

6. APPEALS UPDATE

APPEALS LODGED

Appeals received by Dacorum Borough Council between July 2020 and November 2020

Our reference: 4/02140/19/MFA

PINS Reference: **APP/A1910/W/20/3247645**

Caddington Hall Luton Road
Markyate
ST. ALBANS
AL3 8QB

Procedure: Hearing

Our reference: 19/03052/ROC

PINS Reference: **APP/A1910/W/20/3252729**

Top Common, The Common
Chipperfield
KINGS LANGLEY
WD4 9BN

Procedure: Written Representations

Our reference: 20/00803/FUL

PINS Reference: **APP/A1910/C/20/3256773**

Land at Leighton Buzzard Road
Hemel Hempstead
HP1 1JG

Procedure: Written Representations

Our reference: 20/00041/ENFORC

PINS Reference: **APP/A1910/C/20/3256772**

Land at Leighton Buzzard Road
Hemel Hempstead
HP1 1JG

Procedure: Written Representations (Enforcement Notice Appeal)L

Our reference: 20/00033/ENFORC

PINS Reference: **APP/A1910/C/20/3254307**

Land at Plot 1
Cupid Green Lane
Great Gaddesden
Hertfordshire

HP2 6HN

Procedure: Written Representations (Enforcement Notice Appeal)

Our reference: 20/00964/FUL

PINS Reference: **APP/A1910/W/20/3256852**

Highlands

Kings Road

Berkhamsted

HP4 3BP

Procedure: Written Representations

Our reference: 20/01677/FUL

PINS Reference: **APP/A1910/W/20/3256735**

13 Shrublands Road

Berkhamsted

HP4 3HY

Procedure: Written Representations

Our reference: 20/00248/FUL

PINS Reference: **APP/A1910/W/20/3256051**

52 Bronte Crescent

Hemel Hempstead

HP2 7PR

Procedure: Written Representations

Our reference: 20/00013/ENFORC

PINS Reference: **APP/A1910/C/20/3249358**

Land at Haresfoot Farm

Chesham Road

BERKHAMSTED

Hertfordshire

HP4 2SU

Procedure: Hearing (Enforcement Notice Appeal)

Our reference: 20/00818/FUL

PINS Reference: **APP/A1910/W/20/3259756**

Akeman Business Park

Tring

Herts
HP23 6AF

Procedure: Written Representations

Our reference: 20/00049/REFU

PINS Reference: **APP/A1910/W/20/3259290**

The Royal Oak
The Street
Chipperfield
Hertfordshire
WD4 9BH

Procedure: Written Representations

Our reference: 19/02948/RET

PINS Reference: **APP/A1910/W/20/3258742**

26 Morefields
TRING
HP23 5EU

Procedure: Written Representations

APPEALS DISMISSED

Our reference: 4/01970/19/FHA

PINS Reference: **APP/A1910/D/20/3251555**

68 Tring Road
Wilstone
TRING
HP23 4PD

Procedure: Written Representations

Main Issues

The main issues are the effect of the development on (i) the character and appearance of the area, including the Wilstone Conservation Area (WCA) and (ii) highway safety, with particular regard to visibility. Reasons Character and appearance

4. The appeal relates to a corner garden plot within the WCA. There is an existing tall timber fence, which sweeps around the tight bend in the road and extends the full length of the garden's frontage. This does not have the benefit of planning permission.

5. The proposal seeks to retain the fence but in a different position, set back from the roadside. It also seeks to reduce its height through the removal of the trellis feature

which runs along the top of the existing fence. The fence would be set back by about 1.85 metres from the road nearest to the dwelling and around 0.5 metres where it meets the shared boundary with No 66. The site is in a slightly elevated position above the road. As a result, the plans indicate that the fence would be around 2.15 metres tall from the road for its entire length.

6. From the evidence before me and my own observations of the area, the significance of the WCA appears to lie in its historic layout, including the Appeal Decision APP/A1910/D/20/3251555 <https://www.gov.uk/planning-inspectorate> 2 incidental public and green spaces this has created, the tightly knit grain of buildings along the main part of Tring Road, and the age and quality of many of its buildings, both individually and in groups. The site itself is in an extremely prominent location close to the edge of the conservation area, opposite public open space and a right of way. When approaching from the north, the sharp bend effectively announces the entrance to the main historic character of the village. As such, the site is in a very sensitive part of the WCA.

7. There are a variety of boundary treatments to the front of buildings throughout the village. The majority, however, are low fences, hedgerows and shrubbery, walls or railings. They tend therefore to be much lower profile and, in many cases, softer features than what is proposed here. The only examples of timber fencing of the height and nature of that proposed are in sporadic examples of side boundaries. While some of these are visible from the roadside, none are in as prominent a location as the appeal site.

8. The appellant has drawn my particular attention to the fencing of No 55. However, this is also a side fence which runs away from the road along the side of the dwelling and public footpath. The majority of this fence is also outside the conservation area and is in a less prominent position. The element nearest the road, and within the WCA, is also at a lower height. Examples of similar fencing fronting Grange Road are also outside the conservation area. Furthermore, they are set back behind both a pavement and grass verge and thus offer a far less imposing and overbearing physical presence than what is proposed.

9. Therefore, by virtue of its excessive height and length, combined with the large unbroken expanse of timber, the development would result in an unduly prominent, intrusive, hard and discordant feature. Neither the set back from the road, nor painting the fence a different colour, would alter what would be an uncharacteristic and unsympathetic addition to the street scene.

10. The fence would therefore result in unacceptable harm to the character and appearance of the area and detract from the significance of the WCA. Accordingly, there would be conflict with Dacorum Core Strategy (DCS)(2013) policies CS12 and CS27 and saved Policy 120 of the Dacorum Borough Local Plan (2004) which seek, amongst other things, to ensure development integrates with streetscape character and preserves or enhances the appearance and character of conservation areas. The harm caused to the significance of the WCA would be 'less than substantial'. Paragraph 196 of the National Planning Policy Framework (the Framework) states

that in such circumstances, the harm should be weighed against the public benefits of the proposal. I shall return to this below. Highway safety

11. The Council raised two concerns relating to highway safety; firstly, that drivers exiting the dwelling's car port would have poor visibility and secondly, that drivers approaching the bend would have restricted forward visibility around what is a very sharp bend in the road.

12. The car port is relatively near to the bend and, with or without the fence, it is likely that visibility to the left is less than ideal. The fence in its current position directly abutting the roadside is likely to exacerbate any visibility issues that may exist. Setting the fence back by around 1.85 metres would provide a clearer view across the front of the garden to the bend itself. However, visibility around the bend would still be restricted. The evidence before me is not persuasive that the fence would not unacceptably or unnecessarily increase the risk to drivers exiting the site.

13. Similarly, the evidence does not clearly demonstrate that the setting back of the fence, by just 0.5 metres in places, would provide sufficient forward visibility around the bend to be considered safe. In coming to this conclusion, I have had regard to the fact that drivers will need to slow down for the bend in any event. I have also noted various references in the evidence to a hedge that has been removed from the site. However, few details relating to this have been provided in relation. Neither of these factors lead me to conclude the fence would not increase risks to drivers and pedestrians.

14. Based on the evidence before me, I cannot conclude with any certainty that the proposal would not result in unacceptable risks to drivers exiting or approaching the site. Accordingly, there would be conflict with CS Policy C12 which seeks, amongst other things, to ensure development provides a safe and satisfactory means of access for all users. It would also conflict with paragraph 109 of the Framework, which states that development should be refused where it would have an unacceptable impact on highway safety. Other Matters & Planning Balance

15. The fence would clearly provide some private benefits to the occupants in terms of privacy and security. However, there is nothing to suggest that similar benefits could not be achieved without causing the same degree of harm. Furthermore, these would not be public benefits and thus do not weigh in favour of the proposal in terms of the impact on the WCA. There are therefore no public benefits that would outweigh the harm to the heritage asset. Accordingly, the development would also conflict with paragraph 196 of the Framework.

16. The appellant has drawn my attention to the lack of a conservation area appraisal for the WCA. However, this does not mean the impact on the heritage asset cannot be assessed. I have considered the merits of the proposal based on the evidence that has been provided and my own observations of the area.

17. In conclusion, I am satisfied that there are no material considerations that would outweigh the harm identified or the conflict with the development plan as a whole.

Conclusion

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

Our reference: 4/02222/19/FUL

PINS Reference: **APP/A1910/W/20/3251892**

16 Hempstead Road
KINGS LANGLEY
WD4 8AD

Procedure: Written Representations

The application form states the proposal is for a small development (eight units) including demolition of the existing residential building at No 16 Hempstead Road. However, the scheme was amended to a scheme including seven flats in two buildings and that is the scheme the Council made its decision on. For the avoidance of doubt, I have made my determination on the amended proposal. I have therefore taken the description from the Council's decision notice as this accurately describes the scheme. I am satisfied that no party has been prejudiced by my approach.

Main Issue

The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

The appeal proposal would involve the replacement of a dwelling in a long and narrow plot with seven flats in two buildings. The first (Building 1) would be positioned close to the main Hempstead Road, the second (Building 2) would be next to No 18 Hempstead Road (No 18) at the end of a row of dwellings set back from the main Hempstead Road behind mature landscaping in a linear cul-de-sac arrangement.

5. The main Hempstead Road nearby accommodates dwellings and commercial buildings of a variety of styles giving it a mixed character and appearance. In contrast the cul-de-sac is characterised by detached dwellings of similar Appeal Decision APP/A1910/W/20/3251892 2 appearance, with spaces between them (particularly above single storey garages) and set back from the road. Even though some of the properties have been substantially extended the cul-de-sac retains a relatively uniform, spacious and verdant character and appearance.

6. I acknowledge the scheme was recommended for approval by the Council's Officers. I note the Council's Design Officer found the scheme acceptable and positive pre application advice was received. However, even though the scheme has been reduced in scale and density and would be finished in materials matching those

used nearby it would replace a relatively modest dwelling with two relatively large buildings.

7. When viewed from the main Hempstead Road the proposal would be softened by the mature landscaping in front of the cul-de-sac and would not appear out of scale or place blending in with the varied character and appearance of the area.

8. However, when viewed from the cul-de-sac, Building 2, whilst similar in height and depth to No 18, would be of contrasting form and appearance and positioned directly adjacent to it. Building 2 would almost fill the full width of the plot and Building 1 would be taller, deeper and closer to the cul-de-sac head than the existing dwelling it would replace leaving only a small space between the two proposed buildings.

9. I accept the appeal site is currently of a relatively poor appearance and the side elevation of the existing house is a prominent feature of the cul-de-sac street scene. However, through the scale of the proposed buildings and the lack of space around them, the proposed development would dominate the head of the cul-de-sac and appear cramped eroding the spacious characteristic of the area.

10. In reaching these conclusions I note the National Planning Policy Framework (the Framework) promotes an effective use of land in meeting the need for homes and other uses making as much use as possible of previously developed land. Furthermore, the Framework is clear in that small and medium sized sites can make an important contribution to meeting the housing requirements of an area and decisions should ensure that developments make optimal use of the potential of each site.

11. I note Policy CS10 of the Dacorum Core Strategy 2006-2031 (2013) (CS) seeks higher densities of development in locations such as the appeal site. I also note saved Policies 10 and 21 of the Dacorum Borough Local Plan 1991-2011 (2004) seek to optimise the use of land, ensure an efficient use of land and say that higher densities will be encouraged in such locations.

12. However, even if I were to find the density of the development to accord with the development plan policies, this does not justify a development which I find would harm the relatively uniform, spacious and verdant character and appearance of the cul-de-sac. Consequently, on balance the scheme is contrary to the good design aims of the Framework and in conflict with the development plan, particularly Policies CS10, CS11 and CS12 of the CS which taken together overall seek to ensure good design.

Other Matters

I note the Council granted planning permission for a development including 55 homes in the Green Belt nearby. However, I have determined the appeal on its merits and the full circumstances of that case are not before me. I also note the appeal proposal is in a location where services and employment can be easily accessed by a range of transport choices. However, the Council do not object to the principle of development in this location and these matters or any other raised do not outweigh the harm I have identified.

Conclusion

Thus, for the reasons set out above and with regard to all other matters raised I conclude that, on balance the appeal would not accord with the development plan and the appeal should therefore be dismissed.

Our reference: 19/02925/MFA

PINS Reference: **APP/A1910/W/20/3251407**

Land R/O 38 Rambling Way

Potten End

Hertfordshire

HP4 2SF

Procedure: Written Representations

Main Issues

The main issues are: • Whether the appeal proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, • The effect of the appeal proposal on the character and appearance of the surrounding area; and, • If the appeal proposal is inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site is an undeveloped plot of land within the Green Belt. The National Planning Policy Framework (the Framework) directs that the construction of new buildings should be regarded as inappropriate in the Green Belt, save for specific exceptions.

4. Paragraph 145 e) of the Framework identifies one of the exceptions as limited infilling in villages. Paragraph 145 f) further identifies limited affordable housing for local community needs under policies set out in the development plan as an exception.

5. Policy CS6 of the Dacorum Borough Council Core Strategy 2006-2031 (the CS) states that limited infilling with affordable housing for local people will be permitted in selected small villages in the Green Belt, including Potten End. As this is a more restrictive form of wording and the CS predates the Framework, I have given more weight to the Framework.

6. The Framework does not contain a definition of 'limited infilling' and it is a matter of planning judgment whether or not the development proposed can be considered as such. As the site lies between buildings on Rambling Way and The Laurels the development would be infilling. Whether it would be limited requires an assessment of both the size of the site and scale of development and must be determined with regard to the overall aim of Green Belt policy, which is to preserve its openness.

7. Relative to the scale of neighbouring development on Rambling Way, Kiln Close and The Laurels the appeal proposal would involve a significantly higher density of development. The development proposed would comprise a mix of semidetached

and terraced houses with relatively small gardens, where neighbouring properties are predominantly detached with much larger gardens. The appeal proposal would result in a cramped form of development that would be out of keeping with the comparatively spacious character of the surrounding area. The appeal proposal does not therefore amount to limited infilling as identified at paragraph 145 e).

8. 35% of the houses proposed would be affordable housing. However, the exception identified at paragraph 145 f) only applies where a proposal is for limited affordable housing. As set out above, the appeal proposal is not limited and while the proposed houses would be smaller than the surrounding area, the market houses would not be affordable in accordance with the definition in the Framework.

9. The appeal proposal would not meet any of the exceptions identified in the Framework for new buildings in the Green Belt. It would therefore be inappropriate development in the Green Belt, and conflict with paragraph 145 of the Framework and Policy CS6 of the CS. Character and Appearance

10. The appeal site lies within the village of Potten End and the surrounding character is primarily residential with a mix of bungalows and two-storey houses. As set out above, the surrounding properties are predominantly detached houses set within generous plots. While the density of development in Potten End as a whole may vary, the immediate vicinity of the appeal site comprises low density development comprising predominantly detached houses on large plots.

11. As the appeal site is set back from the road the development would not be prominent when viewed from the highway. However, the site is overlooked by the surrounding existing houses and there is a public footpath along one boundary. While landscaping is proposed to the site boundaries to provide screening, I do not consider that this would be likely to wholly conceal the site from view.

12. The development proposed would therefore be out of keeping with the established pattern of development and harmful to the character and appearance of the surrounding area. It would conflict with Policies CS6, CS11 and CS12 of the CS. These policies require, amongst other things, that development be sympathetic to its surroundings in terms of local character, design, scale and that it respect the typical density intended in an area. Other matters

13. The appellant has referred to CS Policies CS10, CS13, CS16, CS19 and CS20 in their submissions. However, I have not been provided with copies of these policies, so have based my decision on national policy and those policies of the CS with which I have been provided.

14. I have found that conflict exists between Policy CS6 of the CS and the Framework. However, I have found that there would be harm to the Green Belt from the appeal proposal. The presumption in favour of sustainable development does not therefore apply in this instance.

15. I recognise that the statutory consultees did not raise any objections to the development proposed on technical grounds. The absence of identified harm is a neutral consideration in my determination of the appeal.

16. The appellants have suggested that, as the site is surrounded by development, the aims of the Green Belt have been overridden in this location. However, the site still falls within the Green Belt and its removal could only be secured through the Local Plan process. Whether very special circumstances exist

17. I have found that the development proposed would result in harm to the Green Belt by reason of inappropriateness. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt.

18. In addition, I have found that there would be harm to the character and appearance of the surrounding area from the appeal proposal. I consider that this would amount to moderate additional harm in this instance.

19. The appellants have identified considerations which they contend amount to very special circumstances. They state that the site is located within a residential area, that CS Policy CS6 is out of date and development of this nature is supported in the Framework, that the development would not cause any significant harm to the character and appearance of the village and the design of the development reflects the character of the wider village, that the development would support local and rural services, that it would provide affordable housing in line with Council policy, that the site is undeveloped private land that serves no community purpose and that the site's designation as Green Belt inhibits a pragmatic approach to development.

20. I recognise that the site is within a residential location and that it would be a suitable location in principle for development that is not inappropriate in the Green Belt.

21. CS Policy CS6 is out-of-date, and I have afforded greater weight to the Framework in determining that the appeal proposal is inappropriate development. I have also found that it would result in harm to the character and appearance of the surrounding area.

