Representations

APPEALS DISMISSED

Our reference: 4/02134/19/FHA

PINS Reference: APP/A1910/D/19/3241984

19 Church Street, Hemel Hempstead, HP2 5AD

Procedure: Written Representations

Part single part two-storey rear extension

Main Issue
2. The main issue is the effect of the proposed development upon the living conditions of the occupiers of No. 4 Helena Place, with particular reference to outlook and daylight.
Reasons
3. The appeal site dwelling forms the northern end of a row of terraced dwellings understood to date from the 1880's, which step the hill of Church Street from south to north. To its north No. 19 adjoins an approximately 1.8m wide side

return, which serves a more recent development of six back-to-back two storey terraced dwellings known as Helena Place. Nos. 1 and 4 Helena Place have a flank elevation that integrates a small kitchen window facing onto the side return and blank two-storey flank elevation of No. 19.

4. I have been provided with what appears to be the internal layout of No. 1 and I was able to visit No. 4. The flank wall of Nos. 1 and 4 is not directly aligned with the flank wall of No. 19. As a consequence, the window of No. 1 looks out onto almost the central part of the flank elevation of No. 19 at a distance of 1.8m, heavily restricting outlook and daylight. Whilst No 4 also faces the flank elevation, it is set closer to the rear of No. 19 and so benefits from a reasonable level of daylight, and an outlook (at an angle) above the single storey outrigger of No. 19.

5. The proposed development would infill the side return of the outrigger, increase the depth to the rear of the two-storey flank elevation by approximately 3m and bring the remaining ground floor closer to No. 4. By virtue of the increased height, depth and the proximity of the proposed development it would significantly and detrimentally impact upon the outlook f
rom and amount of daylight to the kitchen window of No. 4. The reduced level of outlook and daylight is considered such that it would result in significantly harmful living conditions for the occupiers of No. 4.

6. I have noted the appellant's views that the development would result in No 4 having a similar outlook and daylight to No. 1, and that as a more modern development Helena View should not constrain the beneficial modernisation of No. 19. I have noted the netting to the window, the suggestion the kitchen was not designed to have an outlook and is not a habitable room. However, I have not been provided with the details and circumstances surrounding the approval of Helena Place. The kitchen window affords a clear outlook and forms one of only two windowed elevations on No. 4, so is of importance to ensure the internal ground floor living space has sufficient daylight and outlook.

7. I have assessed this appeal proposal on its own merits and impacts. Similar development nearby such as No. 1 which breaches the 25- and 45-degree rule, and extensions to dwellings to the south of No. 19 that have a differing relationship to their neighbouring properties, do not provide justification for allowing a harmful development. Although the adjoining neighbours did not object to this proposal, ownership and occupation of a property is transient over time, and what may be tolerable to one occupier, may not be tolerable to another.

8. The limited daylight and outlook to the existing dining room and kitchen at No. 19 were noted on my visit. The proposed development may have benefits in terms of increased floorspace, moving the bathroom upstairs, benefits to a family occupying the property, and the integration of some (un-specified) energy efficiency measures. However, these benefits do not outweigh the harm from the development to the living conditions of No. 4.

9. For the reasons set out above, the proposed development would result in significant harm to the living conditions of the occupiers of No. 4 Helena Place, with particular reference to outlook and daylight. Therefore, it would conflict with Policy CS12 of the Dacorum Core Strategy 2006-2031 (2013) which requires development should avoid visual intrusion and loss of sunlight and daylight, and respects adjoining properties in terms of scale, height and bulk. It would also conflict with paragraph 127 of the National Planning Policy Framework (2019) (the Framework) which expects planning decisions should create places that

promote health and well-being with a high standard of amenity for existing and future users.

Conclusion
10. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Our Reference: 4/00324/19/FUL

PINS Reference: APP/A1910/W/19/3241643

Pouchen End Hall, Pouchen End Lane, Hemel Hempstead, HP1 2SA

Procedure: Written Representations

Demolition of existing derelict portacabin and erection of two relocated single storey Art Studios

Main Issues
2. The main issues are:
(i) The effect on the openness of the Green Belt; and
(ii) 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
3. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in development plan policy CS5 and the revised National Planning Policy Framework (The Framework). I concur with that position.
Openness
4. A fundamental aim of Green Belt policy, as set out by The Framework, is to prevent urban sprawl by keeping land permanently open. Openness is, in effect, the absence of development and it has both a spatial and visual aspect to it.
5. At the present time there is only a small portacabin style building on the site and nothing comparable to the footprint of the proposed buildings or their scale and bulk. Whilst the area is also used for car parking for the existing art studios, the surface of the appeal site is covered with a mixture of crushed aggregate and grassed areas, and neither the surfacing nor the use for car parking has any significant impact on openness. A number of other items and equipment were present on the site, however none were substantial in size or were permanent structures. The proposed development would therefore lead to a loss of visual openness and its presence would represent an encroachment into an area where there is not currently any substantial built development.
6. For these reasons, I conclude that the development would lead to significant harm to Green Belt openness and to the purposes of including land in the Green Belt. It would therefore be contrary to Policy CS5 of the adopted Dacorum Borough Core Strategy 2013 (CS) which seeks to restrain

development within Green Belt areas, and to the specific guidance within The Framework.

Other considerations

7. The appellant considers that the proposed development would deliver cultural, community, social and economic benefits through the provision of the purpose designed art studios, which would provide employment and an extremely important community, social and cultural space for local people and a profitable business for the appellants. They would replace the existing art studios which are outdated and not fit for purpose and their re-use for residential purposes would generate funds for the appeal development to be built. These considerations collectively weigh in support of the proposed development, but no substantive evidence has been provided to demonstrate that the appeal development is the only way in which these outcomes could be achieved. Accordingly, I give them only limited weight.

8. Reference has been made to the Council's lack of a 5 year housing land supply and that the proposed development would allow the existing art studios to be converted to dwellings, thus boosting the supply of housing in the borough. However, this would result in only two dwellings being created and therefore the contribution to the overall provision of new housing in the borough would not be significant. I therefore give this consideration only limited weight.

9. The appellant also considers that the development would enable the positive and beneficial re-use of the site and result in its enhancement. Existing trees and planting within and on the boundary of the site would be retained and enhanced where necessary to provide biodiversity benefits. However, the site at present does not cause any significant harm to the character and appearance of the surrounding area, and therefore any environmental benefits or enhancements which would arise from the proposed development can be given only minimal weight.

Conclusion

10. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations.

11. The proposal would be inappropriate development in the Green Belt and would result in significant harm to its openness. Having regard to the reasons I have set out, I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

12. For the reasons given above, I conclude that the proposal conflicts with the objectives of Saved Policy CS5 of the CS and the Framework, both of which seek to protect the Green Belt, and that the appeal should be dismissed.

****

Our Reference: 4/00176/19/FHA

PINS Reference: APP/A1910/C/19/3232834 & APP/A1910/C/19/3232835

68 Tring Road, Wilstone, Tring, HP23 4PD

Erection of close-boarded fence in excess of 2 metres in height, topped with a trellis, immediately adjacent to the highway within the Wilstone Conservation Area.

Procedure: Written Reps

Formal Decision

1. The appeal fails and the enforcement notice is upheld.

Background

2. A hedge enclosure which fully spanned the curved boundary off the highway was removed and, in September 2018, following a wooden fence being erected in place of the hedge, the Council initiated an enforcement investigation. A retrospective planning application (ref 4/00176/19/FHA) was subsequently submitted in an attempt to gain planning permission for the fence's retention, but permission was refused by the Council in June 2019 due to its height, siting and appearance, and the consequential effect on the Wilstone Conservation Area. A further reason for refusal related to the fence's considered impact on highway safety.
3. Following the above decision the Council saw it expedient to issue the enforcement notice now at appeal.