22. The appeal proposal would result in additional housing within the village which would support rural services, and this would be a benefit, albeit a relatively modest one given the scale of the development. The development would contribute some affordable housing which would also be a benefit.

23. The site is presently undeveloped private land, but it contributes to the character of the area by keeping Green Belt land open, in accordance with national policy. Whether or not the site should be designated as Green Belt land, and whether Green Belt land designations inhibit development are not matters that fall to be considered under this appeal.

24. The development proposed would deliver some benefits in increasing the amount of private and affordable housing which would, in turn, help to support local and rural services. I consider that these would amount to moderate weight in favour of the appeal proposal, but would not clearly outweigh the harm by inappropriateness and other harm that I have identified would result.

25. Accordingly, very special circumstances do not exist in this instance.

Conclusion

For the reasons set out above, the appeal fails.

Our reference: 20/00043/FUL

PINS Reference: **APP/A1910/W/20/3250604**

Land Adjacent to Frithsden House

Frithsden Copse

Potten End Berkhamsted

Hertfordshire

HP4 2RG

Procedure: Written Representations

Main Issues

The main issues are: • whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy; • the effect of the proposal on the character and appearance of the area bearing in mind it would be within the Chilterns Area of Outstanding Natural Beauty (AONB); • if the development is inappropriate in the Green Belt, whether any harm by reason of inappropriateness, openness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons Inappropriate development

Paragraph 145 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. It says new buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in a village or infilling involving the partial or complete redevelopment of a previously developed site, which would not have a greater impact on the openness of the Green Belt than the existing development.

4. Furthermore, Policy CS5 of the Dacorum Core Strategy 2006-2031 (2013) (CS) makes clear that the Council will apply national Green Belt policy to protect the openness. Moreover, it says small scale development will be permitted i.e. the redevelopment of previously developed sites provided that it has no significant impact on the character and appearance of the countryside. Thus, in so far as is relevant to this appeal Policy CS5 of the CS is broadly consistent with the Framework albeit the Framework is somewhat more stringent.

5. The appeal proposal would be within a row of large detached dwellings set in large plots. These dwellings generally extend along the road frontage of Frithsden Copse, have spaces between them and are surrounded by open countryside and a golf course.

6. The surrounding countryside and the character and expanse of the golf course provides substantial physical separation between the built form of Frithsden Copse and other nearby groups of buildings, particularly those in Potter End some distance

away. There are no significant services or facilities in the group of dwellings which the proposal would form part of and the proposal would also be outside of a village boundary as identified on the proposals map. All that said, in my judgement, the appeal proposal would not represent limited infilling in a village.

7. Even if I accept the appeal site was residential curtilage and previously developed, although surrounded by thick hedging and mature trees, beyond the boundary, the appeal site is mainly open and free from any significant structures. In contrast, the proposed six-bedroom dwelling would be tall, wide and noticeable from Frithsden Copse through the access drive and gaps in the boundary vegetation. Any additional landscaping would take some time to become effective as a screen.

8. Consequently, I find the proposal would introduce a significant bulk of built form into a location which provides a gap in the road frontage where currently there are no significant structures. It would therefore have a greater impact on Green Belt openness than the existing development.

9. For these reasons, I find the proposal would be inappropriate development in the Green Belt which would harm Green Belt openness. It would be in conflict with paragraph 145 of the Framework and with Policy CS5 of the CS which seek to avoid inappropriate development in the Green Belt. Character and appearance (AONB)

10. The appeal site is within an area characterised by a ribbon of detached dwellings in spacious verdant plots giving it a linear, spacious and verdant character and appearance.

11. The proposed dwelling would be comparable in size and character to other properties in the area. It would be set in a large plot with space around it and positioned a similar distance from the road to properties nearby with the existing mature landscaping retained.

12. Therefore, fitting into a group of other dwellings, there is no substantive evidence before me, to suggest the proposal would harm the character and appearance of the area or the special qualities of the AONB. In this regard, I therefore find no harm and as such there would be no conflict with Policy CS24 of the CS which seeks to ensure the special qualities of the AONB are conserved.

Other considerations

The proposal would provide a new dwelling contributing to housing supply. The occupants might work locally and support local services and there may also be employment opportunities associated with construction. It may also involve the redevelopment of previously developed land. I also note the comments about the Council's handling of the planning application and that the appellant has engaged positively with local residents including receiving some comments in support of the scheme.

Conclusion

Even though I have found no harm to the character and appearance of the area or the AONB, I have found that the proposal would amount to inappropriate

development within the Green Belt and would be harmful to Green Belt openness and therefore should not be approved except in very special circumstances.

15. I give some weight to the contribution of a new dwelling to the supply of housing, the ability of the proposal to contribute towards the local economy and the vitality of a rural community and the regeneration of the appeal site if I accepted it was previously developed. However, all of the other considerations combined are relatively modest.

16. As such the other considerations are outweighed by the substantial weight which must be given to the Green Belt harm identified and are clearly insufficient to demonstrate very special circumstances. Thus, for the reasons set out above and with regard to all other matters raised I conclude, on balance, that the appeal should be dismissed.

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

Procedural Matter

The Council has advised that the reference to Policy 57 of the Dacorum Borough Local Plan 1991-2011 in the first reason for refusal was intended to be a reference to Policy 51 of that document. Policy 51 is referred to in the Council's delegated report and the Council have provided a copy of the policy in their submissions. The appellant has had the chance to comment on the substitution of Policy 51. I am satisfied that the interests of parties are not harmed by my considering Policy 51 as part of my determination of this appeal.

Main Issues

The main issues are: • Whether the scale of development proposed would be compatible with the surrounding area, with particular regard to the provision of car parking, • The management of surface water runoff; and, • The effect of the development proposed on highway safety.

Reasons

Scale of development

4. Policy CS4 of the Dacorum Borough Council Core Strategy 2006-2031 (the CS) states that in residential areas non-residential development for small-scale social, community, leisure and business purposes is encouraged, provided it is compatible with its surroundings.

5. The appeal site comprises a vacant church and the surrounding plot of land, which includes a house that would be retained alongside the development proposed. The site is adjacent to a shopping parade but falls within a designated residential area. As the appeal proposal would involve a replacement place of religious worship the principle of development is acceptable.

6. The proposed place of worship would host prayers several times a day, as well as providing a place for community events and classes that would take place outside of times of peak parking demand. The allocation of on-site car and cycle parking spaces would generally be sufficient to meet the likely demand throughout the typical week. However, the early afternoon prayer on Fridays, known as Jummah, would be likely to attract a significantly larger attendance, based on the evidence collected by the appellants of attendances at their current place of worship.

7. The Jummah prayer would be held across two sessions to reduce the peak attendance figure. However, based on the current attendance figures it is projected that there would be a peak attendance at the site of around 200 people. Surveys of the means of transport for current attendees showed that private car use was consistently the most common means of travel to the site, and I see no reason to expect that this would change if the appeal were to be allowed.

8. The appellants estimate that peak parking demand from the development proposed could be met by on-site parking and the use of the car park at the Snow Centre, with minibuses transporting attendees between the sites. However, these parking proposals rely on double parking on-site during times of peak demand. This would not be acceptable, as it would be likely to result in conflict between attendees even with management by parking marshals. Given that the peak demand at the site would involve two prayer sessions running one after the other there would be likely to be additional conflict arising from arrivals and departures during the period between the sessions. I am also not convinced that there would be a significant take up of the option of parking at the Snow Centre and taking a minibus, as that site is some distance from the appeal site.

9. At peak times it is therefore likely that the development proposed would result in overspill parking onto the adjacent streets. I saw during my site visit that there are parking spaces available at the adjacent shopping parade but during my visit, which took place in the early afternoon, these spaces were well-used with high turnover and few spaces remaining vacant for long. It is unlikely that these spaces could accommodate much of the overspill parking and if they did this would only displace parking associated with the shops and other commercial units onto the surrounding streets.

10. Parking in the neighbouring streets is a mixture of kerbside parking and on path parking. Available on path spaces in the near vicinity of the site, where overspill parking is most likely to occur for the convenience of attendees, were mainly in front of houses. Their use would be likely to cause conflict with local residents, notwithstanding that there is apparently no restriction on the use of these spaces.

11. Kerbside parking was available in some locations, but I saw that in Georgewood Road parking was kerb-mounted due to the narrowness of the road, restricting the

pavement width for pedestrians. The appellant's parking survey has discounted Georgewood Road as too narrow for parking, but due to its proximity to the site it would be likely to attract overspill parking from the appeal site.

12. The peak demand would typically only occur on Friday afternoons. However, I must consider the total effect of the appeal proposal. The provisions for on-site and off-site parking would not be sufficient to meet the peak parking demand. Overspill parking from the appeal site would be likely to occur in the surrounding streets and displace parking by existing local residents, causing additional traffic as drivers seek alternative parking spaces, and causing harm to the amenities of existing residents.

13. The development proposed would therefore not be compatible with its surroundings and so conflicts with CS Policy CS4, the requirements of which I have set out above. Surface water management and flood risk

14. Policy CS31 of the CS states that development will, amongst other criteria, be required to minimise water runoff and reduce the cause and impact of flooding. The lead local flood authority states that runoff at the appeal site should be restricted to no more than 2 litres per second. The appellant suggests that this rate can be achieved and that this can be controlled through imposition of a suitable planning condition.

15. However, it is not clear from the submitted evidence that the maximum acceptable surface water flow rate is achievable. It is therefore not reasonable to impose a condition to this effect, as there is no guarantee that it could be complied with. The appeal proposal therefore fails to comply with CS Policy CS31. Highway safety

16. Displaced parking from the appeal site at peak times would be likely to be concentrated in the near vicinity of the site for the convenience of attendees. The traffic generated by the use would be in addition to the existing typical traffic flow in the vicinity of the appeal site.

17. I saw during my site visit that Barnacres Road is well used. I did not observe any significant delay in the flow of traffic during my visit either on Barnacres Road, or the surrounding roads including Belswains Lane. I have no reason to think that these were unusual traffic conditions in the area on a weekday afternoon, albeit that traffic flow may be somewhat reduced due to the effects of the ongoing COVID-19 pandemic.

18. While I have found that the displaced parking would result in the appeal proposal not being compatible with its surroundings, the parking survey submitted by the appellant shows that there is capacity for parking in the local area. I do not consider that the peak parking demand would be likely to result in a severe impact on the safety of the surrounding highway network. I note as well that the local highway authority's final comments on the planning application did not raise any objection on highway safety grounds.

19. The development would not therefore have an unacceptable effect on highway safety. It would accord with Policies CS8 and CS12 of the CS and saved policies Appeal Decision APP/A1910/W/20/3250417 <https://www.gov.uk/planning-inspectorate> 4 51 and 58 of the Dacorum Borough Local Plan 1991-2011. Taken together these policies seek, amongst other things, to ensure that development proposals have no significant impact upon safety implications of the traffic generated by the development.

Planning balance

20. The development would conflict with CS Policies CS4 and CS31. The CS predates the current version of the National Planning Policy Framework (the Framework). In accordance with paragraph 213 of the Framework I must therefore consider the weight to be given to the policies of the CS.

21. Policy CS31 is consistent with the Framework and therefore the conflict attracts full weight. Policy CS4 is broadly consistent with the Framework as, while it seeks to only allow small-scale non-residential development in residential areas, it requires that development to be compatible with its surroundings, and therefore I attach significant weight to the conflict.

22. The development proposed would restore a vacant site to use and the development proposed would contribute towards meeting the cultural and religious needs of local residents. These are benefits that weigh in favour of the development proposed.

23. The appellant also suggests that the appeal proposal could deliver ecological and drainage enhancements. I accord these benefits limited additional weight, as the scale of development is relatively modest. The appellant further suggests that conditions relating to highway impact and archaeological impact could generate additional benefits, but these additional benefits are not detailed so I cannot give them weight in determining this appeal.

24. There is insufficient evidence to show that the development proposed can be delivered while meeting the maximum acceptable surface water runoff rate. In addition, the peak usage of the place of worship is projected to generate parking demand significantly greater than can be accommodated through the proposed measures without overspill parking occurring. This would be likely to cause disruption for neighbouring residents on an ongoing and regular basis.

25. I find that these adverse impacts would significantly and demonstrably outweigh the identified benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development identified at paragraph 11 of the Framework does not therefore apply in this instance.

Conclusion

26. For the reasons set out above, the appeal fails.

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

Main Issues

The main issues in this case are: • whether the proposal would be inappropriate development, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; • the effect of the development on the openness of the Green Belt; • If inappropriate development, whether the harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development in the Green Belt

4. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development. Exceptions to this include limited infilling in villages. Policy CS5 of the Dacorum Core Strategy (DCS)(2013) states that within Green Belt, development will be permitted where, amongst other things, it is for a use defined as not inappropriate in national policy. The exceptions set out in paragraph 145 are therefore relevant.

5. There is no dispute between the parties that the development would constitute residential infill between the two dwellings known as Bremhill and South Winds. However, the Council does not consider the site to be within the village of Potten End and thus does not fall within the exception.

6. The site is an open and undeveloped paddock on The Common. This road is characterised by a loose-knit linear ribbon of development, comprising large detached dwellings in generous plots. The housing is all on one side of the road, with a heavily wooded area opposite. The dwellings are all set well back from the road, mostly behind mature hedgerows and trees. This creates a highly verdant character and appearance. The site also sits within the Chilterns Area of Outstanding Natural Beauty (AONB).

7. The site sits well outside the defined 'small village' boundary for Potten End as defined on the Council's Proposals Map. The courts have held that while this may be a relevant consideration, it is not a determinative factor. Rather, whether or not a site lies within a village is a matter of planning judgement based on the situation on the ground.

8. The focus of the village is clearly concentrated around the main road which runs through the centre of the settlement. This partly comprises Water End Road and partly The Common (this is a long road, and the sharing of a name does not mean the site is in the village on this basis). When arriving from the east, there is a clear point at which the density of development and number of side roads increases, the grain becomes tighter and the hallmarks of a village become prominent, including the

school, church, village hall and village green. Side streets punctuate the main road at several points along its length, leading to culs-de-sac or other residential streets. Secondary streets such as The Front, Vicarage Road and Hempstead Lane lead out of the village in different directions, but follow a similar pattern, with linear streets interrupted by culs-de-sac of different lengths.

9. What constitutes the 'village proper' is therefore reasonably clear in terms of the prevailing density, grain and pattern of the built form. The existence and location of complementary non-residential uses which support the village, including its open spaces, also help define the village 'core'.

10. There is a clear and distinct change in character once you travel beyond the entrance to Bullbeggars Lane to the west. The overall density of development reduces significantly, the grain of the dwellings becomes more loose-knit and housing is reduced to one side of the road only. Where the majority of streets in the village contain side roads or culs-de-sac which add depth to the settlement pattern, this part of The Common is entirely linear. Furthermore, the housing is not continuous, with some breaks in the frontage, including the site itself.

11. There is also a striking increase in tree cover, both in terms of the woodland opposite the site, but also the heavily landscaped gardens and frontages of the dwellings. This creates a more enclosed feel, as opposed to the more open character of the village. The woodland in particular creates a significant visual barrier to housing to the north and creates an overt sense that you have entered the open countryside beyond the village. There is also a change from 30 mph to 50 mph speed limit shortly beyond Bullbeggars Lane, which also suggests a change in character. Finally, although distance alone is not decisive, the site is also some way from what can clearly be considered the core of the village.

12. At this point along The Common, there is a distinct sense that you have left the village behind and are somewhere 'in-between' settlements. The housing here appears as a sporadic row of dwellings in the open countryside which is disconnected and separate to Potten End. This is particularly the case by the time you have reached the site itself.

13. The appellant has drawn my attention to different parts of the defined village which he considers share the characteristics of the site. Parts of Hempstead Lane and Little Heath Lane are also some distance from The Green. These lanes also consist of large detached houses in reasonably generous plots, with a relatively verdant character. Generally, there is also only pavement on one side of the street or none at all. Nevertheless, there are key differences. The grain of housing is much tighter along these lanes, with generally smaller gaps between dwellings. There are also continuous and largely contiguous lines of housing on both sides of the streets from the centre of the village. This creates a sense of a higher overall density and a connection with the core of the settlement. Hempstead Lane also contains accesses to culs-de-sac and Little Heath Lane. This pattern of development is clearly different to that near the site. While this part of the village has a more rural and verdant feel, it does not feel detached from the village.

14. Similarly, the far end of Water End Lane is a similar distance from the village's facilities as the site. There is also a part of this where there is housing only on one side of the road. However, this is only for a relatively short stretch and is in close proximity to the clear start of the village. The housing here is mostly semi-detached, culs-de-sac add depth from the roadside and there are sporadic examples of non-residential development, including a bus park. Although dwellings are often set back and there is a deal of planting, the overall character of this area remains markedly different to that of the site. At this point, the nature and use of the buildings and the overall pattern of development suggests you have transitioned from open countryside to the village. The same cannot be said for this part of The Common when arriving from the west.