The Appeal on Ground (f)

4. The appeal on ground (f) is that the requirements of the notice exceed what is necessary in the circumstances. S173(4)(a) and (b) of the 1990 Act as amended provides that the purposes of an enforcement notice can be (a) to remedy the breach of planning control, including by restoring the land to its condition before the breach took place, or (b) to remedy any injury to amenity which has been caused by the alleged breach.
5. The notice requires for the fence to be reduced to a height of no more than 1m which, for boundary enclosures adjacent to a highway, is permissible under Schedule 2, Part 2, Class A.1(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Given the location of the fence at issue this proviso directly applies in this instance. In the circumstances I consider that the purpose of the notice is to remedy the breach by making the development comply with the limitations of the said permitted development entitlement.
6. In this instance the appellants refer to "our latest application", but no plans/drawings in this respect were provided along with the appeal papers. Nonetheless, I have checked for any such submission insofar as its details would be on the Council's statutory register. A revised application (ref 4/01970/19/FHA was made in August 2019. The proposal would involve the fence being set back, for the main part, approximately 0.5m from the highway boundary, where it follows the curve in the road. However, this distance would increase to some 1.85m at the fence's north-most point, adjacent to No 68's car port, with the fence's straight section pulling back from the curved boundary. The appellants indicate that this would aid visibility in the interests of highway safety. Also, plants would be positioned in front of the fence, and the appellants indicate that this screening will substantially reduce the sense of enclosure.

7. The above application, made in August 2019, was subsequently refused planning permission in February 2020 due to the Council, once again, considering the proposal as having a harmful effect on the character and appearance of the Conservation Area and, due to objections having been raised by the local highway authority, a considered adverse impact on highway safety.
8. In instances where no ground (a) appeal has been made and no application for planning permission is deemed to have been made, such as in this case, it is not appropriate for appellants to introduce arguments on the planning merits of their appeal in the context of an appeal on ground (f). The power available to an Inspector under s176(1) to vary the terms of the notice cannot be used to attack the substance of the enforcement notice.
9. It is open to the appellants to exercise their right of appeal within the requisite time period, against the Council's decision to refuse planning permission on the latest application (ref 4/01970/19/FHA). However, for the purposes of the current appeal, without plans or drawings before me to properly illustrate any alternative proposal and no evidence of any real substance to articulate the scheme, the appeal on ground (f) must fail.

Our reference: 4/02234/19/FUL

PINS Reference: APP/A1910/W/19/3243740

Former Tates coaches, Water End Road, Potten End, HP4 2SH

Procedure: Written Representations

Two detached car ports and ancillary works

Main Issues

The main issues are:

(i) whether the proposal is inappropriate development in the Green Belt;

(ii) the effect on the openness of the Green Belt;

(iii) the effect of the development on the character and appearance of the area; and

(iv) 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

Whether the proposal is inappropriate development in the Green Belt

4. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 145 and 146, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.

5. The Appellant has set out that they consider that the carports would constitute limited infilling and would therefore be in accordance with the exemption to inappropriate development as set out at paragraph 145e) of the Framework.

6. The Framework does not define what a village is or what would constitute ‘limited infilling’. However, infilling could be considered to be development which would close an existing small gap in an otherwise built up frontage.

7. On the south side of Water End Road, the appeal site is located on the edge of the built up area with open fields to the east and south of the site. Given this, I am not convinced that the erection of two car ports to the frontage of the under-construction dwellings could be classed as infilling, principally owing to the lack of built form to the east of the site. In coming to that view, I acknowledge that the carports would be located between the new dwellings and the road (and the built development on the opposite side. However, I consider that this factor does not indicate that the carports would be infilling.

8. In addition to the above the Appellant has indicated that the carports would not be disproportionate additions over and above the size of the original buildings and therefore the exemption at paragraph 145c) would apply. Notwithstanding that, the carports would be detached structures and would not therefore be an extension or alteration to a building as such.

9. With the above in mind, the development would not fall within any of the exemptions to inappropriate development in the Framework or Policy CS5 of the Dacorum Core Strategy 2006-2031 (2013) (CS).

10. For the above reasons, I conclude that the appeal development would be inappropriate development in the Green Belt and would conflict with the Framework and Policy CS5 of the CS which seeks to protect the openness and character of the Green Belt. Effect on the openness of the Green Belt

11. One of the five purposes of a Green Belt, outlined at paragraph 134 of the Framework, is that it should assist in safeguarding the countryside from encroachment.

12. As noted above, the appeal site has two dwellings which are in the latter stages of construction. Whilst I am not aware of the extent of buildings which were present before the dwellings were constructed, the Appellant has set out that as the residential use of the site has not commenced, the appeal should be considered in that context.

13. From the Appellants information, each carport would be around 36 square metres in footprint and would represent a 15% increase in built floor area from the under-construction dwellings. Whilst I recognise that the size of the carports is not great, they would nevertheless result in additional buildings on the site when compared to the existing situation.

14. In addition to the above, the Council has set out that the size of the dwellings were amended several times during the pre-application and formal application considerations so that the resulting buildings had no greater impact than the existing

development at that time (i.e. the original coach/garaging building). The Appellant has not provided any evidence to dispute that, and I have no reason to disagree with the Councils view in this respect.

15. If the appeal development is considered in the context that new residential use of the site is yet to commence, it appears that the totality of the dwellings and the carports would result in a greater impact on openness that the previous coach/garaging building.

16. Alternatively, if the carports are considered in isolation to the new dwellings, it is clear that the addition of new buildings would have an inevitable loss of openness to the Green Belt.4

17. In coming to the above views, I have also considered that not all changes result in a greater impact on openness, and specifically the Euro Garages judgement 2 . However, in this case, the introduction of new buildings to the frontage of the site would clearly result in an additional form of bulk which would harm the open frontage of the site.

18. In addition to the above, the Appellant considers that the proposal would be supported by Policy CS5 of the CS. This policy sets out that some forms of development will be considered to be not inappropriate development. In listing the types of development that will be permitted the policy text includes “i.e.” before five categories of development. The Appellant suggests that this indicates that this is not a closed list of acceptable development types. That said, there is little evidence to suggest that the development proposed could be considered not to harm Green Belt openness.

19. Therefore, from the evidence before me, I consider that the proposal would result in the loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework and Policy CS5 of the CS. Character and appearance

20. The appeal site is located on the south side of Water End Road at the fringe of the village of Potten End. From my site visit, there were very few garages to the street frontage in the area, and the overriding characteristic was dwellings set back from the road with front gardens. Therefore, the introduction of the new carports would therefore be in contrast to the prevailing character of the frontages of the existing development in the area.

21. That said, the siting of the carports would be close to the front elevation of the new dwellings. This is particularly the case with the dwelling to the north-east of the site. Whilst the siting of this carport would help to minimise its impact in the streetscene, it would also significantly clutter the appearance of the dwelling from the road. This would also be the case in respect of the dwelling to the south west of the site but given the greater distance between that dwelling and the carport this effect would not be as significant.

22. Notwithstanding the siting of the carports close to the dwelling frontages, they would still be a prominent feature in the streetscene despite the hedgerows to the

side of the respective plots. In coming to that view, I acknowledge that they would only be visible from the Water End Road frontage and that they are sited and designed to minimise the visual impact of the structures. However, this does not justify an otherwise unacceptable development.

23. I have also taken into account that the carports would reduce the visual impact of parked cars to the frontage of the dwellings. However, in my opinion, the benefit of this is outweighed by the increase in building coverage at the frontage of the site.

24. For the above reasons the carports would harm the character and appearance of the area and would be contrary to Policies CS11 and CS12 of the CS which amongst other matters seek to ensure that development integrate with the streetscape character including preserving attractive streetscapes. Green Belt balance

25. I have concluded that the proposal would be inappropriate development and would have an adverse effect on openness. I have also concluded that the development would harm the character and appearance of the area. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

26. The Appellant has not explicitly advanced any very special circumstances which would indicate that permission should be granted. Similarly, from what has been provided to me, I have not been able to identify any other circumstances which could be considered to justify the development before me.