15. The Green itself is clearly an open area with low density housing around it. However, this very pattern of development – with housing facing the main village green – is what marks this area as distinct to The Common. It is clearly the centre and focal point of the village. Similarly, examples of pockets of low density housing such as The Hamlet are not persuasive indicators of the site being within Potten End. Although the dwellings on The Hamlet have generous plot sizes, this is a cul-de-sac that is well related to Vicarage Lane which, in turn, is clearly part of the main built form of the settlement. Again, this is very different to the distant and disconnected feel of the site.

16. While the pavement opposite the site would provide future occupants with a safe and direct route into Potten End, it is not a strong indicator of the site being within the village. There are built-up areas that are clearly within villages without pavements and areas which are clearly open countryside that have them. Indeed, the appellant considers the edge of the village to be immediately west of Bremhill. However, the pavement extends beyond this and provides a link to Berkhamsted. This demonstrates that such features can exist in the open countryside. This factor therefore makes a negligible contribution to either party's arguments.

17. Similarly, the speed limit does not determine where the village starts and ends. Nevertheless, the increase to 50 mph is indicative of the site being in a less built-up area. Although speed limits vary from place to place, the change between 30mph to 50mph in this case is indicative of the change in character that has taken place. Thus, this weighs against the development being considered within the village proper.

18. Whether or not a site is in a village or not is unlikely to be decided on one factor alone. Having considered the combination and cumulative effect of the distance between the site and the core of the settlement, the clear differences that exist in overall pattern, grain and density and the overt change and difference in character and appearance, I do not consider the site lies within the village of Potten End. I have had regard to the selective examples provided by the appellant. However, for the reasons given above, these do not persuade me that the site is within the village. Furthermore, the examples often relate to very small parts of the settlement and/or ignore other relevant factors.

19. In my view, the edge of the village more closely corresponds to the entrance to Bullbeggars Lane. I recognise that this is also the edge of the defined village in the

development plan and the boundary of the AONB. However, in coming to my conclusion I have not seen these boundaries as definitive but have considered the overall situation on the ground. I therefore find that the site should not be considered as part of the village for the purposes of Green Belt policy. As a result, the development would not meet any of the exceptions listed in paragraph 145 of the Framework. It would constitute inappropriate development in the Green Belt for the purposes of DCS Policy CS5 and the Framework. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. I shall return to this below. Effect on openness

20. Paragraph 133 of the Framework states that “the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.” Openness has both spatial and visual dimensions.

21. The erection of a dwelling would result in built development on an open paddock that is currently free from development. It would therefore erode the open aspect currently experienced. The proposed dwelling would be a material addition to the amount of built development on the site, which would have a harmful effect upon the openness of the Green Belt in this location. This would not only be in relation to the dwelling itself, but also in relation to any associated domestic paraphernalia that would be necessary.

22. The visual impact of this would be mitigated to an extent by the trees fronting the site. Nevertheless, the change in character of the site would still be discernible. The development would therefore have a moderately harmful impact on the openness of the Green Belt. This would add to the harm caused as a result of being inappropriate development.

Other considerations

23. The development would provide one additional dwelling to the housing land supply. The Council acknowledges that it cannot currently demonstrate a five year supply of housing land. Nevertheless, the benefits associated with one dwelling would be modest.

24. The appellant has particularly highlighted the economic benefits that would be derived for their company in relation to the impacts resulting from the Covid-19 pandemic. It would also provide jobs during construction. The economic recovery following the pandemic is clearly a factor of particular importance. However, while noting the appellant’s particular circumstances, the benefits of one dwelling to the economy as a whole would not be substantial. While I sympathise with the individual circumstances of the appellant’s company, I have given this only moderate weight.

25. The appellant has indicated both that they are willing to undertake the construction of the dwelling as a self-build and/or that first preference would be given to people with a connection to the village. However, there is no mechanism before me to ensure this would be the case. As such, I am unable to give these assertions any weight.

26. The Council has not objected to the development in relation to the impact on character and appearance, including the likely impact on the AONB. I have seen nothing that would lead me to a different conclusion. While not harmful, the suggested design of the dwelling is not of such exceptional design quality that it would constitute a benefit of development. The site is also an open and undeveloped paddock which complements the countryside character of the area. It currently does no harm in itself and the dwelling would not constitute a particular improvement to local character. With or without the development, the trees to the front of the site would be retained. Accordingly, this cannot be considered a benefit of the development. The lack of harm caused by the development in these respects would therefore be neutral. As such, I have given them no weight in terms of the Green Belt or overall planning balance.

Other Matters

27. The appellant has drawn my attention to a number of appeal decisions¹ which he considers supports his argument. In those cases, the gap and distances between the site and village was considered acceptable. However, as noted above, whether or not a site is in a village is by necessity a judgement based on the individual characteristics of a site and its surroundings. The distance between the site and the core of the village, and any gaps that exist in the row of housing, are not the only factors I have considered. From what it is before me, I cannot conclude with any certainty that the individual characteristics of the site's in question or the nature of the villages to which they are connected are comparable to that before me. These decisions do not therefore lead me to alter my conclusion.

28. The appellant has alluded to discussions with neighbours which suggests the level of local objection is not as high as other correspondence would indicate. This also indicates local people accept the site is 'infill'. However, to meet the relevant exception, the site must also be in the village. Even if this were the case, it would not alter my overall conclusion.

Planning Balance & Conclusion

29. The Government attaches great importance to Green Belts. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness and openness.

30. In my view, the other considerations set out above do not clearly outweigh the substantial weight that I have given to the harm to the Green Belt, by reason of inappropriateness and effect on openness. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore conflict with Policy CS5 of the DCS and the requirements of the Framework.

31. As the Council cannot demonstrate a 5-year supply of deliverable housing land, paragraph 11d) of the Framework is engaged. However, there are no very special circumstances and thus the application of policies in the Framework provide a clear reason for refusing the development proposed². As such, the development does not benefit from the so-called 'tilted balance'.

32. Material considerations do not therefore indicate that a decision should be taken other than in accordance with the development plan in this case. For the reasons given above, I conclude that the appeal should be dismissed.

Our Reference: 4/02335/19/FUL

PINS Reference: **APP/A1910/W/20/3247825**

Land Adj 1 Laurel Bank

Laurel Bank

Felden

Hemel Hempstead

HP3 0NX

Procedure: Written Representations

Main Issue

The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is within a residential area characterised by large modern detached dwellings, finished in similar materials, set a similar distance back from the road with relatively open frontages. Overall, the area has a spacious, residential and relatively open character and appearance.

4. An appeal was dismissed in 20181 for a similar scheme. The scheme before me differs in that, among other things, it has a smaller footprint, is not as tall, has alternative detailing, alternative positioning, additional landscaping and proposed boundary treatments.

5. The proposed dwelling would be positioned in a long and narrow plot opposite Nos 15 to 17 Laurel Bank (Nos 15 to 17). However, even though the proposed main front elevation would face the road and would be a similar width and appearance to Nos 15 to 17, it would be much shallower, much closer to the road with limited space around it with its main private amenity space noticeably to its side.

6. Thus, consistent with the Inspector in 2018, I find the scheme before me would appear cramped and at odds with the prevailing pattern of development. It would have the effect of eroding the open spacious quality of the area and appearing as an incongruous feature of the street scene. The proposed low boundary treatments and any proposed landscaping would not overcome this harm.

7. In reaching these conclusions, I have noted the comparison with No 1 Laurel Bank (No 1). However, No 1 is a much larger corner plot than the appeal site. It has frontages to both Laurel Bank and Felden Lane. No 1 is not therefore comparable to the appeal scheme nor would the appeal proposal repeat its layout. I also note the comments about what may or may not be done with the appeal site should the appeal fail. However, I have determined the appeal on merit, informed by the evidence and my site observations and none of those comments alter my earlier findings.

8. Therefore, for the reasons given, I find the proposal would harm the character and appearance of the area. It would therefore conflict with the good design aims of the National Planning Policy Framework (the Framework) and Policy CS12 of the Dacorum Core Strategy 2006-2031 (2013) which seeks to ensure, among other things, that new development integrates with streetscape character. Conclusion (Planning Balance)

9. It is contested whether the Council can currently demonstrate a five year supply of deliverable housing land in accordance with paragraph 73 of the Framework. Even if I did find the five year supply could not be demonstrated and the shortfall was as suggested by the appellant, the proposal would need to be considered in accordance with the presumption in favour of sustainable development which means the Framework taken as a whole and the tilted balance engaged.

10. The dwelling would be in a location where services and employment can be easily accessed by a range of transport choices. Furthermore, I note the associated new homes bonus and Council tax revenues and that the proposal would also provide new customers and potential employees for local businesses and services and there would be economic benefits associated with construction. However, even with the tilted balance engaged the combined social, economic and environmental benefits of the proposed development are significantly and demonstrably outweighed by the significant environmental harm I have identified with regard to the character and appearance of the area.

11. Overall, I therefore conclude that even if the tilted balance was engaged and the housing shortfall was as suggested by the appellant, the proposed development would not amount to sustainable development when considered against the Framework taken as a whole.

12. For the reasons set out above, having had regard to all other matters raised, on balance the proposal would not accord with the development plan or the Framework. The appeal should therefore be dismissed.

Our Reference: 19/03276/FHA

PINS Reference: **APP/A1910/W/20/3247367**

Greymantle, Hempstead Road
Bovingdon
HEMEL HEMPSTEAD
HP3 0HF

Main Issue

3. While I note the two reasons for refusal, from the evidence before me the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The area surrounding the site on Hempstead Road is characterised by semidetached and detached dwellings on large plots with long back gardens that borders an undeveloped field. As such, this side of Hempstead Road has a

distinctive pattern of development that provides a spacious soft edge to the settlement.

5. The proposal consists of the erection of two detached dwellings sited to the rear of an existing detached house, Greymantle, and a semi-detached house, Rose Cottage. The position of the two dwellings within the undeveloped garden land would appear incongruous and would depart from the prevailing pattern of development, thereby diminishing the soft edge to the settlement and detracting from the sense of spaciousness of the area.

6. I acknowledge the comments of the Inspectors for the previous proposals on the site¹. The proposed scheme differs from those proposals in a number of ways including the scale and height, siting, and design of the dwellings. While the proposed dwellings would not be prominent from the street as they would have been in previous proposals, they would be clearly visible from the neighbouring properties. I note the evidence regarding green screening, however, there has not been a demonstration that it would mitigate against the adverse effects on the spaciousness of the area.

7. I acknowledge that the hardstanding would not be prominent from public views and would have a limited impact in private views. I also note the evidence regarding the trees along the boundary with the Green Belt and views from the rear of the site. However, the introduction of two dwellings and domestic paraphernalia would urbanise the site and significantly alter the green and spacious character and appearance of this side of Hempstead Road. As such, while I recognise that this scheme has sought to address the concerns of previous Inspectors as well as the advice provided by the Council during the application process and pre-application advice, for the reasons given above, the proposal would harm the spacious character and appearance of the area.

8. I acknowledge that planning permission for an extension to Greymantle has been granted by the Council and the appellant's intention to carry out that scheme. However, given the harm identified, this has not altered my finding on this main issue.

9. Consequently, the proposed development would harm the character and appearance of the area. Therefore, it would conflict with Policies CS10, CS11 and CS12 of the Core Strategy 2006-2031 Adopted 25 September 2013 which seeks, among other things, developments that reinforce the existing soft edges of towns and villages, enhance general character and respect adjoining properties in terms of layout. It would also conflict with the National Planning Policy Framework in this respect. Planning Balance

10. It is common ground between the main parties that the Council cannot demonstrate a five-year housing land supply. The proposal would contribute two dwellings to the local housing supply and there would be limited social benefit through the contribution of future occupiers to the local community and temporary economic benefit during the construction process. Given that the proposal is for two dwellings, I attribute limited weight to these benefits.

11. I acknowledge the evidence regarding the environmental sustainability of the proposal. However, the lack of harm in this respect carries neutral weight.

12. Given the significant harm to the spacious green character and appearance of the area and conflict with the development plan, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Other Matters

13. I note concerns regarding the service provided by the Council. However, I have assessed the appeal based on its planning merits and this point has not altered my overall decision.

14. I note local concerns including regarding the trees near the site, the design of the proposed dwellings and the outlook and privacy of neighbouring occupiers. However, the Council has not objected in these respects and from the evidence before me I see no reason to disagree.

15. While issues regarding highway safety has not formed a reason for refusal, I note that the Highway Authority has expressed concerns with the proposal. Given the considerable length and narrow width of the access road, as well as the likelihood of the turning bay being used for parking, I am not persuaded that the proposal would not give rise to an unacceptable impact on highway safety. Nevertheless, given the harm identified above, this has not been a determinative matter for the outcome of this appeal.

Conclusion

16. For the reasons given above the appeal is dismissed.

COSTS DECISION

Decision

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

Reasons

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

3. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the adopted policies that the proposal would be in conflict with, in the view of the Council.

5. While I note the applicant's concerns that the previous appeal decisions were not sufficiently considered by the Council, the planning officer's report sets out the differences between the previous schemes and the proposed development. Accordingly, I do not consider that the Council failed to reasonably evaluate the

application. I consider the Council had reasonable concerns about the impact of the proposed development which justified its decision.

6. I also acknowledge the evidence regarding the pre-application service provided by the Council. While the National Planning Policy Framework (Framework) places an emphasis on the benefits of early engagement, the evidence indicates that a different proposal was discussed at pre-application stage than that subject of this appeal, and given the evidence before me, I do not consider that the Council failed to reasonably engage with the applicant.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Conclusion

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

Our Reference: 19/03276/FHA

PINS Reference: **APP/A1910/D/20/3244165**

86 Alexandra Road
HEMEL HEMPSTEAD
HP2 4AQ

Procedure: Written Representations

Main Issue

The main issue is the effect of the proposed rear extensions on the living conditions of the neighbours at 88 Alexandra Road, with particular reference to overbearing and intrusive effects and loss of light. Reasons

3. The appeal proposal would include further extension to the property at rear ground floor level. A first floor rear extension is also proposed that would be set back, projecting from the rear wall of the host building to a similar depth as the existing ground floor addition. Both extensions would span the full width of the rear of the building and sit very close to the boundary of the neighbouring No 88, with which the appeal property forms a semi-detached pair.

4. The Council raise concerns about the impact of the rear extensions on the rear facing windows of No 88. To the rear this property has a small conservatory at ground floor level and a first floor window, that the Council indicates serves a bedroom, that could be affected by the proposal due to their positions close to the boundary with the appeal property.

5. In relation to loss of light, the Appellant makes reference to drawings that were submitted to demonstrate that the proposal would not unreasonably impact on the occupiers of No 88. The Council refer to aspects of these drawings that are inaccurate in their view. However, they do not explain in any detail in what respects they consider them to be inaccurate. As such, and in the absence of any obvious discrepancies, I have considered the drawings at face value.

6. The height and depth of the proposed ground floor extension would result in a built form at the boundary with No 88 that would rise significantly above the existing fence

that separates the 2 properties. The extension would be an imposing feature as viewed from the conservatory of No 88 due to its proximity to the boundary. The result would create an overbearing and intrusive effect and a significant level of enclosure that would negatively affect the living conditions of the occupiers of No 88 to an unreasonable degree.

7. Further, the Appellants drawings indicate that the relationship between the conservatory at No 88 and the proposed ground floor extension would breach the 45 degree angle of light standard set out in Appendix 3 of the Dacorum Local Plan (2004). Whilst Appendix 3 is of some age, it is a reasonable starting point for assessing the effects of the proposed development.

8. From my own observations on site I judge that, accounting for the boundary fence and planting at the boundary, the proposed development would reduce light levels to the ground floor conservatory to an unreasonable degree. I see nothing further in the evidence to suggest that this would not be the case. This, in combination with the overbearing effects discussed above, would further negatively affect the living conditions of the occupiers of No 88.

9. The proposed first floor extension would have an effect on a first floor window at No 88. However, there is already a level of enclosure to this window due to the existing first floor extension of No 88. Given these existing conditions and that the proposed extension has been set back at first floor level, the degree of enclosure resulting from this addition would not be significant.

10. Further, the Appellant has submitted drawings to demonstrate that there would not be a significant level of light loss to the first floor window resulting from the extension. From my own observations on site, this appears to be a reasonable conclusion.

11. For the reasons set out above, I conclude that the proposed ground floor rear extension would have a harmful effect on the living conditions of the neighbours at 88 Alexandra Road, particularly in terms of overbearing and intrusive effects and loss of light.

12. Consequently, I find conflict with policies in the Local Plan, in particular Policy CS12 of the Dacorum Core Strategy and saved Appendix 3 of the Dacorum Local Plan which, taken together seeks to ensure that development is of a good standard of design, including in terms of its relationship with and respect for adjoining properties, avoiding intrusion, and loss of light.

Other Matters

13. The Appellant's statement of case makes reference to a lack of communication from the Council and general issues relating to the handling of the planning application. These are matters best addressed by the Council and are not factors that weigh significantly in the appeal process, which instead focuses on the merits of the proposal.

Conclusion

14. For the above reasons the appeal is dismissed.

Our reference: 4/02140/19/MFA

PINS Reference: **APP/A1910/W/20/3247645**

Caddington Hall Luton Road

Markyate

ST. ALBANS

AL3 8QB

Procedure: Hearing

Procedural Matters

2. The description of the development in the heading above has been taken from the planning application form. However, a revised description of the development was agreed between the Council and the Appellant during the processing of the application. The application was determined on the basis of the revised description of the proposed development which is set out at Section E of the appeal form and is as follows: "Demolition of former residential care home and 2 detached dwellings. Construction of 3 storey building forming 44 new dwellings, with basement, associated hard and soft landscaping, parking, bin store and main entrance gateway." As the revised description of the proposed development has been agreed between the main parties, I have therefore considered the appeal on this basis.

3. The application was supported by a number of plans, reports and technical information. A full list of the plans and supporting documents that informed the Council's decision is set out at paragraph 4.1 of the Statement of Common Ground (SoCG) which was agreed by the main parties. Amongst other documents the proposal was supported by a Transport Statement, a Landscape Specification, Landscape Proposals, a Planning Support Statement, an Arboricultural and Planning Integration Report, a Tree Protection Plan, an Updated Ecological and Bat Survey Report and a Design and Access Statement (DAS).

4. In addition, subsequent to the decision by the Council, the Appellant submitted further plans and documents not previously seen or consulted on by the Council. These include: a Landscape and Visual Impact Assessment (LVIA), a Design Review Panel Assessment, a Historic context file and a Rights of Way map. A revised Site Location Plan Ref No: 2052 PL101B which includes the proposed visibility splays at the site entrance was also submitted and agreed by the main parties. I have taken these additional documents and plans into account in coming to my decision.

5. At the Hearing a s106 Planning Obligation was submitted. The Planning Obligation is made by an Agreement between the Appellant, the Dacorum Borough Council, Hertfordshire County Council and AIB (UK) PLC (the Mortgagee). The Planning Obligation is signed and dated 23 October 2020. It is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement was also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.

Main Issues

6. In light of the above I consider that the main issues in this case are: • Whether or not the proposal would be inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies? • The effect of the proposal on the openness of the Green Belt. • The effect, in terms of design, of the proposed development on the landscape character of the surrounding area. • The effect of the proposal on the setting/significance of the nearby Listed Building. • Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by any other considerations. If so, would this amount to very special circumstances necessary to justify the proposal?

Reasons

The Appeal Site

7. The appeal site is located on the south west side of Luton Road near Markyate. The 4.65ha site comprises the land and buildings of the former Caddington Hall residential care home, constructed in the 1980's on the grounds of the earlier Caddington Hall Manor. The Manor comprised a Palladian mansion built in 1804 with a walled garden, extensive grounds beyond the site including some 34.80ha of arable land, stable block to the south east, now known as Home Farm and the 'gatehouse' to the west both no longer part of the site. The Manor was demolished in 1975.

8. The main care home building is centred around a small courtyard with projecting elements extending out in all directions. The building is single storey with a dual pitched roof, with hipped element, finished in brown facing brickwork and brown roof tiles. There are two smaller detached buildings on site, situated towards the south east of the main building and the walled garden to the north east. The appeal site comprises a number of trees, concentrated along the site boundary and there is an area Tree Preservation Order covering the whole site. Situated just outside of the appeal site, within the curtilage of Home Farm, is a pond.

9. The site is located within the Green Belt and the surrounding area is rural in character. There is a ribbon of development along the north west side of Luton Road adjacent to the entrance to the appeal site comprising low level detached and semi-detached bungalows. Open countryside bounds the site on three sides and the centre of Markyate is situated 1km to the south west.

The Proposal

10. The proposed development seeks full planning permission for the demolition of the former residential care home and 2 detached dwellings and the construction of a 3 storey building forming 44 new dwellings, with basement, associated hard and soft landscaping, parking, bin store and main entrance gateway. The appeal proposal is an amended scheme following the refusal of planning permission for the previous scheme on 26 February 2019 (ref. 4/02205/18/MFA). The proposal follows extensive discussions with the Council following the refusal of the previous scheme.

Planning History

11. The planning history of the appeal site is set out at Section 5 of the SoCG and there is no need for me to repeat that here. Suffice it to say that I note that planning permission was refused for the demolition of all buildings and construction of a main building and two outbuildings comprising of 46 dwellings with associated soft and

hard landscaping, bin store, entrance gates and highway improvements on 26 February 2019. A subsequent appeal was withdrawn. Planning Policy

12. The statutory development plan for the area includes the Dacorum Borough Local Plan (DBLP) (2004), the Core Strategy (CS) (2013) and Site Allocations Development Plan Document (DPD - 2017). The parties are agreed that the planning policies which are most relevant to this appeal are set out at Section 6 of the SoCG and listed below. Core Strategy CS1 - Distribution of Development CS23 - Social Infrastructure CS5 - Green Belt CS25 - Landscape Character CS8 - Sustainable Transport CS26 - Green Infrastructure CS9 - Management of Roads CS27 - Quality of the Historic Environment CS10 - Quality of Settlement Design CS28 - Carbon Emission Reductions CS11 - Quality of Neighbourhood Design CS29 - Sustainable Design and Construction CS12 - Quality of Site Design CS30 - Sustainability Offsetting CS17 - New Housing CS31 - Water Management CS18 - Mix of Housing CS32 - Air, Soil and Water Quality CS19 - Affordable Housing CS35 - Infrastructure and Developer Contributions Local Plan: as saved and extended. 10 – Optimising use of land 51 – Transport Impacts 12 - Infrastructure Provision and Phasing 58 – Private Parking 13 - Planning Conditions and Planning Obligations 99 – Tree Preservation 14 - Housing Strategy 100-101 – Tree Management 18 - The Size of New Dwellings 111 – Building Heights 21 - Density of Residential Development 118 – Archaeological remains 23 - Replacement Dwellings in Green Belt and Rural Area 119 - Development affecting Listed Buildings

13. The Council is in the process of preparing a new Local Plan for the Borough. It is working towards the publication of a Pre-Submission Draft Consultation Version commencing in late 2020. In my view, the weight to be attributed to the Emerging Local Plan is currently limited by the provisions of paragraph 48 of the NPPF, recognising the stage of preparation. I have taken into account the SPDs on Affordable Housing, Energy Efficiency and Water Conservation, Parking Standards and the Landscape Character Assessment for Dacorum SPG (2004). First Issue - Whether or not the proposal would be inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies?

14. The appeal site lies within the Green Belt, whereby Policy CS5 of the Core Strategy (2013) states that development will be permitted such as the redevelopment of previously developed sites, provided that it has no significant impact on the character and appearance of the countryside and it supports the rural economy and maintenance of the wider countryside. Policy CS5 aims to apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. Both parties agree that Policy CS5 defers to national Green Belt policy and therefore can be attributed full weight. The policy provides no quantum for what is appropriate beyond the NPPF.

15. Section 13 of the NPPF 2019 is a material consideration in this case. It indicates at paragraph 133 that “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.” Paragraph 134 indicates the five purposes of Green Belt. Paragraph 143 states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 144 indicates that LPAs should ensure that substantial weight is given to any harm to the Green Belt.

16. The NPPF advises LPAs to regard the construction of new dwellings as inappropriate in the Green Belt. However, there are some exceptions contained within paragraph 145 (a-g) of the NPPF. With regard to paragraph 145 (d) of the NPPF, it was conceded by the Appellant that the proposal did not comply with this exception as the new building did not fall within Class C2 of the Use Classes Order 1987, as amended, and therefore was not in the same use as the one it replaces.

17. There is also an exception contained within paragraph 145 (g) – this states that “... the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: • not have a greater impact on the openness of the Green Belt than the existing development; or • not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

18. The proposed area of development would largely sit over the footprint of the existing building and structures. It can therefore be classed as ‘previously developed land’ and accords with the definition set out in Annex 2 of the NPPF, i.e. that the land is occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed), and any associated infrastructure.

19. Policy CS19 of the Core Strategy seeks to ensure that affordable homes are provided on sites of a minimum size of 0.16ha or 5 dwellings (and larger) outside of Hemel Hempstead. It states that 35% of the new dwellings should be affordable homes. The proposal would make a contribution towards meeting the Borough’s affordable housing need. Out of the proposed 44 units, 16 would be affordable provided as affordable rent and shared equity housing. This equates to an affordable housing provision of 36%, which meets the 35% required by Policy CS19.

20. The appeal site would comprise inappropriate development under paragraph 145 (d) of the NPPF. However, it has been established that the appeal site constitutes previously developed land and that the proposed development would contribute to meeting an identified affordable housing need. Paragraph 145(g) requires that I must first assess the effects of the proposal on the openness of the Green Belt before coming to a view as to whether the proposal would meet either of the two exceptions listed under paragraph 145 (g) of the NPPF. Paragraph 145 Second Issue - The effect of the proposal on the openness of the Green Belt.

21. The concept of openness in paragraph 133 of the NPPF is a broad policy concept. The fundamental aim of Green Belt policy, as already stated above, is ‘to prevent urban sprawl and safeguard the countryside from encroachment by keeping land permanently open’. Openness is the counterpart of urban sprawl and is also linked to the purposes served by the Green Belt. The concept of openness is often taken to mean the state of being free from built development or the absence of buildings – as distinct from the absence of visual impact. However, in my view, the

openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. But equally this does not mean that openness of the Green Belt has no visual dimension.

22. Moreover, the Supreme Court in *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant)* [2020] UKSC 3 confirmed that the word openness is open textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. However, how to take account of the visual effects is a matter of planning judgement rather than one of legal principle (paragraph 25). In this case it was concluded that there was no error of law in the officer report as there is no express or implied requirement to refer to visual impact. Furthermore, the visual qualities of the land may be an aspect of the planning judgement in applying this broad policy concept (paragraph 22). The Supreme Court confirmed that “the matters relevant to openness in any particular case are a matter of planning judgement, not law” (paragraph 39).

Spatial impact.

23. The first point to consider is whether the proposed development would have a greater impact on the openness of the Green Belt than the existing development. The parties set out the physical dimensions of the existing and proposed development in terms of footprint, floor area and volume in a series of spreadsheets. Existing and proposed building heights figures were also submitted based on drawings 2052-PL05A and 2052-PL109B.

24. From the agreed Summary Table, it is clear to me that the Existing Built form has a footprint of 1,824m², a gross external floor area (GEA) of 1,891m² and a volume of 8,209.98m³. From the same Summary Table, the Proposed Development with Basement and Sheds would have a footprint of 3,608.44m², a GEA of 5,606m² and a volume of 17,629m³. This represents a 97.83% increase in the footprint, a 196.49% increase in GEA and a 114.73% increase in volume above the existing built form.

25. The amended application as refused shows in the Total Proposed Tab (see below), the totality of the proposed development in terms of proposed footprint, proposed GEA and proposed volume with constituent elements in relation to the existing built form. These figures are agreed by the main parties. It is also common ground that the proposed basement (1,544.20m²) would be entirely underground and would not be perceived externally, other than the access ramp. On the proposed main building there would be an increase in eaves height of about 7.34m and there would be an increase in the ridge height of about 3.2m.

26. I note that the area of previously developed land comprises the main care home building, two smaller cottages and an area of hardstanding that was used as a parking area. In addition to the apartment building, the proposed development comprises formal gardens to the front and rear of the main building, an entrance courtyard/turning head, surface car parking, bin store, delivery areas and barbeque areas with pergolas. The footprint of the proposed building would be brought more centrally into the plot in comparison with the existing building. However, this

consolidation of footprint would be offset by the increase in the overall developed areas described above.

27. The Appellant claims that the proposal would regenerate a derelict site within its historical context. Reference is made to the existing single storey building with its extensive roof and its architecture which results in several recesses, semi-open and fully enclosed courtyards. It is claimed that these courtyards and recesses 'read' as part of the overall built form of the existing building and as such form part of the existing built fabric. The courtyards would add 744m² to the existing footprint/floor area and 4,758.79m³ to the existing volume, if included.

28. The Appellant also claims that the existing area and volume should include a permitted development allowance for the two detached cottages on the site. The extensions would be relatively small scale and would add 131m² to the footprint/floor area and 618 m³ to the volume. The Council does not accept that the recesses, semi-open and fully enclosed courtyards can be included as part of the existing built form and therefore cannot be included in the spatial assessment. Nor does it accept that a permitted development allowance should be included. I agree.

29. In my view the extent of physical development is essentially a question of fact and does not engage the need for the exercise of any planning judgement. The figures for recesses, semi-open and fully enclosed courtyards should not be included in a baseline spatial assessment. The Appellant argues that in the event that an application to adapt the existing building were to be submitted that these 'infilled' elements would be granted planning permission by the Council. However, the Council confirmed that no such applications have been submitted. Similarly, it has not been demonstrated that the two detached cottages on the site benefit from permitted development rights. No evidence has been provided that these two properties were constructed as separate residential dwellings i.e. not associated with the care home.

30. Drawing all of these threads together the Council's position is preferred. Notwithstanding the consolidation of built form and a fall-back position, I consider that, by virtue of the increase in bulk, mass, scale, height and residential sprawl the proposed development would spatially have a greater impact upon and indeed would cause substantial harm to, the openness of the Green Belt than the existing development. The overall quantum of built development would significantly increase, and the proposal therefore fails the tests provided by paragraph 145 (g) of the NPPF in terms of spatial impact.

Visual Impact

31. At my site visit I saw that the appeal site is relatively well-screened from the highway and from other public vantage points by the trees surrounding the site. However, I consider that there would be less visual permeability through the centre of the site as a result of the proposed development. The recent removal of a significant amount of vegetation has resulted in the site being more visible from surrounding areas. There are public rights of way that surround the site that have uninterrupted open views of the site across open fields particularly to the south and south west. I deal with those in more detail below.

32. When viewed from the north along Luton Road and the entrance point, the three-storey central element and the two storey north west wing would be visually dominant and have a significantly higher profile than the existing structures on site. The proposed access would be widened, and vegetation removed to accommodate the proposed visibility splays. Furthermore, the proposed increase in height would result in a building that would be more visible from the surrounding countryside, including public footpaths situated to the south and south west.

33. The Appellant refers to the design and layout of the proposed development stating that it is similarly positioned to the existing built form and that it consolidates it. The hierarchical approach to built elements is stressed and it is claimed that this allows permeability within the site. The north south axis is highlighted which it is argued would ensure consistency with both the existing built form and that of the historical mansion.

34. Further, the Appellant has provided the dimensions for the recesses, semiopen and closed courtyards, contending that these should be included in the existing area and volume figures, due to the fact that they are not seen other than as a backdrop to the building. I accept that they have limited visual impact on Green Belt openness. However, the same could be said for the 3-sided courtyard areas to the south west of the proposed building where the formal gardens are proposed and, to a lesser extent, the smaller courtyard areas created to the north east of the main building. This is particularly relevant when viewed from the north, which is the most publicly-visible vantage point. From here the long axis of the building as well as the north west flank elevation of the side wing would be perceived as one mass of built form, noting that these elevations would comprise two and three-storey flat-roofed elements, in comparison to the single storey existing building with pitched roofs.

35. I viewed the appeal site from Public Rights of Way (PROW) to the south and south west at viewpoints agreed by the Council and the Appellant. From the public footpath close to The Ridings (Location 3 on the Itinerary Map), near Markyate Village, I saw that the upper storeys of the proposed development would be visible particularly if existing planting is removed to open up vistas. At the field gate on the right angle bend (where Hicks Road and Windmill Road meet), the existing single storey development was visible, and I consider there would be a considerable visual impact on openness brought about by the increased scale of the new development. I also viewed the site from public footpaths on higher ground near to Roe End Lane and Dammersey Close where distant views of the appeal site were available through existing vegetation.

36. Taking all of the above into account, I consider that the proposed development, by virtue of the increase in height, bulk and mass would be visible from surrounding areas and would have a significant visual impact on Green Belt openness compared to the relatively low lying and significantly lower volume of the buildings that currently reside on site. The significance of the recesses, semi-open and closed courtyards has been taken into account. However, the proposed development would have a greater visual impact and would cause substantial visual harm to the openness of the Green Belt.

37. Overall, I consider that the proposal represents inappropriate development in the Green Belt which is by definition harmful and should not be approved except in very special circumstances.² The proposal would cause substantial harm to the openness of the Green Belt, both spatially and visually, by the proposed increase in built development. As such, the proposal does not meet any of the exceptions to inappropriate development defined in paragraph 145 of the NPPF. Third Issue - the effect, in terms of design, of the proposed development on the landscape character of the surrounding area.

38. Core Strategy Policies CS10, CS11 and CS12 highlight the importance of high quality sustainable design in improving the character and quality of an area, seeking to ensure that developments are in keeping with the surrounding area in terms of scale, mass, height and appearance. Furthermore, paragraph 124 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

39. The surrounding area is rural in character with development concentrated along Luton Road and Caddington Common, comprising predominantly low level bungalows with some larger two storey detached properties. The site is fairly well screened from Luton Road by vegetation, although the site can be viewed from public footpaths to the south and south west.

40. The Landscape Character Assessment of Dacorum SPG (2004) reveals that the appeal site lies within Landscape Character Area 126 which is known as 'Markyate Ridges and Valleys'. The landscape character in this area is described as predominantly mixed arable and pasture farmland with some common land, woodland and parkland, converging upon the M1 corridor to the east. The key characteristics are set out on page 132 of the document and include: narrow upland ridges and valleys, gently undulating open arable land, medium sized irregular shaped fields, isolated settlements and farms and open views across surrounding valleys. The distinctive features refer to historic parklands at Markyate Cell and Caddington.