27. Therefore, in considering the substantial weight given to the Green Belt, I am of the opinion that the very special circumstances necessary to justify the development do not exist and the proposal would conflict with the Framework and Policy CS5 of the CS. Conclusion

28. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Our reference: 4/00891/19/FHA

PINS Reference: APP/A1910/D/19/324622

Woodland View, Rossway, Berkhamsted, HP4 3UD

Procedure: Written Representations

New car port

Main Issues

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

• the effect of the proposal on the openness of the Green Belt;

• the effect of the proposal on the character and appearance of the Chilterns Area of Outstanding Natural Beauty; and,

• if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The appeal site is located within the Metropolitan Green Belt. Paragraph 143 of the National Planning Policy Framework (February 2019) (the Framework) indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states the construction of new buildings shall be regarded as inappropriate in the Green Belt. This is unless the development proposal meets one of the exceptions that are set out. Policy CS5 of the Dacorum Core Strategy (2013) (the Core Strategy) is consistent with the Framework in so far as it requires the application of national Green Belt policy.

6. The Council's reason for refusal cites the development resulting in a materially larger dwelling than the original and the permitted replacement, thereby constituting inappropriate development. The previous dwelling replaced by the current one (permitted in 2014 by Ref: 4/03369/14/FUL) benefitted from a garage. However, no garage was permitted under the 2014 permission, which appears substantially completed. The area of the proposal is part of a driveway. Therefore, the proposal would not constitute a replacement building, so it would not meet the stated exceptions in paragraph 145 d) of the Framework, or CS5 d) of the Core Strategy, for a replacement building.

7. The construction of new outbuildings is not included within the permittable types of development in the Green Belt in the Framework and Policy CS5. The Framework expects extensions and alterations to be considered in the context of the 'original building'. As a new detached building, the development does not therefore comprise an extension or alteration of a building under paragraph 145 c) of the Framework or Policy CS5. Furthermore, the current dwelling is a recent replacement dwelling, so it is not the original building defined in Annex 2 of the Framework, so is not the starting point for considering this proposal.

8. The proposal would be in between two existing dwellings that are part of a small community in the Green Belt. There is no evidence however, to suggest the community is a designated village in the development plan. Based on the evidence before me I cannot conclude that this small informal collection of dwellings and buildings constitutes a village. Therefore, the proposal would not fall within the exception of paragraph 145 e) of limited infilling within villages.

9. Paragraph 145 g) of the Framework lists one exception as being the limited infilling or the partial or complete redevelopment of previously developed land,

provided (amongst other things) it would not have a greater impact on the openness of the Green Belt than the existing development. My findings on the effect on Green Belt openness as set out below, will therefore determine whether or not the proposal is inappropriate. Openness

10. The Framework explains the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (paragraph 133). The appeal site dwelling is located on the south western side of a collection of buildings within a rural setting. The proposal would be located between the appeal site dwelling and an approximately 1.8m timber fence enclosing the dwelling from a footpath and a further dwelling to the south east. As such, it would be set within the building lines of the existing buildings.

11. The proposal appears of a sufficient size to accommodate two cars side by side, within a brick plinth, wooden frame, boarding, and pitched roof of approximately 1.7m – 2.1m to the eaves, and 4m to the ridge. It would be discernibly visible from a limited length of the footpath, parts of neighbouring land and from the drive entrance. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The proposal would result in a new detached structure of some significant height on a currently open pebbled drive, and therefore the proposal would have an impact on the openness of the Green Belt in spatial terms.

12. The proposal would therefore have an adverse impact on the openness of the Green Belt in spatial and visual terms. For the reasons set out above, the proposal would be inappropriate development in the Green Belt. Therefore, in this regard, it would conflict with Policy CS5 of the Core Strategy and with the Framework in so far as these policies confirm that openness is an essential characteristic of Green Belts and that it would be inappropriate development which is, by definition, harmful to the Green Belt. Character and appearance

13. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). Within the AONB paragraph 172 of the Framework expects great weight to be given to conserving and enhancing the landscape and scenic beauty, as such areas have the highest status of protection. Policy CS24 of the Core Strategy expects the special qualities of the AONB to be preserved.

14. I note the presence and arrangement of other buildings and properties surrounding the appeal site. The proposed building itself appears well designed in terms of its composition of materials and appearance having regard to the surrounding character of development. Notwithstanding this, the development would be sited well forward of the gable wall of the appeal site dwelling, a few metres from the line of its most forward elevation. This positioning and relationship would appear poorly related to the main dwelling.

15. While it would be largely screened from the wider landscape from three directions, it would impede views into the open AONB landscape from part of the access road and be visible from parts of nearby land. Plans before me suggest that some landscaping is proposed around the perimeter of the garden. This did not

appear to be present at my visit and is likely to take some years to establish once planted.

16. Taking all of the above factors into consideration, the proposed development would have a modest adverse effect upon the landscape and scenic beauty of the AONB. It would result in some harm to, and neither conserve or enhance, the landscape and scenic beauty of the AONB. In this regard, the development would conflict with Policy CS24 of the Core Strategy and paragraph 172 of the Framework. As an area which has the highest status of protection in these respects, this matter is given great weight. Both parties have referred to the Chilterns Buildings Design Guide, however, I have not been provided with this. Whether very special circumstances exist.

17. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is clear that substantial weight should be given to any identified harm to the Green Belt.

18. I note the appellant's view that a car port or garage is a requirement of modern living and the Council may have anticipated such a proposal. However, a significant proportion of dwellings do not benefit from car storage facilities and I see no evidence to demonstrate the car port is essential for the inhabitation of the appeal site dwelling. Furthermore, each proposal must be considered on its own merits and impacts. The proposed solar panels may be compliant with some planning policies but given the limited area of the panels, they would only equate to a small benefit in terms of renewable energy.

19. I acknowledge the materials have been selected to be in keeping with the surrounding development and that surrounding vegetation would not be expected to be affected by the proposal. However, the factors and benefits set out by the appellant would not clearly outweigh the harm identified to the Green Belt, which carries substantial weight, so as to amount to the very special circumstances necessary to justify the proposal. The proposal conflicts with the development plan and the Framework in this regard, and material considerations do not lead me to a decision otherwise. Other Matters

20. The Council concludes that the proposed development would not have any significant impact upon the living conditions of neighbouring properties or highway and access matters, and I see no reason to disagree. A neighbour raises no objection and the Parish Council appear to support the proposal. However, this does not outweigh the harm I have found. I have noted the views of the Rights of Way Officer suggesting the boundary of the appeal site may have encroached onto an adjacent public footpath. However, this has not been a determinative matter in this appeal. Conclusion

21. The proposed development would be contrary to the development plan and the National Planning Policy Framework as a whole, and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Our reference: 4/00373/19/FUL

PINS Reference: APP/A1910/W/19/324164

The Hoo, Ledgemore Lane, Great Gaddesden HP2 6HD

Procedure: Written Representations

Internal agricultural access track

Main Issues

The main issues are:

• The effect of the proposed development on the character and appearance of the area, with particular regard to the Chilterns Area of Outstanding Natural Beauty (AONB); and

• Whether the development would preserve or enhance the setting of The Hoo, a Grade II* Listed Building.

Reasons

Character and appearance

5. The appeal site is located off Ledgemore Lane and is an agricultural holding, with land used for arable and grazing purposes, there is also an area of woodland. The Dacorum Local Plan distinguishes the site as a Rural Area. The land sits within the Chilterns, an AONB. The site also forms part of the grounds for the Grade II* Listed Building, The Hoo.

6. There is an existing gated field entrance from Ledgemore Lane which provides access to the site. From the existing access gate there is an existing unauthorised hard-surfaced track which is approximately 300 metres in length and finishes adjacent to the disused water tower and pump house in the woodland. The natural features on the boundaries to the site, including trees and hedgerows, add to the characteristic rural character to this part of the land, which is largely free from built development and urban influences.

7. The appellants have stated that the proposed track is to allow vehicles to traverse the agricultural holding for the associated agricultural activities and to bring vehicles and machinery to the woodland for regular tree work and maintenance. The proposal would follow a similar route to the existing unauthorised track and be of a similar loose aggregate, albeit the proposal would have some slight variations to its size and routing. The proposed track would include a passing space for vehicles and an area of hardstanding for agricultural storage purposes, located towards the access point.

8. In determining the appeal, I have had regard to the duty under section 85(1) of the Countryside and Rights of Way Act 2000. This requires that decisions have to have regard to the purpose of conserving and enhancing the special qualities, distinctive character and key features of the AONB.