41. The guidelines for managing change within the area, are to improve and conserve – to promote awareness and consideration of the setting of the Chilterns Area of Outstanding Natural Beauty (AONB), and views to and from it, when considering development and land use change proposals on sites adjacent to the AONB.

42. The Appellant refers to a Landscape and Visual Impact Assessment (LVIA) which was submitted after the application was determined. The LVIA argues that the site is contained and enclosed within its landscape and although the proposed building would have three storeys, it is unlikely to have any adverse impact on the surrounding landscape given its historic context. However, it is clear to me that the appeal site forms part of the setting for historic landscape features which are intrinsic to the Chilterns 2 Paragraph 143 of the NPPF AONB special qualities. In my view this parcel of land is therefore sensitive to change.

43. It is also noteworthy that Dacorum's Green Belt Review and Landscape Character Appraisal (2016) emphasised the importance of the open, rolling character and instances of intervisibility, as well as the parcel's role in forming the setting to

Markyate Cell Park. Whilst the existing care home building is of no particular architectural or historical merit, the appeal site is indeed sensitive and significantly constrained. It makes a strong contribution to the purposes of the Green Belt.

44. Turning to the design of the proposal, I appreciate that Policy CS10 of the Core Strategy (2013) seeks to ensure that new development respects the surrounding landscape character, which, as outlined above, is considered to be a sensitive area within the Green Belt and adjacent to the Chilterns AONB. I am aware that following the previously refused scheme, the Appellant sought further advice from the Council and that several options were discussed.

45. The Council's preferred option was the Georgian neo-classical form of the original manor house to create a high quality architectural response to the site and its historical setting. The Appellant contends that the design reflects the original character of the site as a Georgian country mansion set within its landscape. The accompanying DAS sets out further architectural details including how the golden ratio was used as tool to develop the proportions of the building, the relationship between the individual building elements and the architectural detailing.

46. The building would be arranged along the central axis, similar to the original mansion and the existing building just forward of the walled garden. This was chosen because of the historical nature of the site and also allowed for the built form to be set forward so that the landscape could be used to its full potential. The proposal comprises two single-storey projecting arms to two independent wings attached to a main 3 storey central structure. The main building would have an eaves height of about 9.94m and a ridge height of about 10.77m. The building would be constructed of brick in Flemish bond with stone architectural features to include decorative portico supported by columns, pediments, stone window surrounds and quoining at the corners of the building. In the final design, the pitched roofs were replaced with flat roofs and the scale of the single storey linked segments were also reduced.

47. An extensive planting scheme is proposed to create formal garden areas both front and rear toward the western and eastern sides of the building. Extensive native wild-flower and shrub meadows would be created throughout to give greater opportunity to increase the potential for wildlife habitat. The existing walled garden would be reinstated as a garden with storage units around the edges. The existing site access would be widened, and pedestrian walkways added from Luton Road. Vehicle parking on site would be either located at the basement level or surface level. Access control would be implemented on-site to segregate private and public spaces with access to the residential apartments and formal gardens only being granted to the residents on-site.

48. I have a number of concerns in relation to the final design which was put to the Council for determination. It seems to me that the final design fails to follow the rules of proportions seen within Georgian architecture and therefore the composition appears somewhat discordant with the chosen design style. The overall result is plainly a poor pastiche of a Georgian country house.

49. To avoid misunderstandings, I shall use the same terminology as the Council used in its statement - the term 'house' relates to the principle central section of the

design, 'arcades' relates to the single storey linking elements and 'pavilions' to the two storey returns. I have used the following drawings: Site Layout 2052 PL102E, the Front and Rear Elevations 2052 PL109B, the 3D Visualisation 2052 PL117A together with the DAS 2052 B and the LVIA. I have also referred to other drawings listed in the SoCG.

50. Plainly the design of the appeal proposal is heavily based on the previous design which I note the Council considered to be a well-balanced and appropriate solution. However, unlike the previous design which was based on scale and proportion I consider that removing the roofs of the house and pavilions and alterations to the arcades has resulted in a proposal which is no longer in balance and as such appears a rather confused assemblage of elements. This is most detrimental to the overall concept.

51. The first specific concern relates to the loss of the roofs. The chimney features now appear overly substantial and out of scale not having been reduced from the original proposal in height. The period of architecture referenced does not generally have this as a feature as it was moving away from the Elizabethans' dwellings, which used substantial ornate stacks. The feedback from the Design Review Panel states that these are "overly dominant and proportionally inappropriate." In my view these are most out of keeping.

52. The second concern is the retention of the pediment despite the loss of the roofs. As the Council points out 'Pediments come from classical architecture and the concept in the form was due to the use of timber framing in the roof, thus it hid the ridge beam. The proposed design has no obvious support and appears at odds with the main body of the design appearing out of scale due to the lack of roof or indeed any support.' The pediment appears as a disjointed afterthought rather than part of an overall composition.

53. The third concern is the retention of the balustrade from the previous design appears somewhat lacking concerning the detail. This would appear to be due to not reconsidering this feature without the roof. The solid supports between the runs of balustrades are not broad enough and give the structure an overly weak feel. This weakness is extenuated by the lack of depth to the top rail. However, when the balustrades were combined with the roof structure this was not a concern. Now that it is to be appreciated against the sky it lacks the necessary visual strength and appears as a fragile injudicious detail.

54. In addition, the balustrade also appears not to have been fully considered where it connects to the pediment. Instead, it runs up behind it at the lowest point. As it has not been redesigned as a thicker stop it results in a surprising juxtaposition where it appears that the balustrade is disregarding the end of the pediment. Again, this would be highlighted by its appearance against the sky; it also appears most strange that there are balustrades in position to the link elements but not the pavilions.

55. I note that the feedback from the Design Review Panel addresses this point. As the elevation drawing shows no roof the north east elevation fails to have the necessary balance and quoins, or perhaps a step in the brickwork is needed to pronounce the central two bays. Thus, as stated in the Design Review Panel

Assessment “The horizontal emphasis of this elevation is too pronounced.” The Panel also states that the elevation could be improved by “introducing stronger elements” to the elevation. It seems to me that a previous balanced composition now seems more a collection of individual elements and has lost the overall composition, which brought each part together in harmony. Importantly, the historical photographs of the original Caddington Hall in the DAS confirm a well-proportioned building without pronounced arcades and pavilions. 3

56. The DAS does not seem to have considered these issues or considered how, with flat roofs, the proportions and design details needed to change. Instead, the roofs have been removed without considering the other elements. The recent amendments mean that the proposed development is not in proportion. The pavilions appear too squat and the link element excessively elongated. Thus, they clash with the main house appearing as poorly considered later additions rather than a cohesive well considered overall structure.

57. A fourth specific concern relates to the depth of the arcades. The balustrade of each arcade runs up to first floor windows and in effect bisects two windows of the main house (see South East Internal Building Elevations drawing 2052 PL111B). This would be detrimental to the appearance of the link and the main house and not what would be expected from a mansion designed as a set piece. This harm is added to with the lack of relief to the brickwork at ground floor level of the main house. It would appear that instead of adding detail in the form of fenestration, or perhaps blind windows, there is instead only brickwork.

58. I accept that there is no objection to the principle of reinstating a substantial country house style building into parkland on this site. I also accept that extensive landscaping is proposed. I have taken into account Page 5 4 MSC1059-11revC Sheet 1 of 2 (Landscape Proposals) and MSC1059-11revC Sheet 2 of 2 (Landscape Proposals the LVIA which contends that the proposed development would not result in any impact on the surrounding landscape. However, the LVIA states that the house would not be visible. I cannot agree with this assessment particularly when the landscaping proposals are taken into account. The landscape proposals envisage removing both the conifer hedge and other trees and scrub to the frontage so that residents of the new house could look over the inner and former outer design parkland (now fields) across the valley to the Cherverells. In my view this would make the building much more visible in the landscape.

59. The Council’s Green Belt Review and Landscape Character Appraisal (2016) identifies that the parcel of land within which the appeal site lies makes a strong contribution to the purposes of the Green Belt. This is contrary to the LVIA statement that “The site level assessment that has been undertaken as part of the report identifies the site as being a low functioning part of the Green Belt that does not strongly contribute to the fundamental aim of Green Belt.” I disagree with the LVIA on this point and consider the site does make a significant contribution to the purposes of Green Belt as set out in the NPPF at paragraph 134. Moreover, the removal of many boundary trees together with undergrowth, which led to the serving of a TPO in 2017, has resulted in the site boundaries containing far fewer mature trees and far less undergrowth.

60. Notwithstanding the contextualist statements in the design philosophy, I consider that the proposed design does not follow the norms and rules of classical architectural form and therefore it would be materially out of keeping with its surroundings. The building lacks a sense of unity and it would not fit in with the character and functions of its context. Although the Design Review Panel supports the principle of the scheme, it seems to me that the detailed points which it made highlight concerns about the design of the scheme. 5

61. In summary, the design of the proposal is not sympathetic to the sensitive nature of the site and would not suitably integrate with the landscape character of the surrounding area by virtue of its scale and proportions. The design is not high quality and fails to comply with Policies CS10, CS11 and CS12 of the Core Strategy (2013) and the NPPF. On the third issue I conclude that the appeal must fail. Fourth Issue - the effect of the proposal on the setting/significance of the nearby Listed Building.

62. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty on Local Planning Authorities with respect to development which affects a Listed Building or its setting. In particular, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

63. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, 5 Page 4 of the Design Review Panel Assessment 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

64. The application site resides within close proximity to the Grade II* Listed Markyate Cell. It was agreed at the Hearing by both parties that the impact of the proposed development on the significance of the heritage asset would be less than substantial at a low-nominal level. This harm should be weighed against the public benefits of the scheme in accordance with paragraph 196 of the NPPF, noting that the building is of the highest category of protection being Grade II* Listed. I accept that there would be a comprehensive restoration of the walled garden and a carefully designed parkland landscape which would enhance the general area.

65. In accordance with the test set out in paragraph 196 of the NPPF, I find that the public benefits of the proposal would outweigh the less than substantial harm to the significance of a designated heritage asset. On the fourth issue I conclude that the proposal should not be refused because of the effects on the setting/significance of the nearby Listed Building. Fifth Issue - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by any other considerations. If so, would this amount to very special circumstances necessary to justify the proposal?

66. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with paragraph 144 of the NPPF when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special

circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

67. The Appellant put forward a number of 'other considerations' in paragraph 6.22 of the Planning Support Statement which it is claimed would outweigh the harm to the Green Belt. I deal with each of these below explaining the weight that I attach to these 'other considerations'. The weight which I attribute to each is shown in the brackets:

- The brownfield status of the site ensures that it must be given greater weight than that of any proposed sites within the Green Belt. (Limited weight)
- The site is currently derelict whereby there is no prospect of the existing building being reused for the existing lawful care home use. (Limited weight)
- Replacement of a building which is not significantly larger than the existing and is more presentative of the former manor house and associated outbuildings. The relative impact in pure volume should reflect the infill elements. Overall, the design is relatively less than significant in the overall Green Belt assessment. (No weight)
- The proposed development would contribute 44 units to the Council housing strategy. I accept that the Council does not have a five year housing land supply (2.8 years). I note that the Council is in the process of preparing a new Local Plan for the Borough. It is working towards the publication of a Pre-Submission Draft Consultation Version commencing in late 2020 which includes a site for 150 dwellings in Markyate (Moderate weight)
- The proposed development would contribute 16 Affordable Housing units onsite, should be given substantial weight. I accept that there is a local shortfall in affordable housing provision. The proposal equates to an affordable housing provision of 36%, which meets the 35% required by Policy CS19 so the proposal is merely policy compliant. (Moderate weight)
- Renovation of underused historical wall garden and creation of additional gardens. I have taken into account the historical context of the site. (Moderate weight)
- The high level of discussions with the Council has produced a result which we believe is a mutually acceptable position. (No weight)
- The building represents an excellent design that is historically sensitive to the former Caddington Hall mansion that gives the site its name. In this context, a smaller proposal would not, in our opinion, be historically sensitive to the character of the site and wider location. I found that the design of the proposal would not be sympathetic to the sensitive nature of the site and would not suitably integrate with the landscape character of the surrounding area by virtue of its scale and proportions. I note that the removal of the pitched roofs would provide opportunities for biodiversity, flood reduction and sustainability. (Limited weight)
- A smaller proposal would not be financially viable. Proposals for fewer numbered units would compromise the high quality of design given the inherent advanced level of discussions with the Council. I note that no viability assessment was submitted by the Appellant. (Limited weight)
- The creation of additional wildlife habitat for bats, bees and other species through landscaping proposals. I have taken into account the Windrush Ecology Report including the mitigation measures at paragraph 5.2 of that Report and the NPPF. 6 I have also considered the Landscape/Tree Planning Strategy including the proposed ornamental planting which would enhance wildlife, albeit ecological mitigation and enhancement would be expected for a significant development such as is proposed here. (Limited/moderate weight)
- Contribution to the support of the relatively rural economy through the use of local facilities and short-medium term construction jobs. I accept that there would be some short term benefits in the construction sector arising from the appeal proposal, but no quantified evidence was submitted to

support this point or that the proposal would contribute significantly to the vitality of local village facilities. I also accept that a dedicated 2m footway would be provided adjacent to the site access and along the road through the development. A 6 Paragraphs 11, 72 and 170 17 segregated pedestrian connection would also be provided to the existing west bound bus stop whereby improvements would also be provided. (Limited/moderate weight).

- S106 Planning Obligation

68. The Appellant submitted a final signed version of a s106 Planning Obligation dated 23 October 2020. Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. The Council has an adopted CIL Charging Schedule against which contributions towards infrastructure will be secured. The appeal site is located within CIL Charging Zone 2 where a base charge of £100 per square metre of residential would be levied. Exemptions may be applicable with respect to the affordable housing element. There is no dispute over the need for financial contributions.

69. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. Regulation 122 of the CIL Regulations, as amended, and paragraph 56 of the NPPF make clear that Planning Obligations should only be sought where they meet all of the following three tests: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development

70. The Council has requested, and the Appellant has agreed to enter into the Planning Obligation to secure the delivery of affordable housing (Schedule 2) in accordance with Policy CS19. Furthermore, a request was made to make a contribution towards off site highway works in the vicinity of the site at a cost of £16,000 (Schedule 3). This latter contribution would ensure that two bus stops are made accessible to all through the provision of easy access kerbing and improved hard standing area, which would encourage bus use as a travel option for visitors to the site through making the facilities more accessible and attractive.

71. The provision of affordable housing on-site is necessary to meet an identified need and is a requirement of both national and local planning policy. The provision is directly related to the development and the provision of 16 affordable dwellings is fairly and reasonably related in scale and kind to the development. The off-site highways works are necessary to allow residents to access alternative means of travel between the key towns of Luton and Hemel Hempstead and to comply with Policy CS8 and Policy CS12 of the Core Strategy. In my view, both of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision. I consider that these obligations would provide positive benefits of moderate weight to be weighed against the harm that I have identified. Appeal Decision APP/A1910/W/20/3247645 <https://www.gov.uk/planning-inspectorate> 18

Other Matters

72. A schedule of suggested conditions was discussed at the Hearing. A revised schedule was subsequently agreed by the main parties. The Appellant expressly agreed in writing to the inclusion of the suggested precommencement conditions discussed at the Hearing. In my view, planning conditions in the agreed schedule would overcome concerns raised by interested persons about residential amenity, impact on trees and landscaping, highway safety, flood risk and drainage, parking provision, ecology, archaeology and contaminated land. The appeal proposal would comply with aforementioned development plan policies with regard to these matters.

Planning Balance and Conclusions

73. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Policy CS5 aims to apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. Both parties agreed that Policy CS5 defers to national Green Belt policy and therefore can be attributed full weight

74. Overall I consider that the proposal represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.⁷ The proposed development, by virtue of the increase in bulk, mass, scale, height and residential sprawl, would spatially have a greater impact upon, and would cause substantial harm to, the openness of the Green Belt than the existing development. In addition, as a result of the increase in height, bulk and mass the proposed development would have a significant visual impact on Green Belt openness compared to the relatively low lying and significantly lower volume of the buildings that currently reside on site. The openness of the Green Belt, both spatially and visually, would be substantially harmed by the proposed increase in built development. As such, the proposal is contrary to Core Strategy (2013) Policy CS5 and the NPPF including, in particular, the exceptions listed in paragraph 145.

75. In addition, in terms of design, I consider that the proposed development is not sensitive to, and would not suitably integrate with, the landscape character of the surrounding area by virtue of its scale and proportions. As such the proposal fails to comply with Core Strategy (2013) Policies CS10, CS11 and CS12 and the NPPF.

76. Paragraph 54 of the NPPF indicates that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions and/or the Planning Obligation would not overcome the harm which I have described in this case.

77. As stated already, paragraph 144 of the NPPF indicates that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by 7 Paragraph 143 of the NPPF Appeal Decision APP/A1910/W/20/3247645 <https://www.gov.uk/planning-inspectorate> 19 reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations. In this case I have considered all of the matters put forward by the Appellant as 'other considerations' and the weight that can be attached to each. I have concluded that limited or

moderate weight can be attributed to such matters including brownfield status, derelict site, the provision of 44 dwellings in the absence of a five year housing land supply (2.8 years), 16 affordable dwellings, the historical context and design of the proposal, viability, the opportunities for landscape and ecological enhancement, support for the rural economy and off site highway works. All of these matters weigh in favour of the proposal.

78. Nevertheless, I do not consider that these matters, either separately or cumulatively, would be of sufficient weight to clearly outweigh the totality of the substantial harm arising by reason of inappropriateness and the other harm identified. As such, the development cannot be justified on the basis of very special circumstances. The proposed development is in overall conflict with the development plan and the NPPF and there are no material considerations which indicate otherwise. I conclude that the appeal should be dismissed.

Our Reference: 19/02620/FHA

PINS Reference: **APP/A1910/D/20/3248290**

Hawkridge Lady Meadow

KINGS LANGLEY

WD4 9NF

Procedure: Written Representations

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

3. 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.

4. Paragraph 145c) sets out that new buildings within the Green Belt are inappropriate unless any extension or alteration of a building is such that it does not result in disproportionate additions over and above the size of the original building.

5. It is common ground between the main parties that the bungalow has been extended over the years, including an enlarged patio.

6. The Appellant has not advanced a case that the carport is an extension to the main house, but an extension to the garage and has cited Policy CS5 of the Dacorum Borough Core Strategy 2006-2031 (2013) (CS) which states that within the Green Belt, small scale development will be permitted. However, this is also quantified that it should be limited extensions to existing buildings. Furthermore,

Policy CS5 starts by saying that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt.

7. In this context, I note that the proposed carport would have a similar footprint size to that of the existing garage, and as such would represent a significant addition rather than a limited extension. Whilst the footprint of the extension to the garage is not the only factor to consider, in this case, it is the most important one.

8. In addition to the above, the proposal also includes an extended patio to the roof of the carport. However, it is also significant that the existing patio is much extended. In that sense, the cumulative amount of patio extension cannot be considered to be a limited extension either.

9. Taking these factors into consideration, I therefore conclude that the carport would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 145 or 146 of the Framework. It would also be contrary to Policy CS5 of the CS which amongst other matters seeks to resist inappropriate development.

Effect on the openness of the Green Belt

10. 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.

11. The proposal would introduce a further element of built form to the site albeit that it would not be an entirely enclosed structure as it would be open to the front and partially to its eastern side.

12. Notwithstanding that, it would nevertheless introduce an additional amount of built form to the site. Whilst this would be set in the context of the differing land levels and the dwelling itself, the increase in built form would result in a loss of Green Belt openness. Whilst such a loss of openness is not significant, it nevertheless has a negative perceptible impact.

13. I therefore conclude that the development would lead to a 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 which amongst other matters seek to protect the openness of the Green Belt.

Character and appearance

14. The appeal site is located on the corner of Rucklers Lane and Lady Meadow. The appeal bungalow is elevated from Rucklers Lane, as is the existing garage to the property frontage. However, as I saw at my site visit, there are clear views of the garage from the road.

15. The carport would be largely located to the side of the garage which has a hipped roof. However, it would also come forward of the front wall of the garage. This, together with the railings on top of its roof to form the roof terrace, would result in a proposal which would appear overly prominent when viewed from the road. This prominence is exacerbated by the elevated nature of the site.

16. In coming to that view, I acknowledge that the existing raised patio provides a similar appearance to the appeal proposals roof terrace. However, it is the bringing forward of this terrace and the resultant increase in its prominence which results in the harm to the setting of the host dwelling and the character and appearance of the area.

17. The Council have set out that they considered that the dwelling is a nondesignated heritage asset. From the evidence before me, the bungalow was built post World War II with the Appellant identifying extension plans from around 1960. However, just because the property was built in such an era does not prevent it from being a non-designated heritage asset.

18. That said, the property has clearly been altered and extended since it was built and the proposal could be seen as part of the evolution of the property. Whilst I have found some harm in respect of the effect of the development on the host property, I consider that the fact that the property is a non-designated heritage asset is not a determinative factor in this case. Nevertheless, it does add some limited weight to my findings.

19. I have also had regard to the fact that planning permission was previously granted for a similar development in 2002. However, as noted by the Council, this was for a smaller carport which did not come forward of the front wall of the adjacent garage.

20. For the above reasons, the carport would harm the character and appearance of the host property and the wider area and would conflict with Policies CS5, CS11, CS12 and CS27 of the CS which amongst other matters seek to ensure that development preserves attractive streetscapes and integrates with the streetscape character, together with the protection of the integrity and setting of undesignated heritage assets. It would also be in conflict with the overarching design aims of the Framework.

Other matters

21. The Appellant has set out two possible fallback positions, the first one being the implementation of the carport which was granted permission in 20021 by the Council prior to the enlargement of the patio area.

22. However, whilst it is common ground that this permission has been implemented, since that time the raised patio at the property frontage has also been extended following the grant of planning permission. This permission includes a condition (condition 4) which states that the patio permission is an alternative to planning permission 4/02129/02/FHA and that the car port and roof terrace shall not be constructed. The reason given for this condition is to safeguard and maintain the openness of the Green Belt. With that in mind, I 1 Reference 4/02129/02/FHA dated 17 December 2002 which also included a porch and single storey front and rear extensions 2 Reference 4/01142/08/RET dated 21 July 2008 am not convinced that the carport from permission 4/02129/02/FHA represents a fall-back position.

23. Notwithstanding that, from my site visit, it appears that the enlarged patio has a greater depth than that shown on the approved plans. This is particularly evident when one compares the position and shape of the carport between the plans associated with the patio permission (which also shows the carport from the earlier permission) and those of the appeal proposal.

24. Therefore, if I am correct on that matter, it would appear that permission 4/01142/08/RET has not been implemented (and what has been built on site is a different development). The net result of this would be that condition 4 of that permission is not relevant. That said, the principles behind that condition are still very relevant today.

25. In addition to the above, given the construction of the raised patio it would appear that it would not be possible to construct the car-port from permission 4/02129/02/FHA as there has been a material change in the circumstances of the land and structures in the actual position of the carport itself.

26. Taking all of the above into account, and on the basis of the information before me, I consider that fallback position one does not exist. Even if such a fallback position did exist, as the Council have pointed out, this would involve a smaller development to the one before me and this also limits the amount of weight I can give to it.

27. In respect of fallback option two, this would be a permitted development building from a new access from Lady Meadow. However, it would also involve the loss of one of the existing outbuildings and as such the effect of such a proposal on the openness of the Green Belt would be significantly reduced.

28. Therefore, whilst this is clearly a material planning consideration, I consider that this fallback option can only be given very limited weight in favour of the appeal proposal.

29. I have also taken into account other properties in the area and their respective garages including that at Belleview to the west of the appeal site. I have also considered that the carport would partially shield parked vehicles from views from the roadside and that the existing garage could be considered to be on the small side to accommodate larger modern day cars. Whilst all of these factors weigh in favour of the proposal, they provide only very minor benefits.

30. The Appellant has also advanced other circumstances which could be considered to be very special circumstances. These include that in the event of planning permission being granted permitted development rights from Class E of Part 1 of the Second Schedule of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) could be removed. However, I consider that this would only provide limited benefits given the areas where such future development might be accommodated.

31. Additionally, it is advanced that the siting and form of the proposal, including that it is in the middle of an existing development, together with the topography of the land with the raised patio and house reduces the impact of the proposal on

openness. It is also suggested that the landscaping on the site further helps reduce its impact. I acknowledge that each of these could contribute towards being very special circumstances.

Green Belt balance

32. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found that there would be an adverse impact on the openness of the Green Belt and to the character and appearance of the area. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.

33. Taking into account all of the other matters raised, it is clear that the carport would have some very small-scale benefits in that it would partially shield parked vehicles. The siting and form of the development also contribute to the fact that the level of harm to openness cannot be considered to be significant. I am also mindful of the fallback options, albeit that these only provide very limited weight in favour of the proposal in the overall balance.

34. In considering the substantial weight given to the Green Belt, to my mind, the benefits outlined above do not clearly outweigh the harm to the Green Belt. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, 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

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

ENFORCEMENT NOTICE APPEALS

Our Reference: 20/00803/FUL

PINS Reference: **APP/A1910/C/3226323,**

APP/A1910/C/3226324,

APP/A1910/C/19/3226325

Land at Smallgrove Farm

Windmill Road

Pepperstock

Hertfordshire

LU1 4LQ

Procedure: Written Reps

Appeals dismissed and the enforcement notices upheld

Background

1. Planning permission was granted for the reconstruction of the original farmhouse, courtyard, barns and outbuildings on 29 November 2013. Attached to the permission

were a number of conditions, amongst other things, relating to an approved scheme of remediation and an approved archaeology scheme.

The ground (c) appeals

2. The appeal on this ground is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The onus of proof is on the appellants.

3. The appeal site comprises the ongoing reconstruction of the farmhouse, courtyard, barns and outbuildings, which are set within extensive grounds. These grounds lie adjacent to a paddock with which there is currently no physically boundary separating it from the buildings and associated residential land.

4. The construction of the development has involved extensive ground works, the material from which has been stored on the site by way of levelling it across a large portion of the site. Soil has also been deposited on the western boundary of the site. The appellants argue that there has always been a steep bank on this boundary. The topographical survey submitted with the planning application for the adjacent property indicates a steep incline between the level ground on which the buildings are situated and the boundary with the appeal site. However, it does not provide any evidence to indicate the land levels on the appeal side of the boundary fence.

5. The photographic evidence submitted by the appellants suggest that there was a significant increase in land levels between the western boundary fence and Smallgrove Farm. However, they do not indicate where or how the change in levels took place. The Ordnance Survey extract indicates a change in levels between 140m and 145m between Doone Brae Farm and the paddock area. However, the contour lines on the map indicate that this change in levels is across an area wider than what is present on site, with the 145m contour line cutting across the paddock area some distance further back from the boundary than the current bund is. This suggests that either the pre-existing bank was set further back from the boundary, or the gradient was not as steep, or a combination of both.

6. The historical photographic evidence submitted by the Council taken from views looking east across Doone Brea Farm towards Smallgrove Farm are not particularly clear. However, in my mind, they are clear enough to suggest that the land levels immediately behind Doone Brae Farm were not as high as what is currently on site, suggesting that the slope was previously much gentler.

7. In any event, the appellants admit that the bund on the western boundary has been "amplified" by 0.5m to 1.5m. Although there may well have always been a substantial step in the land levels on the western boundary, given the extent of the works undertaken, and even though it utilises material from within the site, I consider that it amounts to an engineering operation for which planning permission is required.

8. The appellants contend that the works involving the movement of soil within the site fall within the remit of the approved scheme of remediation. However, there is no reference within the remediation strategy to the creation of a bund on the western boundary of the site or the raising of the height of the land. Whilst I acknowledge that DEFRA guidelines promote the storage and management of soil directly to its

extraction point, this is separate legislation and does not negate the need for planning permission for the works that have taken place.

9. I have had regard to the reference to the height of the proposed 2 storey dwellings that formed part of the planning application on the adjacent site³ in that they would not rise above the current bank and hedge line. However, there is no evidence before me, for example elevational drawings, to substantiate this claim.

10. The appellants also suggest that the works to the bund are not a permanent change as works are ongoing and the boundary has already been reduced. However, it seems to me that, as the land has clearly been levelled and the bund almost uniformly angled, it is unlikely that any works to reduce them further are intended. In any event, this has had no bearing on my consideration of whether the alleged breach of planning control took place at the time the Notice was issued.

11. I have had regard to the remediation works undertaken regarding the small amount of contaminated land found on the site. However, this has had little bearing on my consideration as to whether the alleged breach of planning control referred to in the Notice has taken place.

12. I find therefore that, on the balance of probabilities, the scale of works undertaken in altering the bund on the western boundary and the raising of the land levels amounts to an engineering operation for the purposes of section 55 of the Town and Country Planning Act 1990. As such, planning permission would be required for these works. In the absence of any planning permission for such works, it is clear that a breach has occurred and the appeals on ground (c) fail.

Other Matters

13. The appellants indicate that they can resubmit revised landscaping design plans including details of the pre-existing bank. However, this has no bearing on my consideration of the ground (c) appeals.

Conclusion

14. For the reasons given above, and having regard to all the other matters raised, I conclude that the appeals should be dismissed.

Enforcement Listed Building and Conservation Area Appeal

Our Reference: 4/02252/19/ENA

PINS Reference: **APP/A1910/F/19/3237636**

Lock Cottage
Ravens Lane
BERKHAMSTED
HP4 2DZ

Procedure: Written Representations

Main Issue

I consider the main issue in this case is whether listed building consent has already been granted for the demolition of the wall. Site and surroundings

3. The appeal site contains the single storey grade II listed Lock Cottage and is a narrow plot of land adjacent to one of the locks serving the Grand Union Canal as it passes through the Berkhamsted Conservation Area. Photographs show that there was a brick wall forming a boundary to the plot adjacent to the pavement of the road that passes over the canal via a bridge. The cottage faces the canal and is set down, and some way away, from the road.

4. The wall originally ran between the next property at No.23 Ravens Lane, which also stands adjacent to the pavement, and the brick pier adjacent to the railings of the bridge, with a picket style gate in its length. The south eastern section of wall and the gate have now been taken down and paving setts laid to form a hardstanding on the area behind where the wall once stood, across the front of the plot.

5. This ground of appeal is made on the basis that the works enforced against do not constitute a contravention of listed building control. The appellant submits that she did not know that the wall was considered to be part of the listing as it is not mentioned in the listing description. S.1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBA) makes clear that buildings or structures within the curtilage of a listed building and built before 1 July 1948 are to be considered as part of the building.

6. The appellant contends that there is no evidence submitted by the Council to demonstrate that the wall pre-dates 1 July 1948. Nevertheless, the Council considers that to be the case and it is for the appellant to demonstrate otherwise and that her case is correct, on the balance of probabilities. She has provided no evidence to this effect and, from the photographs of the wall, it appears to me almost certain that it was built before 1948.

7. The brickwork of the remaining northern section is different from that of the bridge pier, but this does not necessarily mean that it dates from after 1948. In fact, I would think that it is the bridge brickwork that is the later construction. Consequently, as the demolished wall formed part of the curtilage of Lock Cottage, listed building consent is needed to authorise its demolition.

8. The appellant submits that the removal of the wall and gate was in fact authorised through the approval of a landscaping drawing submitted as part of an application to discharge condition 4 of listed building consent reference 16/4392/LBC. She submits that this drawing is evidence that the demolition was authorised, because it does not show the boundary wall and gate that are the subject of this appeal.

9. The listed building consent referred to above was primarily for internal alterations but also included some external works which included 'the removal of the existing concrete path to the front of the dwelling'. These works were not included in the description of the proposals but are referenced in the attached conditions, No. 4 of which required the approval of details of the 'replacement materials to be used on the surfaces'.

10. A drawing was submitted to address this condition and it shows the hardstanding that has been laid behind where the wall used to stand and labels this as being for a car/caravan. The wall and gate are not shown on this unnumbered plan, which does

not appear to be drawn to scale. In approving the details for condition 4 of 16/4392/LBC, reference is made to the details submitted in an email to a Council Officer received on 4 August 2015.

11. In this email the appellant gives the following information: 'Replacement of Asphalt Path. The asphalt is to be taken up and a permeable membrane laid, then topped with medium sized pebble aggregate. This will be edged with old stock bricks. The form of the old path will be followed entirely.' This area is noted as 'gravel path' on the plan. There is no mention of the materials that are used on the area of hardstanding next to the pavement.

12. Nowhere in the application description, the submitted plan or the email of 4 August is the demolition of the wall referred to in explicit terms. Although the appellant considers the omission of the wall and gate from the plan is sufficient to indicate that listed building consent has been granted for the works, I am afraid I must disagree.

13. Plans may often show discrepancies from the existing situation but what is actually proposed and authorised by a consent must be able to be readily construed from the documentation. This is particularly applicable to listed building cases where the effect of demolition of all or part of a structure on the special architectural or historic interest of the building has to be specifically considered before consent is granted.

14. For example, in this case if someone examining the plan and email did not know that there had been a boundary wall to the property, there is no way of knowing that it had existed but had been removed. I therefore find that the discharge of condition 4 did not serve to grant listed building consent for the removal of the wall.

15. The appellant states that the landscaping drawing was submitted with the application and therefore formed part of it. However, as explained above, there is no reference to it in the approval notice or the attached conditions and I therefore conclude that there has been no consent granted for the demolition of the wall that forms part of the listed building at Lock Cottage and the appeal on ground (c) consequently fails. Ground (e)

16. The appellant has not appealed on ground (e), that listed building consent should be granted for the demolition works, but has nevertheless raised arguments that go to this matter in her representations. In addition, the Council has addressed the issue in its Statement. I have the authority, which is granted under s.41(6) of the PLBA, to consider such an appeal whether or not it has been specifically pleaded on the appeal form and will therefore take her submissions into account. She considers that the works have not materially affected the listed building or the surrounding area and notes that most of the boundary to Lock Cottage is white picket fencing, with a mature tall hedge to the road.