9. Whilst I acknowledge that the physical nature of the track means that its visibility within the landscape would not be prominent from all angles or viewpoints, it would

be visible from the entrance along Ledgemore Lane, from long distance views from St Margarets, and the nearby public footpath.

10. The proposed track would not closely follow the hedge line along all of its route, and as such it would draw attention and emphasise the visual harm. It has also been suggested that the loose aggregate of the existing unauthorised track has vegetation growing through it, which would eventually reduce the visibility of it, and that the proposed track would also blend into the landscape in a similar way. However, this would not completely cover the track and it would still be recognisable as a hard feature within the surrounding landscape, which is generally green and open.

11. The applicant has submitted an Evaluation of Landscape and Visual Effects report2 (ELVE) in support of the proposal, which concludes that the proposed track, turning area and storage area, could be accommodated without undue harm to the landscape or visual amenity. The ELVE suggests a number of strategies to minimise the landscape and visual effects arising from the proposal. This would include the reinstatement of ephemeral vegetation buffers to either edge of the proposed track and planting in the gaps in the hedgerow along Ledgemore Lane. Although landscaping is not considered a permanent 2 Evaluation of landscape and visual effects - The Hoo, Great Gaddesden, Hemel Hempsted – Bidwells (2019) feature, the appellants have stated that landscaping could be conditioned to ensure its longevity. However, this would not completely screen views of the track from all viewpoints, in any case, screening the proposal does not necessarily mean there would be no harm to the landscape.

12. In this context, the scale, siting and positioning of the proposed development would be an urbanising feature in the rural landscape. I acknowledge, there are some urbanising features nearby, such as the nearby garden centre. However, the open character is intrinsic to the AONB, and incursion into it would harm the qualities that give it its special interest. The development would represent a discordant and incongruous feature that would have a detrimental impact on the character and appearance of the area.

13. I note the Council has suggested that there is an absence of a clearly demonstrated agricultural need for the proposed track. However, even if there was a need for the proposed track, the resultant effect of the proposal would still be harm to the character and appearance of the area.

14. Whilst the mitigation proposed would limit views of the proposal, it would still be visible and apparent, which I would regard to be harmful. This harm could not be sufficiently ameliorated by the landscaping conditions which the appellants suggest could be imposed. Consequently, in accordance with paragraph 172 of the National Planning Policy Framework (the Framework), relating to the conservation and enhancement of AONBs, I must give the harm to the AONB significant weight in my decision.

15. I find that the proposed development would harm the character and appearance of the area and the Chilterns AONB. Therefore, the development would be contrary policies CS1, CS24, CS25 of the Dacorum Borough Core Strategy (DCS) (2013),

Saved Policy 97 of the Dacorum Borough Local Plan (1991-2011), and Supplementary Planning Guidance 'Dacorum Character Landscape Assessment – Area 124' and paragraph 172 of the Framework. These policies and guidance, amongst other things, seek to protect the rural character and appearance of the area, particularly the Chilterns AONB. The setting of The Hoo

16. The Hoo is a Grade II* Listed Building, whose oldest parts originate from 1683. It is surrounded by approximately 26 hectares of gardens and parkland, which still shows many of the features and form that were designed by Capability Brown in the 18th century.

17. I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the listed building and its setting.

18. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

19. Paragraph 195 if the Framework states, where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

20. Paragraph 196 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

21. Although the site is located some distance from the Listed Building itself, the siting of the proposed track would be within the associated parkland that is part of the historic development of The Hoo. The setting of the surrounding parkland contributes to the significance of the Listed Building, as it has formed a part of the estate for at least 300 years, and the open, spacious and verdant surroundings are a key part of that.

22. The appellants have submitted a heritage assessment as part of the ELVE. It concludes that the proposal is not considered to impact upon the contribution that the immediate setting makes to the significance of The Hoo, in part due to the lack of visibility between the proposal and The Hoo. However, in terms of the setting of a Listed Building, the absence of visual connection does not mean that there is no impact upon the setting. The siting of the proposed track would be within the associated parkland, which is an integral part of the historic development of The Hoo.

23. The proposal would be harmful to the setting of the Listed Building giving an urbanising effect which would detract from the parkland setting, and thereby the significance of the designated heritage asset. Nevertheless, the harm would be less than substantial and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal, including securing its optimal viable use. Notwithstanding the unauthorised track, there is already an existing access to the surrounding fields, as such the public benefits of the proposal would be limited and would not outweigh the harm.

24. I find that that the proposed development would fail to preserve or enhance the setting of the Grade II* Listed Building. Therefore, it would be contrary to Policy CS 27 of the DCS and paragraph 196 of the Framework. These policies seek development to preserve or enhance the character or appearance of conservation areas and listed buildings.

Other Matters

25. The appellants and interested parties have stated that the access track is required to safeguard the future viability of the farming enterprises, as well as ensuring the efficiency and safety of the agricultural activities carried out on the site. The appellants have also stated that the track would allow for the ongoing maintenance of the woodland.

26. I acknowledge that an area of hardstanding close to the road would be beneficial for the open storage of hay and would help to minimise the transfer of mud and materials from the fields onto the highway. I also recognise that agricultural activity can have a positive effect on the local economy. However, these factors do not overcome the harm that I have identified above.

Costs Appeal

Decision

1. The application for costs is refused.

Reasons 2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably. Paragraph 0321 of the PPG states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. 3. The applicant is seeking a partial award of costs, stating that the Council failed to act proactively through positive engagement with the applicant during the course of the application. This was due to the Council not responding to phone calls and emails, the case being reallocated to another officer, the advice from a planning officer differing from the final decision, as well as supporting documentation not being available on the Council's website. 4. Given the claims set out by the applicant, this would appear to be unreasonable behaviour. However, I have not been provided with substantive evidence to support all these claims. Whilst the lack of communication with the Council during the application process must have caused the applicant some concern, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal. Whilst the

applicant has stated that they incurred significant professional fees, it has not been demonstrated how these were unnecessary, or how they were a wasted expense for the applicant. 5. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been clearly demonstrated. Consequently, the application for the award of costs is refused.

Our reference: 4/01173/19/MFA

PINS Reference: APP/A1910/W/19/3241621

Windsor Court, Corner Hall, Hemel Hempstead, HP3 9AW

Procedure: Written Representations

Rooftop extension to form 16 no. dwellings with associated car parking amendments

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the Council's appeal statement, it highlighted that there should have been a third reason for refusal in relation to the provision of affordable housing. Consequently, I have determined that this should be a main issue for the appeal. During the course of the appeal the appellant was given the opportunity to comment on this aspect. 3. The appellant has confirmed, in an email dated 25 November 2019, that the following drawing numbers stated on the Council's Decision Notice were incorrect: 296300-01 (unrevised); 296300-05 (unrevised); 296300-06 (unrevised) and 296300-07 (unrevised). The appellant has stated the Drawing Numbers submitted with the original application were as follows: 296300-01B; 296300-05A; 296300-06A and 296300-07A. During the determination of the planning application, the appellant submitted additional plans and documentation: 296300-02B Existing Ground Floor Site Plan; 296300-05B Proposed Ground Floor Plan; AQ107965r1 - Windsor Court, Hemel Hempstead - Daylight, Sunlight and Overshadowing Assessment and AQ107965r2 - Windsor Court, Hemel Hempstead - Daylight, Sunlight and Overshadowing Assessment. I have determined the appeal on this basis.

Main Issues

4. The main issues are:

• The effect of the proposed development on the character and appearance of the site and the surrounding area;

• The effect of the proposed development on the living conditions of the existing occupiers, with particular reference to light, outlook, noise and disturbance; and

• The provision of affordable housing.

Reasons

Character and appearance

5. The appeal site is a 3 storey residential building, converted from a former office block. The building is horseshoe shaped with a central courtyard, where the access doors and car parking spaces are located. The building is finished in buff brick to the two lower floors and render to the top, with red brick to the gables. There are 3 other buildings nearby which have a similar form and design. Aside from the nearby residential blocks, the immediate area is predominately retail and commercial premises.

6. The proposal would add 2 additional storeys on the existing building. It would use the existing stairwells and lift shafts to extend upwards to form the access for the dwellings. The proposal would be of a similar design and style to the host building. The buildings near the site, whilst sharing some similarities in design, are not exactly the same. Therefore, a change to the host building would not disrupt the overall character and appearance of the estate.

7. The appellant has highlighted that the adjacent building, Clifton Court, has planning permission1 to increase the size and scale of the building, and that the proposal would be in proportion to these changes. I observed that construction had started on the adjacent premises. Nevertheless, I have not been provided with full details of the permissions, therefore, I am not able to determine if they are directly comparable or what may have led to their approval.

8. The proposal would add 2 storeys on to the host building, making it 5 storeys in total. This would not fully accord with the guidance contained within the Dacorum Urban Design Assessments Update Paper (UDA) (2011), which suggests that new buildings could be 3-4 four storey terrace flat buildings. However, due to the surrounding context, the design traits of the building and the proposed use of materials similar to the host building, an increase in height of one storey over the suggested guidance would not appear at odds with the character of the area. I note that the host building is already readily visible from Two Waters Road. Nevertheless, it sits within the backdrop of a retail outlet and commercial premises, along with their associated car parking and storage areas. Therefore, it would not appear incongruous or unsightly in this regard.

9. The courtyard area is predominately used for car parking, therefore, 6 additional spaces would not significantly alter the existing presence of vehicles in the area. To increase the provision of parking the proposal would remove some of the existing landscaped areas adjacent to the courtyard. The areas of greenery are relatively small in size and are not defining features of the character and appearance of the area. Therefore, the loss would not be harmful in the overall context of the area. 1 Reference 4/02639/16/Full and 4/03122/17/Full

10. Existing refuse arrangements relate to refuse bins stored in the south-west corner of the site. The appellant states that it was intended that this arrangement would continue. However, given the increase in future occupants it is likely that further storage or more frequent collections would be required. The increase in further refuse storage would not appear intrusive or incongruous as it would be residential paraphernalia expected with such apartment blocks. In any case, were I minded to allow the appeal, this could be resolved by an appropriately worded condition.

11. I find that the proposal would not harm the character and appearance of the site and surrounding area. Whilst the proposal would conflict with the guidance set out in the UDA, it would accord with the principles of policies CS10, CS11 and CS12 of the adopted Dacorum Core Strategy (DBCS) (2013). These policies, amongst other things, require development to integrate with the streetscape character and respect adjoining properties. Living conditions

12. The appellant has submitted a Daylight, Sunlight and Overshadowing Assessment2 (DSOA) to accompany the proposal. In terms of daylight, the report states that 24 windows on all floors would record failures in Windsor Court in terms of the Vertical Sky Component (VSC). With regard to sunlight, the report states that 4 ground floor windows on the southern façade of Windsor Court, and 3 windows on the northern façade of the adjacent building (R3) would fail the Annual Probable Sunlight Hours (APSH).

13. The mitigation proposed includes a reliance on the reflectance of light from the render finish to the building, which would require ongoing maintenance to keep the render clean. Whilst the proposed render would make the building appear brighter and the associated maintenance of the render could be conditioned, the statement from REC Ltd states that the render itself would not change the VSC. Therefore, the mitigation proposed in the DSOA would not sufficiently overcome the harm to the living conditions of the occupiers of Windsor Court at the 24 sensitive locations, as identified in the DOSA.

14. In terms of outlook, due to the increase in height and massing, those on the lower floors would have increased views of the built form of the building and a reduction in the views towards the sky. The additional 2 storeys would appear overbearing for the existing occupants when looking out through the windows of the apartments, which would have a harmful effect.

15. In terms of noise and disturbance, the building already has parking in the courtyard area in close proximity to ground floor windows. The introduction of a further 6 spaces would not significantly increase the noise and disturbance already experienced by the existing occupiers. Due to the design of the existing building some level of background noise associated with vehicles would be expected. Therefore, I do not consider the proposal would be materially harmful in this regard.

16. Consequently, while I have found that the proposal would not be harmful in terms of noise and disturbance, it would nevertheless harmfully change the living conditions of the occupiers of Windsor Court in respect of light, sunlight and outlook.

Therefore, the proposal would be contrary to Policy CS12 of the Daylight, sunlight and overshadowing assessment Windsor Court, Hemel Hempstead – REC (2019) This Policy, amongst other things, requires development to avoid visual intrusion, loss of sunlight and daylight to surrounding properties.

Affordable housing

17. In the Council's officer report, the Strategic Housing team highlighted that the proposal would need to provide affordable housing. The Council states that a Section 106 agreement (S106) would be required to secure the provision of 35% on-site affordable housing provision to accord with Policy CS19 of the DBCS and the guidance within the Affordable Housing Supplementary Planning Document (AHSPD) (2019). For this proposal the Council states that the number of units required would be 6 at a mix of 75% affordable rented and 25% shared ownership.

18. During the course of the appeal the appellant submitted a Financial Viability Appraisal3 stating that if 5 units were provided the proposal would be unviable. It also states that the scheme is unviable even with no affordable housing provision. Therefore, the proposal would not be able to provide the required contribution. However, if I were minded to allow the proposal, a condition to review the affordable housing in a post permission viability reassessment, if the development was not implemented within 2 years could be attached.

19. I find that the proposal would not be viable were it to meet the required provision of affordable housing. Therefore, whilst it would not accord with the requirements within Policy CS19 of the DBCS and the guidance within the AHSPD, it would still meet the aspirations to deliver affordable housing, where it would be viable to do so. This policy and guidance require new development to provide affordable housing or a financial contribution in lieu of on-site provision.

Other Matters

20. I note there have been a number of concerns raised by interested parties including, those relating to building regulations, congestion, privacy, property values, disruptions cause by construction and developer contributions. However, not all of these are planning matters, and in any case, I have already identified harm above such that I do not need to consider these further. 21. I acknowledge that the appellant states that the site is in a sustainable urban location where the principle of development should be considered acceptable. However, this does not outweigh the harm I have identified above.

Our reference: Enforcement Notice Appeal

PINS Reference: APP/A1910/C/19/3238714

28 Boxwell Road, Berkhamsted, HP4 3ET

Procedure: Written Representations

Without planning permission demolition of a front wall and creation of a parking bay

Decision

1. It is directed that the enforcement notice is varied by deleting 2 months from Paragraph 5 for the period of compliance and substituting 4 months.

2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the planning application deemed to have been made under Section 177(5) of the Act as amended. Background Matters

3. An appeal against the refusal by the Council of a retrospective planning application for the development already carried out was dismissed on the 29 July 2019. After the issue of the appeal decision, the appellant sought advice about a revised scheme but was told by the Council that the dismissed appeal could not be revisited unless further examples could be presented that would support a reconsideration of the refusal on conservation grounds. The appellant is therefore now seeking to present further information. The appeal under ground (a) and the deemed planning application

4. The main issue is whether the development preserves or enhances the character of the Berkhamsted Conservation Area (the Conservation Area).

5. Conservation areas are designated heritage assets as defined by the National Planning Policy Framework (the Framework) and great weight is to be given to Appeal Decision APP/A1910/C/19/3238714 https://www.gov.uk/planning-inspectorate 2 their preservation and conservation. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special attention be given to the desirability of preserving or enhancing the character and appearance of a conservation area.

6. The previous Inspector assessed the development and found that “regard has been had to the character and appearance of the site and the established character of the terrace frontage.” Nevertheless, “these elements of the resultant situation do not mitigate the harm that has been caused by the loss of the enclosed garden area.” Having visited the site, I see no reason to disregard the previous Inspector’s view.

7. The appellant has referred to a number of examples of other frontages to show that the street scene around the appeal dwelling is significantly diverse and that the development does not cause significant or less than significant harm to the Conservation Area. The first example provided is the proposed replacement of the existing bungalow next to the other side of the appeal dwelling with a new dwelling. The previous Inspector dealt with the existing bungalow and the proposed dwelling at No 29 in his decision letter at paragraph 10. The existing bungalow is of different character to the prevailing pattern of two storey dwellings on Boxwell Road and has an existing driveway and is therefore not comparable to the development.