17. She suggests that picket fencing that would open to allow vehicular access to the hardstanding area could be installed to improve the view of the new hardstanding and that this would be sympathetic to existing boundary treatments. It is apparently a condition within her title deeds, required by the Canal Trust, that the existing white

picket fence to the lock side is maintained, but she claims that the wall is not mentioned.

18. In contrast, the Council considers that the demolished wall was of some age and made a positive contribution to the setting of the listed building and the conservation area. It considers that off-street parking at this position would be unlikely to be granted permission because of concerns on highway safety grounds. The Council has also submitted that some of the examples cited by the appellant may not be authorised. This may be so, but that is not an issue that relates to the merits of an application for listed building consent.

19. Nevertheless, from what I saw at my site visit, low brick boundary walls, whether old or more modern, are a typical feature of the conservation area and, in the immediate vicinity of the appeal site, there was only one example of a parking area adjacent to a pavement similar to that found at the appeal site, and that example is not in the curtilage of a listed building. The other examples submitted are not, in my view, directly comparable to this case, which I have therefore judged on its own merits

20. It seems to me that the significance of the wall lay in its positive contribution to the setting of the cottage and the wider conservation area around the bridge and canal. Its traditional construction and use of materials helped to provide a sense of continuity to the street scene which has now been interrupted. The area of hardstanding has not been included in the listed building enforcement notice, but the removal of the wall allows a clear public view of the modern paving setts on it. These look out of place in this location and the demolition works have exacerbated this effect. I therefore consider that the works have diminished the historic and architectural interest of the area. For listed building consent to be granted in such a situation, the development would need to provide public benefits sufficient to overcome the harm caused, as required by paragraphs 193 – 196 of the National Planning Policy Statement.

21. The appellant has cited her personal reasons for needing a parking space and hardstanding close to her property, but I do not consider these to be sufficient to justify the grant of listed building consent. I have every sympathy for the appellant and the situation she finds herself in and consider that she could have received clearer advice from the Council, but these are not reasons enough to justify the harm caused by the demolition of the wall.

22. I have also considered whether her suggestion of an openable picket fence to replace the wall would be an acceptable alternative. I have not been provided with a scheme to consider so cannot comment how this might operate but, in my view, whilst a fence of this style might be an appropriate boundary treatment in the conservation area, it would not necessarily compensate for the loss of the wall in this location or the harmful alteration to the setting of the listed building, the importance of which is particularly noted in the listing description. Neither would it effectively screen views of the paving.

23. The appellant also records that the wall in question was in a poor condition, with 'loose foundations and brickwork, unsupported at one end and anchored by the gate

at the other'. She claims it was a danger to passers-by and has submitted photographs of its condition prior to demolition. However, the poor condition of the wall does not provide justification for its total demolition without replacement; in such cases repair, or rebuilding to the original detail, should be the first option considered. 24. Consequently, I conclude that the demolition of the wall has harmed the setting of the listed building, it requires consent which it does not have and there are no public benefits that indicate that consent should be granted. It therefore fails to comply with the aims of the PLBA to protect the special architectural and historic interest of listed buildings and policy CS27 of Dacorum Borough Council's Adopted Core Strategy 2013. This policy seeks to conserve Dacorum's heritage assets, including conservation areas.

APPEALS ALLOWED

Our Reference: 19/02556/FUL

PINS Reference: **APP/A1910/W/20/3249405**

6 Highcroft Road

Felden

HEMEL HEMPSTEAD

HP3 0BU

Procedure: Written Representations

The appeal has arisen as a result of the Council not determining the above application. As part of their appeal submissions the Council stated that they would have refused permission for the application as they considered that the appeal proposal would be inappropriate development in the Green Belt, that it would be harmful to the living conditions of the occupiers of No 4 Highcroft Road, and because the appeal site is located within a risk zone associated with a landfill and insufficient information had been submitted to show that there would not be an unacceptable impact on public health.

3. With regard to the contaminated land issue, the Council have recommended conditions to address this point. In the absence of conflicting evidence I am satisfied that the matter can be controlled by condition.

4. While I note the Council's comments on the validity of the application, during my site visit I saw that foundations had been laid for extensions previously approved to the appeal property. I am therefore satisfied that work has commenced. It is not necessary for these works to have been completed for planning permission to be granted to vary the works.

5. The garage and garden maintenance building was granted a certificate of lawfulness under application ref: 4/01750/17/LDP. During my site visit I did not see any indication that construction had commenced on this element of the development. However, the building was shown on the submitted drawings approved under planning application ref: 4/00640/18/FHA, although not mentioned in the description of development on the decision notice. The garage and garden maintenance building therefore also has planning permission.

6. I have amended the description of development within my decision to only include those parts for which planning permission is required.

Main Issues

7. The main issues are: • Whether the development proposed would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, • The effect of the development proposed on the living conditions of neighbouring occupiers, with particular regard to the effect on the daylight and sunlight to no 4 Highcroft Road; and, • If the appeal proposal 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 it. Reasons Whether inappropriate development

8. The appeal property is a bungalow located within the Green Belt. The National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, save for certain exceptions.

9. Paragraph 145 c) of the Framework states that the extension or alteration of a building is one of these exceptions provided that it does not result in disproportionate additions over and above the size of the original building. Policy CS5 of the Dacorum Borough Council Core Strategy 2006-2031 (the CS) states that small-scale development will be permitted in the Green Belt, including limited extensions to existing buildings. The Framework does not contain a definition of 'disproportionate additions', nor does the CS define 'limited extensions'. It is therefore a matter of planning judgment in each case whether a proposed development would be acceptable.

10. The appeal proposal would not alter the footprint of either the house or garage from that approved in 2018. The size and location of windows would be changed, rooflights would be added and first floor accommodation provided in both buildings, but these would be alterations that would not result in a larger building, and would therefore not harm the Green Belt.

11. The garage roof would be raised by 0.5 metres above its approved height. While the planning history has established that planning permission exists for Appeal Decision APP/A1910/W/20/3249405 <https://www.gov.uk/planning-inspectorate> 3 substantial additions to the property and this is a material consideration, the overall scale of development significantly increases the size of the original dwelling, and can no longer be considered limited extensions.

12. The addition of first-floor accommodation may result in a more intensive use of the site and could result in the parking of an increased number of vehicles or the proliferation of domestic paraphernalia. However, the nature of the use of the site would not change and a more intensive use of the site by a larger single dwelling would not result in harm to the Green Belt.

13. I therefore find that the development proposed would be inappropriate development in the Green Belt. It would conflict with policy CS5 of the CS and the requirements of the Framework. Living conditions

14. The garage would be sited close to the boundary with 4 Highcroft Road, which itself comes close to the shared boundary. The garage would extend beyond the rear wall of No 4, with a part gable wall facing the shared boundary.

15. The garage would be 0.5 metres higher than previously approved as a result of the appeal proposal, which would be a modest change in the overall height of the development. I note that no objection has been received from the neighbour at No 4 to this development, and no objections were recorded relating to the extant permission.

16. Given these considerations, I am satisfied that the development proposed would not result in an unacceptable effect on the living conditions of neighbouring occupiers as a result of loss of sunlight and daylight. It would therefore accord with the requirements of CS Policy CS12, which amongst other things requires that new development avoid visual intrusion and loss of sunlight and daylight to the surrounding properties.

Other considerations

17. I have found that the appeal proposal would result in harm to the Green Belt as it would amount to a disproportionate addition over and above the size of the original building, and therefore would be inappropriate development.

18. My attention has been drawn to the planning history associated with the development. The most recent approval, application ref: 4/00640/18/FHA, essentially consolidated different approvals for extensions and a detached garage in a single application for which the Council granted planning permission in 2018, and as noted above this permission has been implemented.

19. The proposed raising of the height of the garage/maintenance building roof would be a very limited increase in the overall scale of development previously approved. The appeal proposal is not significantly different in terms of size and would not result in materially greater harm to the purposes of including land within the Green Belt. The fallback position of completing the approved extensions is a material consideration to which I attach substantial weight. Given the similarities, I find that this consideration clearly outweighs any harm to the Green Belt by inappropriateness in this instance.

20. I therefore find that very special circumstances do exist in this instance.

Conditions

21. I have had regard to the conditions suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect national Planning Practice Guidance.

22. I have imposed the standard condition relating to the commencement of development as the appeal proposal differs from previous approvals. I have also added a condition confirming the approved plans, for the sake of certainty.

23. I consider it necessary to include a condition requiring approval of external materials to ensure that the appearance of the development is acceptable.

24. As the site is in the Green Belt I consider it is reasonable to remove certain Permitted Development Rights.

25. The appeal site is located within a risk zone associated with a landfill site. I have therefore imposed a condition relating to the detection of contaminated land.

Conclusion 26. For the reasons set out above, the appeal succeeds.

Schedule of conditions

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

2) The development hereby permitted shall be carried out in accordance with the following approved plans: P1 [K5] Site Plan REV E, KP-1003-103-P01, KP-1003-102-P01, KP-1003-101-P01, KP-1003-100-P01, P2.1 [K5] Proposed Ground Floor Plan – Rev B, P3.1 [K5] Proposed Side Elevations [Rev A], P4.1 [K5] Proposed Front and rear Elevations – REV B, 2646/1 and P5 [K5] Roof Plan REV D

3) No further development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) 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 falling within Schedule 2, Classes A, B or E of that Order shall be carried out without the prior written approval of the local planning authority.

5) No further development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by

the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

Our Reference: 4/02096/19/FHA

PINS Reference: **APP/A1910/D/19/3243015**

Cedar Barn, Half Moon Lane

Pepperstock

LUTON

LU1 4LL

Procedure: Written Representations

Decision

1. The appeal is allowed and planning permission is granted for a garage extension at Cedar Barn, Half Moon Lane, Pepperstock LU1 4LL in accordance with the terms of the application, Ref 4/02096/19/FHA, dated 30 August 2019, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: LANE/21908/GAR9 and LANE/21908/EXIST.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is whether the proposal would be inappropriate development in the Green Belt.

Reasons

3. The appeal property comprises a detached dwelling set back from the road within a mature spacious landscaped plot. The appeal site forms part of a small cluster of dwellings located off a shared access and driveway on the edge of the village of Pepperstock situated in an open Green Belt location. The proposal entails the construction of a double garage extension that would project out about 7m from the front south-western corner of the property and would be stepped down below the ridge of the main house with a dual pitched roof.

4. Paragraph 145 of the National Planning Policy Framework (the Framework) establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of exceptions. These exceptions include the

extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. This national guidance is to be read in conjunction with Saved Policy 22 of the Dacorum Borough Local Plan 2004 (LP) and Policy CS5 of the Dacorum Core Strategy 2013 (CS) that allow for the limited extensions to existing dwellings within the Green Belt in line with the aims of the Framework.

5. Neither the Framework, the relevant Policies from the CS nor the LP provide further detail on the term 'disproportionate additions'. As a guide, LP Saved Policy 22 indicates that the extended building should not result in an increase of more than 130% of the floor area of the original dwelling. The appellants indicate that the proposed extension would represent around a 28% increase of the floor area of the original dwelling which falls within the locally defined parameter of what is proportionate according to the Council.

6. The appeal property is on a relatively spacious plot and as such the extension would not appear overlarge, relative to the overall plot size. Given the site's location and mature landscaping along the front boundary, the proposal would only be visible over short distances when passing the site. Against this backdrop, the scale, form and siting of the proposed extension, set back and stepped down, would not appear significantly out of place or excessive in relation to the built form of the host property and would have a limited impact on the openness of the Green Belt. The use of matching materials and fenestrations would ensure the proposal would sit relatively unobtrusively against the built form of the main property and would limit any significant adverse impacts on the character and appearance of the area.

7. I have considered the Council's argument regarding the original permission for the appeal property (Ref 4/03038/16/FUL) and the removal of the Permitted Development Rights for extensions. Whilst this may be so, this does not justify withholding permission on these grounds. In any event, each application and appeal must be determined on its individual merits, which I have in this case.

8. Given the above factors, and in light of its overall size, I consider that the proposed garage extension would not be a disproportionate addition and so would fall within one of the exceptions listed in the Framework. Consequently, I conclude that the proposal would not constitute inappropriate development in the Green Belt and would be consistent with CS Policy CS5 and LP Saved Policy 22 and the aims of the Framework.

Conditions

9. Having regard to the Framework, in particular paragraph 55, in addition to the standard time limit condition, I have specified the approved plans as this provides certainty. In order to protect the character and appearance of the area, I have imposed a condition requiring matching external materials.

Conclusion

10. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

Our Reference: 4/01287/19/FUL

PINS Reference: APP/A1910/W/19/3239104

Smallgrove Farm
Windmill Road
Pepperstock
Hertfordshire
LU1 4LQ

Procedure: Hearing

Decision

1. The appeal is allowed, and planning permission is granted for conversion of existing dwelling into three new dwellings, and internal layout changes at the Site Of Smallgrove Farm, Windmill Road, Pepperstock LU1 4LQ in accordance with the terms of application Ref: 4/01287/FUL dated 24 May 2019, subject to the conditions set out in the attached schedule.

Background

2. The appeal site once accommodated a complex of Grade II listed farm buildings in a courtyard arrangement. Following a fire in 1996 and partial demolition in around 1998 they were de-listed. Planning permission was granted (Ref 4/00995/12/FUL) to replicate a substantial part of the original courtyard layout, with a reduced footprint of buildings across the site (herein the 2012 permission). The operational development for the 2012 permission is mostly complete. It includes a main farmhouse and other ancillary or annexe residential accommodation, together with offices, stables and agricultural machinery storage. A section 106 agreement dated 24 October 2013 (herein the legal agreement) requires the main dwelling shall only be occupied by a person or persons employed or last employed in agriculture.

3. The development subject of the appeal proposes (amongst other things) a conversion of the approved farmhouse and annex accommodation to three independent dwellings and external alterations such as the removal of two chimneys, provision of a basement fire escape, and internal alterations to increase the amount of office accommodation.

Procedural Matters

4. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. There has been no clarification from the Council on the decision it would have made, if this appeal had not been submitted. However, the Council has provided an appeal statement setting out its main concerns. These concerns have been taken into account in considering the main issues.

5. The description of the development in the banner heading above is taken from the original planning application form. In the Statement of Common Ground (SoCG) the parties agreed a revised description of 'Conversion of existing dwelling into three new dwellings. Internal layout changes'. Subject to a grammatical amendment, I have considered the appeal on the basis of this description.

6. The development subject of this planning application has already commenced, which was apparent from my site visit. I have considered the appeal on this basis. The parties agreed that due to the limited nature of the differences in operational

development between the 2012 permission and the appeal proposal, the 2012 permission remains available as a fallback position. Based upon the information and evidence before me, I see no reason to disagree.

7. There are three other current planning appeals relating to part of the appeal site (Refs APP/A1910/C/19/3226323, APP/A1910/C/19/3226324 and APP/A1910/C/19/3226325). They all relate to the same Enforcement Notice (EN) issued on 11 March 2019. They remain undetermined at the present time. The ENs allege unauthorised engineering works, that are understood to include excavation arisings from the works to construct the appeal site buildings, which may include contaminated material. That material is also understood to be the subject of outstanding requirements of a remediation scheme attached to the 2012 permission. I shall return to this matter later.

8. At the hearing the Council made me aware of a new draft local plan, however, they were unable to provide its relevant policies. The Council advised me that the approach to the Green Belt was likely to remain the same as in the present policies.

9. The Council's initial publicity for the hearing did not set out the information required of it by the Secretary of State, under Rule 7(5) of the Town & County Planning (Hearings Procedure) (England) Rules 2000 (2000 No. 1626). It omitted the correct time and how to engage in the hearing as a virtual event. The Council sent out a subsequent letter which provided the necessary information but did not give the specified notice period in advance of the event. Following discussion with the parties I am satisfied that, having regard to the nature and content of representations, proceeding with the hearing did not result in a significant risk that an interested party would be prejudiced because they did not know about the event.

Main Issues

10. The main issues are: • whether or not the development is inappropriate development in the Green Belt; • whether the development would be in a suitable location, having regard to the accessibility of services and facilities; • whether the development can provide suitable living conditions for future occupiers with particular reference to noise and disturbance; • whether the development would result in the loss of a rural worker's dwelling; and, • if the development is inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal. Reasons Inappropriate development

11. 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. The parties agree the development comprises the re-use of buildings of permanent and substantial construction. This is not inappropriate development under paragraph 146 (d), provided that the development preserves openness and does not conflict with the purposes of including land within it.

12. Paragraph 134 of the Framework sets out five purposes of the Green Belt. The Council is of the view the development conflicts with paragraph 134(c) which states that one purpose is to assist in safeguarding the countryside from encroachment. The Council's view is due to the increase in dwellings and office space which would not be for agricultural use. The parties set out differing views of the number of dwellings and uses permitted at the appeal site, based upon different plans and documents associated with the 2012 permission.

13. The appellant is of the view the main dwelling is 'Farmhouse 3' on Plan 2 of the legal agreement and the buildings labelled 'Farmhouse' and 'Farmhouse Use' are two separate annex areas, capable of occupation by the appellant's family. Notwithstanding the appellant's concerns in respect of differences between the draft and engrossed version of the legal agreement, it is signed and engrossed and covenant 3.1.2 only refers to an 'annex'. Additionally, Farmhouse 3 and Farmhouse do not appear separated by an internal wall on Plan 2.