8. Similarly, the proposed replacement 5 bedroomed dwelling with integral garage and driveway would also be of materially different character to the appeal site. I therefore do not consider that either the existing or proposed replacement dwelling at No 29 are comparable to the terrace of dwellings of which the appeal dwelling is a

part. For similar reasons, I do not share the appellant's view that the presence of nearby bungalows means that the street scene is sufficiently diverse to allow the development.

9. Photographs have been provided of other frontages on Boxwell Road including No 27 which is to the other side of the appeal dwelling where the whole of the front garden and front boundary were removed to create a parking area. However, the Council states that the works to No 27 were carried out prior to the introduction of an Article 4(2) direction. The purpose of the Article 4(2) direction was to prevent harmful alterations to the quality of the streetscene as the Conservation Area Character Appraisal & Management Proposals document identified loss of front gardens and walls to parking as detracting from the streetscene. The development has to be assessed against existing policies. I also share the previous Inspector's view that most of the dwellings with existing car spaces benefit from taller boundary treatments and landscaping and are more discreet.

10. The development at 2 Kitsbury Road was brought to the attention of the previous Inspector. Nevertheless, the appellant has provided photographs of dwellings at Kitsbury Road. The dwellings on Kitsbury Road which are largely semi-detached are of a different style and character to the terraced dwellings on Boxwell Road. As such, I do not find them comparable to the appeal dwelling. Photographs of off street parking on Shrublands Road also show semi- detached dwellings with a different character to the appeal dwelling. The photographs of off street parking on Park View road show an end dwelling with railings and a brick wall retained to the end dwelling of the row but with space for a separate adjacent garage and drive. The other dwelling is of a modern style.

11. In summary, a number of the examples referred to by the appellant were addressed by the previous Inspector in his decision letter. However, each proposal or development does have to be assessed on its own merits. The appeal dwelling has to be assessed with regard to its prominent location as an end of row dwelling towards the end of the road which until the development took place retained features that are characteristic features of the Conservation Area designation. None of the examples provided lead me to reach a different conclusion to that of the previous Inspector with regard to harm.

12. Whilst there is no dispute about the quality of the development, nevertheless the development does harm the contribution that the appeal dwelling makes to the Conservation Area. As the harm to the significance of the Conservation Areas is less than substantial, paragraph 196 of the Framework then requires an assessment to be undertaken to weigh that harm against public benefits. However, no new public benefits are advanced since the previous decision and the creation of an off street parking space is for the appellant's benefit and is therefore a neutral benefit.

13. The development does not preserve or enhance the character of the Conservation Area. The development is therefore in conflict with Policies CS12 of the Dacorum Borough Adopted Core Strategy 2013 (the Core Strategy) which refers, amongst other things, to development integrating with the streetscape character. It is also in conflict with Policy C27 of the Core Strategy and Saved Policy 120 of the

Dacorum Borough Local Plan which require that development should preserve or enhance the character and appearance of the Conservation Area. The development is also in conflict with the Framework which seeks to conserve and enhance historic assets (paragraphs 192 and 196).

Other Matters

14. The lack of objection from the Berkhamsted Town Council, the Highway Authority, and other bodies are all matters that were before the previous Inspector who considered that the lack of objection did not overcome the harm that was identified. I share that view.

15. Both parties have referred to a lack of communication since the issue of the appeal decision in July 2019. I note that the appellant refers to payment of a pre application fee and was disappointed to not receive a response. Nevertheless, in reaching my decision, I have to consider the development before me.

16. The appeal under ground (a) therefore fails. The appeal under ground (f)

17. Under this ground, the appellant has asked that the wording of the steps required by the notice be revised to allow for the retention of the parking bay and the addition of further works. Essentially, the appellant is asking for an alternative scheme to be allowed. The power to grant planning permission under S177(1) of the Act in respect of the matters stated in the notice as constituting a breach of planning control is linked an appeal under ground (a).

18. The power under S177(1) of the Act is to grant planning permission “in relation to the whole or any part of those matters”. If an alternative scheme is advanced, planning permission may be granted provided it is “part” of the development. From the drawing and photographs provided, the alternative scheme would require the addition of brickwork pillars and an increase in height to the side wall. Those elements would be new development over and above what is existing. The proposed alternative scheme put forward as an alternative requirement cannot be properly described as “part” of the development enforced against and could not therefore be granted planning permission as part of a ground (a) appeal.

19. An appeal under ground (f) has a narrower remit than ground (a) and to succeed on ground (f) the appellant would need to show that the requirements of the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

20. With regard to ground (f), it is essential to understand the purpose of the notice. Under s173(4)(a) of the 1990 Act, one of those purposes is to remedy the breach of planning control by restoring the land to its condition before the breach took place. In the notice, the matters which constitute the breach of control are the demolition of the front wall and the creation of a parking bay. The notice requires the reinstatement of the front boundary wall to its original height in the construction style of the remaining existing front boundary wall with materials that match in size and appearance the original materials used. It also requires the removal the hard

surfacing materials and the reinstatement of the front garden to its original condition. The purpose of the notice is therefore clearly to remedy the breach of planning control by restoring the land back to its condition before the breach took place. The requirements are therefore not excessive. As such, the ground (f) appeal must fail. The appeal under ground (g)

21. An appeal under ground (g) is that the period for compliance specified in the notice falls short of what is reasonable. A period of two months has been provided for compliance. The appellant has asked for a period of six months to be able to raise funds to carry out the required works rather than for reasons relating to the nature of the works. However, I am mindful that in the current uncertain climate with Covid-19, it may take longer to obtain estimates and get work undertaken. In the circumstances, I do consider that a longer period of 4 months would be an appropriate timescale. The appeal under ground (g) does therefore succeed in part and I shall vary the notice accordingly.

Conclusion

22. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under Section 177 (5) of the 1990 Act as amended.

Our reference: Enforcement Notice Appeal

PINS Reference: APP/A1910/C/19/3234332

Boxmoor Lodge, London Road, Hemel Hempstead

Procedure: Written Representations

Without planning permission the erection of a marquee

Decision

1. The appeal is dismissed and planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended. Procedural Matter

2. Although not ticked as a ground of appeal on the appeal form, the appellant has questioned the length of time allowed for compliance which falls within ground (g). However, as the Council has commented upon this issue, I am able to address this ground without causing injustice to any party. The ground (a) and the deemed planning application

3. The main issues are (i) the effect of the development on the character and appearance of the area and (ii) the effect of the development upon the living conditions of nearby occupiers at Laurel Bank and Box Lane with regard to noise. Character and Appearance

4. Boxmoor Lodge Hotel is on the junction of London Road and Felden Lane. The marquee, the subject of the notice, is attached to the rear of a building which is separate from the main hotel building and extends from the rear of the building into

the garden area of the appeal site. Rear gardens of two of the dwellings on Laurel Bank back onto the eastern boundary of the appeal site with Oaklands on Felden Lane being side on to the remainder of the eastern boundary. The garden of 1 Box Lane which is set in a large plot is to the other side of southern boundary. There is largely extensive mature hedging and trees along the boundaries with the gardens of dwellings.

5. The Council indicates that the marquee takes up around a third of the garden space and refers to its size and design being in contrast to the surrounding dwellings. Nevertheless, the position of the development to the rear of the appeal site does mean that views of the marquee from the main roads are very limited. Any views from nearby dwellings and their gardens are also likely to be limited due to the mature hedging and fences to the boundaries of the appeal site and the marquee is not as tall as surrounding dwellings. With regard to appearance, the marquee is largely white canvas with a steel frame. On balance, given the relatively secluded location of the marquee, I do not consider that it does cause harm the character and appearance of the area.

6. I therefore find no conflict with Policy CS12 of the Dacorum Core Strategy (Adopted September 2013)(the Core Strategy) with regard to visual intrusion and respecting adjoining properties in terms of matters such as scale and layout, materials and design. Living conditions of nearby occupiers

7. The marquee is used for events including weddings. The Council is concerned about the use of live or amplified music and use of the public address system. Whilst no details are provided of the number of events, the note provided of a meeting in June 2018 referred to around 100 events per year with weddings being booked 2 to 3 years in advance. The nature of wedding events is that music and entertainment will be provided. Noise is more prevalent at evenings, nights and weekends when events are more likely to take place in the marquee and occupiers of nearby dwellings are more likely to be at home to experience noise issues. Incident sheets for the summer of 2018 indicate that bass noise is an issue and also the volume of the PA system. Nearby residents also refer to disruptive behaviour in the marquee garden, having to close windows and doors in summer and limited garden time. The Council's case is that whilst noise is not of sufficient level to be a statutory nuisance, it does cause harm to nearby residential occupiers.

8. Whilst the appellant has referred to discussions with the Council with regard to noise measures, those discussions largely relate to earlier permissions. Conditions were attached to the planning permission granted in 2010 for a period of 5 years which included restricting use of the garden after 9pm. Although the permission came to an end in 2015, the marquee use did not cease. The appellant has referred to responding quickly to direct telephone complaints and a desire to work with neighbours to resolve any noise issues, however, limited details are provided. Whilst the note of the meeting in June 2018 refers to investigating the use of a different PA system with noise limiting features, there is no later evidence before me as to whether that has been installed or is still being investigated.

9. On the evidence before me, I do consider that the development does cause harm to the living conditions of nearby occupiers of Laurel Bank and Box Lane with regard to noise. I have considered whether conditions could overcome the harm that I have found but, on the evidence before me, there is insufficient information for me to impose suitable conditions. Whilst local residents have suggested noise levels not exceeding 50 or 48 decibels at the boundary, no noise assessments have been carried out by any party to assess whether or not this is an appropriate level. Neither of the conditions suggested by the Council, were I minded to allow the appeal, pass the statutory tests required to be met prior to imposing a condition. I do not, for example, consider that a condition banning all music and a PA system from the marquee would be reasonable. The alternative proposed condition assumes that a suitable noise control scheme can be designed and approved which is uncertain in view of the lack of any expert noise evidence from any party to date.

10. The development does therefore conflict with Policy CS12 of the Core Strategy which, amongst other things, refers to avoiding disturbance to surrounding properties. It would also conflict with Paragraph 180 of the Framework which refers to development avoiding giving rise to significant adverse impacts on quality of life. Conclusion on ground (a)

11. Although I have not found harm to the character and appearance of the area, I have found harm to the living conditions of the nearby occupiers of Laurel Bank and Box Lane with regard to noise. The appeal upon ground (a) therefore fails. The appeal under ground (g)

12. An appeal under ground (g) is that the time allowed for compliance is that the period for compliance specified in the notice falls short of what is reasonable. The Council has allowed a compliance period of 12 months. The appellant considers that 12 months is insufficient time as weddings are booked up to three years in advance and he would be letting down brides- to-be and local people. The Council states that twelve months was discussed at a meeting in June 2019 as being sufficient time.

13. I note that discussions between the parties were cut short when the Council served the enforcement notice to avoid the development acquiring immunity from enforcement after a four year period. Nevertheless, the lengthy compliance period does allow discussions to continue and, if considered appropriate, to submit a planning application with expert noise evidence with proposed noise measures. A compliance period in excess of 12 months would usually only be justified in exceptional circumstances, particularly where harm to living conditions of nearby occupiers are involved. I do therefore consider 12 months is a reasonable period and the appeal on ground (g) therefore fails.

Other Matters

14. The appellant has referred to a hotel in Bridgwater, Somerset which was granted planning permission for a marquee by its local Council. However, in the absence of any further information about the other site, I do not find it to be comparable with the appeal site which, in any event, has to be assessed on its own merits.

15. I note that Boxmoor Lodge Hotel is a privately owned business that employs around 30 people locally and also supports local businesses and two employees have separately indicated their support for the development. Nevertheless, these matters do not individually or collectively overcome my finding of harm. Conclusion

16. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

APPEALS ALLOWED

Our reference: 4/00525/19/FUL

PINS Reference: APP/A1910/W/19/3236036

Greymantle, Hempstead Road, Bovingdon HP3 0HF

Procedure: Written Representations

Appeal against conditions attached to a planning permission

The appeal is made under section 78 of the Town and Country Planning Act 1990 The development permitted is demolition of existing garage and side/rear extensions and construction of two-storey side extension and part single, part two-storey rear extension; conversion from single dwelling into pair of semi-detached properties (total 2 units). The conditions in dispute are Nos 4, 6, 8 and 9 which state that:

> 4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended (or any Order amending or reenacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A and B shall take place to the new dwelling hereby approved or within its curtilage.
>
> 6. All planting, seeding or turfing and soil preparation comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the building; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written approval to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards unless otherwise agreed in writing by the Local Planning Authority.
>
> 8. The first-floor flank windows facing Parkhurst and Ivydene, as annotated on drawing 'PE2 - Proposed Elevations', shall be permanently fitted with obscured glass up to 1.7m above floor level.
>
> 9. Should any ground contamination be encountered during the construction of the development hereby approved (including groundworks), works shall be

temporarily suspended, unless otherwise agreed in writing by the Local Planning Authority, and a Contamination Remediation Scheme shall be submitted to (as soon as practically possible) and approved in writing by, the Local Planning Authority. The Contamination Remediation Scheme shall detail all measures required to render this contamination harmless and all approved measures shall subsequently be fully implemented prior to the first occupation of the development hereby approved. Should no ground contamination be encountered or suspected upon the completion of the groundworks, a statement to that effect shall be submitted in writing to the Local Planning Authority prior to the first occupation of the development hereby approved.

The reasons given for the conditions are:

4. To enable the local planning authority to retain control over the development in the interests of safeguarding visual and residential amenity, in accordance with Policy CS12 of the Dacorum Borough Core Strategy 2013. Appeal Decision APP/A1910/W/19/3236036 https://www.gov.uk/planning-inspectorate 2

6. To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policies 99 and 100 of the Dacorum Borough Local Plan 2004.

8. In the interests of the residential amenities of the occupants of the adjacent dwellings in accordance with Policy CS12 (c) of the Dacorum Borough Core Strategy 2013 and Paragraph 127 (f) of the National Planning Policy Framework 2019.

9. To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32. The safe and secure occupancy of the site, in respect of land contamination, lies with the developer.

Decision 1)

The appeal is allowed and the planning permission Ref 4/00525/19/FUL for demolition of existing garage and side/rear extensions and construction of two-storey side extension and part single, part two-storey rear extension; conversion from single dwelling into pair of semi-detached properties (total 2 units) at Greymantle, Hempstead Road, Bovingdon HP3 0HF granted on 1 May 2019 by Dacorum Borough Council is varied by deleting conditions 4, 6, 8 and 9 and substituting them with the following conditions: 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) (Order) 2015 as amended (or any Order amending or re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Class B shall take place on the new south-western (side) roof slope, of the southwestern, dwelling hereby approved. 2) Any trees or plants which within a period of five 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. All landscape works shall be carried out in accordance with the guidance contained in British Standards. 3) The first- floor flank window facing Parkhurst, as annotated on drawing ‘PE2 – Proposed Elevations’, shall be permanently fitted with obscured glazing up to 1.7m above the finished floor level of the room it serves.

Application for Costs

1. An application for costs was made by Ben Sterling against Dacorum Borough Council. This application is the subject of a separate decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. Although Policies CS12 and CS32 of the Core Strategy (CS) and Policies 99 and 100 of the Dacorum Borough Local Plan (DBLP) have been referred to by the Council in their reasons for attaching conditions 4, 6, 8 and 9, I have not been provided with copies of Policies CS32 of the DBCS or 99 and 100 of the DBLP. I have therefore reverted to the National Planning Policy Framework (the Framework) where necessary.

Main Issues

4. The main issues in this case are:

• whether disputed condition 4 is necessary and reasonable having regard to the effect of the development on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties and future occupiers of the appeal site;

• whether disputed condition 6 is necessary and reasonable having regard to the effect of the development on the character and appearance of the area;

• whether disputed condition 8 is reasonable and necessary having regard to the effect of the development on the living conditions of the occupiers of the adjoining neighbouring properties; and

• whether disputed condition 9 is reasonable and necessary having regard to the ground conditions of the site and any risks arising from contamination. Reasons for the Recommendation

5. The appeal site is set on the north-west side of Hempstead Road. The dwellings on the road are varied although are primarily semi-detached with side facing gables. Greymantle is a detached dwelling set back from the road which, due to its L-shaped form, has a hipped roof on the south-west side. To the north-east side of the house is an attached garage. At the rear of the site is a sizeable garden which extends behind Ivydene and Rose Cottage, the neighbours to the north-east of the site.

6. The development would subdivide the existing dwelling resulting in two semidetached dwellings. A space would be maintained at the boundary with the existing neighbouring properties which are both semi-detached.

Condition 4

7. Regarding extensions which would be permitted under Class A of the GPDO1 I note that the Council, in their determination of the planning application, were content with the size of the gardens proposed regarding the impact of the proposed development on the character and appearance of the area, and the living conditions of future and neighbouring occupiers. I have no reason to find differently in this regard.

8. Whilst an extension permitted under Class A would increase the built form of the dwellings, I observed that side and rear extensions are a feature of the area. Moreover, I am satisfied that sufficient garden area would remain in the event that the intended future occupiers of the new dwellings exercised their permitted rights in respect of Class A. Harm to the character and appearance of the host dwellings and the surrounding area would be unlikely to result if these PD rights were exercised.

9. It has not been put to me how development under Class A could affect the living conditions of neighbouring properties and I consider that this would be 1 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Appeal Decision APP/A1910/W/19/3236036 https://www.gov.uk/planning-inspectorate 4 unlikely, due to the scope of development permitted under Class A and the relationship of the surrounding dwellings. In the event that one of the larger extensions permitted by Class A was proposed, the Council would have the opportunity, under the prior approval scheme, to assess the impact of the proposed development on the amenity of any adjoining neighbours.

10. Moreover, I note that permitted development rights under Class E of the GPDO have not been removed and I consider an outbuilding erected in the garden of one of the proposed dwellings would have as much potential to reduce the respective garden or affect neighbouring occupiers as an extension carried out under Class A.

11. Class B of the GPDO permits the enlargement of a dwelling consisting of additions or alterations to its roof. The approved two-storey extension on the south-west side would create a side facing roof slope, this would allow for a side facing dormer to be erected under Class B, where one would not have previously been possible. Although Parkhurst, the neighbouring dwelling, has a number of forward-facing dormers, a side facing addition would introduce an uncharacteristic roof form which would not reflect the character and appearance of the area and would therefore result in harm. It has not been sufficiently justified for me to remove permitted development rights for Class B development on the north-east side of the property, as a side dormer could already be erected here.

12. However, I find that by reason of their siting in relation to the neighbouring properties it would be unlikely for there to be harm to the living conditions of the occupiers at either of the new dwellings, or Parkhurst and Ivydene. Moreover, the outlook from, and light to, the upper-floor side window serving Parkhurst is likely to

be already limited. In view of the approved extension to the south-west side of the appeal building it is unlikely that a side dormer would significantly increase any impact on Parkhurst to such an extent as to make the room the window serves a less pleasant place to use.

13. As such I consider that a clear justification, on character and appearance or living condition grounds, for the removal of permitted development rights under Class A has not been provided in accordance with Paragraph 53 of the National Planning Policy Framework (the Framework). As such this part of condition 4 is not necessary. However, for the reasons set out above, the control of roof extensions and additions on the extended roof, as permitted under Class B, is necessary in the interests of the character and appearance of the area in accordance with Policy CS12 of the CS which requires development to integrate with the streetscape character.

Condition 6

14. Condition 6 primarily supports condition 5 which requires the submission, and carrying out, of a landscaping plan, while No 6 ensures that, for five years following the completion of the development, any plants or trees that die, are removed, or become seriously damaged or diseased shall be replaced. The appellant has not sought for the removal of No 5, to my mind this indicates that the appellant agrees that a landscaping scheme is required. Without No 6, the mitigation secured by the condition would be negated as it could not be guaranteed that the landscaping scheme would be retained for a reasonable period of time. As such, and subject to the changes suggested in the following paragraph, No 6 is necessary and should be retained.

15. I note that there is some duplication between conditions 5 and 6, with both having a requirement for when the landscaping scheme should be carried out. Given that condition 5 already sets a timeframe for carrying out the landscaping it would be unnecessary for condition 6 to also include a similar requirement.

16. In light of the above, although there is some duplication between conditions 5 and 6, for the reasons identified above the maintenance of the landscaping area would be necessary. This would be in the interest of the character and appearance of the site and surroundings, in accordance with Paragraph 127(b) of The Framework which seeks effective landscaping.

Condition 8

17. From my site visit, and the evidence before me, I note that the first-floor side window facing Ivydene is, as existing, clear glazed and openable. Mutual overlooking would, therefore, already exist. The room would remain a bathroom and the size and position of the window would not be altered. The proposal would therefore not affect the existing situation. Nevertheless, the window serves a bathroom where mutual privacy would likely be desirable for all parties, I find it would be unlikely for the half-height obscured glazing shown on the submitted plans, to not therefore be installed, irrespective of this condition being attached. Moreover, for these reasons I find it would not be necessary for the level of obscuration to be controlled, or for the window’s opening to be restricted by condition.

18. I acknowledge that the Inspector dealing with a previous appeal2 at the site, for a similar scheme, found that the change of the first-floor bathroom to a bedroom would cause a loss of privacy for the occupiers of Ivydene. However, the current proposal does not propose changes to the use of the bathroom and therefore this is a materially different situation.

19. I consider that it would be desirable that the proposed window facing Parkhurst would provide privacy for future occupiers, and that as such the obscured glazing would be unlikely to be insufficient to prevent a suitable level of privacy. Moreover, as the window would be located opposite a blank wall and roof, it is unlikely that being able to open the window would unacceptably affect the privacy of either the neighbouring or future occupiers.

20. The installation of new windows on residential properties is controlled by the GPDO under condition A.3b of Class A. No clear justification has been provided to demonstrate why this would not be sufficient to protect the living conditions of neighbouring occupiers. I therefore find it would not be necessary to attach a condition restricting windows on the first-floor side walls of the proposed dwellings.

21. As such I consider that, given that no changes are proposed to the location of the bathroom or the size and position of the window facing Ivydene, it is unnecessary for condition 8 to include restrictions regarding this window. However, it would be necessary and reasonable for the condition to be replaced with one restricting the proposed bathroom window facing Parkhurst, given this would be a new window in this location, in order to protect the living conditions of the neighbouring occupiers in accordance with Policy CS12 of the CS and Paragraph 127(f) of the Framework.

Condition 9

22. Although the Council's evidence states that they have received comments from their environmental team, neither these nor the location of the possible contaminated sites have been submitted with their appeal statement. I understand from the appellant's statement that the Council consider a, now redeveloped, petrol station set some distance away to be a possible source of contamination for the site.

23. I have not been provided with, or directed to, any substantive evidence as to the source of possible contamination, and as such I consider that the likelihood of such contamination is very low. I therefore find that any additional risk as a result of the proposal would be limited, especially as the existing use is already residential.

24. Concerns regarding asbestos within some parts of the building to be demolished have been raised, with a request to add a requirement to condition 9, for this to be assessed and appropriate action to be taken. However, such matters are dealt with by other legislation, outside of the planning system, and it would not therefore be necessary for this to be included within condition 9.

25. Therefore, although the condition is not overly onerous on the appellant, it would be unnecessary in order for the development to comply with Paragraph 178(a) of the Framework which seeks development to take account of ground conditions and where necessary undertake remedial action.

Other Matters

26. I have had regard to the various other concerns raised by interested parties, including the accuracy of the plans, quality of the development including future development, health and safety, disturbances and highway safety. However, I am satisfied that these are principally issues concerned with the grant of planning permission for the development and they have not, therefore had a significant bearing on my decision-making in this instance.

27. A condition requiring a construction management plan has been requested. However, given the limited scale of the development, access to the site, and controls to building works outside of the planning system, I find that this would be unnecessary in this instance.

Recommendation

28. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be allowed in so far as the removal of condition 9, which I consider to not be reasonable and necessary, the replacement of conditions 4 and 6 with conditions better suited to protecting the character and appearance of the site and its surroundings, and the replacement of condition 8 with one which is more reasonable in its protection of neighbouring living conditions.

I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed.

APPEALS WITHDRAWN

None