14. Approved plan/drawing 2555/08 Rev D provides a detailed floor plan that shows Farmhouse and Farmhouse 3 as one large dwelling with 5 bedrooms and one kitchen. Approved plan/drawing 2555/12 Rev B shows the area listed as Farmhouse Use as two separate en-suite bedrooms. These plans are the approved plans listed in condition 18 of the 2012 planning permission. I agree with the Council, that these show the approved accommodation. Therefore, the development increases the number of residences from 2 to 3, and overall bedrooms from 7 to 10.

15. The appeal proposal increases office space within an existing building. It is accommodated by reducing the size of related kitchen, toilet and storage facilities. Covenant 3.1.4 of the legal agreement states the use is set out in the planning application and on plan 1 and plan 2 of the agreement. The plans show them each as 'office'. I do not have all the application documents before me. The business plan (April 2011) accompanying the 2012 application refers to one space to be used as a farm office but that is smaller than the approved office areas. The plan in the business plan, however, does not show the correct layout.

16. Condition 3 of the 2012 permission requires the buildings in the Proposed Layout Plan shall only be for their approved purposes. However, none of the plans before me appear to be titled as such. The description to development of the 2012 permission is not conclusive. Therefore, based upon the evidence before me, the two 'office' areas are not restricted for a use ancillary to the agricultural business. The appeal development would increase the amount of B1 office space, and it would conflict with the purposes of including land within the Green Belt.

17. Policy CS5 of the Dacorum Borough Core Strategy (September 2013) (the Core Strategy) is consistent with the Framework in so far as it requires the application of national Green Belt policy. This part of the policy attracts full weight. However, in requiring small-scale development to have no significant impact on the character and appearance of the countryside and support the rural economy and maintenance of the wider countryside, criteria d) of CS5 sets a higher bar than the Framework. This reduces the weight I give that part of the policy.

18. Paragraph 145 of the Framework states the construction of new buildings should be regarded as inappropriate unless they are a type of building identified under a list

of exceptions. Given the term 'building' can include any structure or erection, the walling and fencing (enclosures) can be considered buildings. As they would enclose some non-agricultural buildings, they would not fall under the list of exceptions in the Framework. Most would also be located on previously developed land. My findings on the effect on Green Belt openness, will therefore determine whether or not the fencing is inappropriate.

19. The parties agreed to the imposition of a condition to ensure that the proposed enclosures would be no greater in linear meters to those approved in the 2012 development. Given their function and the proposal layout, it is likely that they would be similar in height and location to those previously approved. Overall, I am satisfied that they would be likely have a neutral effect upon openness. In addition, of the physical difference to the main buildings, the basement steps and void are the largest physical element, although most of it is below ground level. The two chimneys to be removed appear collectively smaller but are visually prominent. On balance, taking into account the visual and spatial effects of the changes to the main buildings, they have an overall neutral effect on the Green Belt.

20. However, in considering paragraph 146(d) of the Framework and whether the scheme would preserve openness in its entirety, the increased number of private residences and bedrooms would be likely to increase the number of households, occupiers and groups of occupiers at the site. This is likely to result in reduced dependence on shared travel. It would be likely to result in an increase in the number vehicle movements and associated vehicular parking. It could include comings and goings by private cars, the delivery of purchases and social visitors. Such movements would also be likely to be increased further by the increased office space. It is understood that each dwelling would benefit from an outdoor amenity space. Three households would be likely to result in increased residential paraphernalia such as garden sheds/refuse storage areas and associated domestic activity. Having regard to the scale and nature of increases, the impact from such activities would be small, but still result in a negative impact upon openness.

21. Therefore, the development would result in suburbanisation of the appeal site and a greater impact on openness, both in spatial and visual terms. The development is therefore inappropriate development in the Green Belt. In this regard, it would conflict with Policy CS5 of the Core Strategy and the Framework in so far as it states that inappropriate development is, by definition, harmful to the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt. Services and facilities

22. The appeal site is located approximately 1.2km to the south of the nearest villages of Pepperstock and Slip End and 1.4km to the east of Markyate. The nearest schools are at Slip End and Markyate. There is understood to be a farm shop type business and a bus stop around 750m away, although by the appellant's admission many goods can and are delivered to the appeal site. Approximately 750m would be walkable or cyclable by those of an adequate level of fitness and competence. However, the roads outside the appeal site (e.g. Windmill Road and Pepsal End Lane) appeared single track national speed limit unlit roads with limited verges for refuge to pedestrians or cyclists.

23. Markyate is a large village with only a limited number of facilities necessary for day to day living (e.g. a hairdresser, takeaways, a small store, pubs and a primary school). For many professional services, clothes shopping, medical facilities and wider employment and educational opportunities, prospective residents would be dependent upon Harpenden and Luton. These are in excess of 3km away. Given the nature of the highways and distances, journeys to these centres would not be likely to be particularly attractive for pedestrians or cyclists, even for those confident and fit enough to manage the journey.

24. Although the appellant suggested there are some local bus services, I have not been provided with the nearest stopping points, duration and frequency of journeys. It is likely that occupiers would tend to rely upon a motor vehicle for journeys to the majority of services and facilities. This would add up to a significant number of vehicular miles per year. While this is not necessarily unusual in rural locations, it would nevertheless be in conflict with paragraphs 102 and 108 of the Framework which encourages development to take place where the fullest use of walking, cycling and public transport can be made. Living conditions

25. Paragraph 182 of the Framework requires decisions ensure development can be integrated effectively with existing businesses and facilities. Such facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or facility could have a significant adverse effect on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed. Whilst the original farm pre-existed the shooting club, there was a significant break in occupancy of the site, and the approved development does not pre-exist the club.

26. The shooting ground premises lies approximately 350m to the north west of the appeal site. Although the residential dwellings would not occupy a greater amount of overall floorspace, the development would increase the number of dwellings and therefore receptors in close proximity to the appeal site. Although the appellant explained the main shooting area is around 700m from the appeal site, there were no plans before me that defined areas or zones within the ground, where shooting either can or cannot take place.

27. The appellant's assessment suggests that shots from the ground raise noise levels by between 0.8 dB – 1.9 dB above the ambient noise levels, resulting in external noise levels of between 46 – 49 dB. However, these were not taken from noise monitoring equipment of a sufficient specification and accuracy. Furthermore, the Council suggested that for such noise assessments background noise levels are the correct parameter and not the ambient levels.

28. Over the duration of my visit, several loud shots were being fired at short intervals. At that time the wind appeared to be coming from the direction of the shooting ground. Notwithstanding the appeal site being above the valley in which the shooting ground is located, the intervening tree cover, the background noise environment (including proximity to the M1), and the insulative properties of the building, the noise levels at my visit were loud and frequent and likely to result in some harmful living conditions for future occupiers. The number of annual events of

the intensity I witnessed (or of a greater intensity) is not clear, neither are the restrictions for such events.

29. The Council advised that a noise assessment submitted with an application for residential development at an albeit closer property (known as Doon Brae) had found noise levels of 62 dB. By the Council's estimation similar conditions would result in noise levels of around 58 dB at the appeal site. This did not appear unrealistic. Based upon the findings and mitigation measures in that scheme, this development could be made acceptable.

30. Therefore, subject to the imposition of a suitable planning condition to provide the necessary noise assessment and mitigation measures, the development could be made compliant with paragraph 182 of the Framework. I am satisfied that such a condition as put forward and discussed at the hearing meets the six tests set out in paragraph 003 Reference ID: 21a-003-20190723 of the National Planning Practice Guidance. Loss of an agricultural dwelling

31. The July 2011 business plan (accompanying the 2012 application) provided the Council with sufficient justification to conclude the development met Local Plan policies in respect of replacement dwellings in the Green Belt and demonstrated very special circumstances. This was subject to a restricting the dwelling to that of an agricultural worker. The Council advised that there are different policies relevant to the current proposal.

32. There is no planning condition restricting the occupation of the dwelling to a rural worker. The restriction is set out in clause 3.1.3 of the legal agreement. It requires the approved single dwelling shall be only occupied by a person or persons employed in agriculture. However, it does not require the person has to be solely or mainly employed in agriculture. Therefore, to meet the requirements of the obligation a minimal level of employment in agriculture would be necessary. Furthermore, there does not appear to be a geographical restriction. Therefore, the development would not result in the loss of a rural worker's dwelling.

33. I note the Council's desire for, and perceived benefits of, an agricultural occupancy restriction, including compliance with Policy CS5(ii) of the Core Strategy and the three tenets of sustainable development set out in the Framework. There is no firm evidence before me that such properties are in short supply in the local area, although it would have contributed to the overall stock. However, the wording of the suggested condition would impose a considerably greater restriction than set out in the extant planning obligation. The requirements of CS5(ii) also appear to set a higher bar than the Framework and so conflicts with Green Belt policy in the Framework. The Council suggested that without the agricultural tie the development would not be fully compliant with paragraph 79 of the Framework. However, 79 (d) does in principle permit the subdivision of existing dwellings. Other considerations

34. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development would result in inappropriate development within the Green Belt resulting in a loss of openness. While the loss would be limited in the context of the

Green Belt as a whole, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

35. There is planning permission for an existing approved development that is substantially complete and has already provided a benefit to the openness of the Green Belt, through reducing overall built development by approximately 270 sqm.

36. Special circumstances highlighted by the appellant relate to the viability of the development. The appellant considers the approved development is not viable in its current form and the development may not be delivered. This is principally because the occupancy restriction constrains the ability to raise finance to complete the development. It is contended the appellant is subject to considerable interest payments and restricted in the loan to value ratio because of the presence of the occupancy restriction. The appellant's valuation report suggests an initial interest rate of 10.5% and a reduced rate of 6.5%. It also suggests a value in excess of £3,200,000. However, the projected profit from the farm business would only be around £25,000 per year. These all raise significant doubts as to the viability of the approved development. There is no evidence before me to suggest the appellant's concerns are not well founded.

37. Without allowing this appeal development the future delivery of the original aims may not be delivered. This would prejudice the re-building of a historic farm complex that was home to the appellant's great grandmother before the fire, in traditional materials and vernacular that has had a significant standing in the local community, the heritage of the area. The Council agreed this is a benefit to the current development.

38. The requirement for a biodiversity management plan on the 2012 planning permission was considered to be a positive element of that proposed development. The nature of any approved scheme and its implementation is not before me. However, imposing the condition before me for this new development would ensure that the benefit would be carried forward.

39. The Council made it clear that it cannot deliver a 5 year housing land supply. However, the Council has been unable to confirm the level of the shortfall. The development would make a contribution to supply through the provision of an additional two dwellings. This attracts weight in favour of the development. The appellant considers this triggers the presumption in favour of sustainable development under paragraph 11d) of the Framework. However, the Green Belt is a protected area under footnote 6, so the tilted balance does not apply.

Other Matters

40. The parties agreed the development would not have an adverse impact on the character and appearance of the area. I see no reason to disagree. Therefore, the development does not conflict with Policy CS12 of the Core Strategy.

41. The Council's contaminated land adviser proposed detailed planning conditions to ensure that any contamination on the site is investigated and is dealt with in accordance with an approved remediation scheme. The 2012 permission was subject of similar conditions which have now been partly implemented as the site has

mostly been developed. The material removed from the site is understood to be located on the land subject of the Enforcement Notices within the appeal site. Both the parties agreed it was necessary to impose a planning condition to secure the uncompleted part of the 2012 remediation scheme requirements. I have been provided with a planning condition to this effect. I am satisfied that the nature of the condition also would not prejudice the outcome of the EN appeals.

42. The Grade II* listed Bonners Farmhouse and Grade II listed Barn at Bonners are located opposite and east of the site access, approximately 85m north of the recently constructed farm buildings. The buildings derive their significance from their well-preserved historic architectural features such as their timber frames, steep red tiled roofs, doors, large chimney and casement windows. They also have value as a small group of buildings. Their wider landscape setting is considered to make a small contribution to their significance.

43. There is mature vegetation along Windmill Lane and surrounding the site access that provides a thick physical boundary and highly limits any intervisibility between the designated heritage assets and the appeal site. The parties agreed that the proposed development would not adversely affect the setting of the heritage assets. I am satisfied that the topography of the land and vegetation and the minimal physical changes as a result of the development, means the development does not affect the setting or significance of the heritage assets.

Planning Balance

44. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The policies of the Framework are material considerations.

45. The appeal proposal amounts to inappropriate development and would result in harm to the openness of the Green Belt. This would conflict with Policy CS5 of the Core Strategy and the Framework. This attracts substantial weight. The development would not be well located in terms of access to services and facilities and would conflict with the Framework in this regard. This attracts weight against the proposal. The development would have a neutral effect upon the character and appearance of the area, which attracts neutral weight.

46. There is an existing 2012 planning permission, to which I attribute significant weight. The development would result in the provision of two additional dwellings. The precise shortage of 5 year deliverable housing land supply is unclear, but even if it were very acute, it would be a moderate benefit which attracts moderate weight in favour of the scheme. The development would also result in the project having a greater viability. This would ensure the benefits to the historic environment and aims of the 2012 permission are fulfilled. These benefits attract significant weight in favour of the scheme.

47. In this case, I consider that the harm by reason of inappropriateness and the harm to the openness, are clearly outweighed by the other considerations I have identified. These amount to the very special circumstances necessary to justify the proposal.

Conditions 48. As the development is retrospective, it is not necessary to impose a condition in respect of commencement. It is necessary to specify a condition for compliance with the approved plans for the avoidance of doubt and because there are still significant construction works to be undertaken. A condition to assess noise and secure noise mitigation is necessary to ensure the development results in acceptable living conditions for the occupiers of the development hereby permitted. This should be secured within 3 months of the date of this decision to limit the duration over which any current occupiers may have to endure unsatisfactory living conditions.

49. A condition for the provision of a surface water drainage scheme is necessary to ensure that the site is subject to an adequate drainage system serving the development in accordance with Policy CS31 of the Core Strategy. The appellant has suggested this has not changed from the previously approved scheme. However, this is not before me. The Council proposed that surface water and noise mitigation shall be submitted prior to the commencement of the development, however, this is not possible as the development has already commenced.

50. Notwithstanding rights being limited within the appeal site, a condition is necessary to withdraw agricultural permitted development rights under Part 6 of the General Permitted Development Order (2015) in the interests of preserving the openness of the Green Belt.

51. Conditions to secure the completion remediation works for contaminated land are necessary to ensure the risks from contamination are addressed to prevent harm from pollution in accordance with Policy CS32 of the Core Strategy. The full findings in relation to the existing approved scheme are not before me. Therefore, in the interests human health this matter should be dealt with prior to the occupation of the proposed dwellings. The appellant considers suggested condition 6 is not necessary because it is a matter dealt with under the Environmental permitting regime. However, I have not been provided with the details of that permit, and furthermore, the condition as proposed relates to verifying the scheme approved under condition 5. Therefore, the condition meets the test of necessity.

52. The submission, approval and implementation of hard and soft landscaping schemes are necessary in the interests of the character and appearance of the area and the openness of the Green Belt. The appellant suggests that a previous planning condition in respect of a Biodiversity Management Plan was approved and discharged. However, any outstanding requirements would not be carried forward as part of this permission. Therefore, such a condition is necessary to ensure the development results in an overall benefit to biodiversity in accordance with Policy CS29 of the Core Strategy, paragraph 170 of the Framework, and as proposed in the 2012 development. I have omitted the reference to the site plan suggested by the Council, as the condition to which that plan related is no longer proposed.

53. Conditions 5 – 9 below may relate to land subject of extant enforcement notices. However, the conditions roll forward pre-existing outstanding requirements set out in the 2012 planning permission and are not considered to have a materially differing effect on the outcome of the EN appeals. The Highway Authority has suggested informatives in respect of the deposit of materials and obstruction of the highway.

However, these matters are the subject of the 1980 Highways Act. Therefore, they are not necessary.

54. The parties agreed a condition to secure the submission of a business management plan for approval and implementation thereafter, in the SoCG and the Hearing. However, the previous development only required a minimal level of agricultural employment that would not have needed to have been at the premises, such that I have found the development would not result in the loss of an agricultural workers dwelling. Such a business plan condition would be unduly restrictive and could prevent the future diversification and evolution of the agricultural business. It would conflict with paragraph 83 of the Framework, which requires planning decisions should enable the development and diversification of agricultural businesses. Therefore, it would not be reasonable or necessary.

55. In the SoCG the parties also agreed the submission of a plan to define the specified uses of all of the buildings. However, the uses are already set out in the approved plans set out in condition 1. Therefore, this condition is not necessary. For the reasons I have set out in the decision letter above, I have not included the agricultural occupancy condition.

Conclusion 56. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal should be allowed, and planning permission is granted.

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following plans: 2035 L01; 2035 L04; 2035 L05; 2035 L06; 2035 L07; 2035 L11; 2035 L30; 2035 L31; 2035 L32; 2035 L33; 2035 L34; and, 2035 L35.

2) Within 3 months of the date of this permission, a noise report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include an assessment of the likely impact on the residential occupation of the dwellings due to noise arising from the activities associated with the nearby commercial business, currently known as Atkin, Grant & Lang. Where an adverse impact is identified, the assessment shall identify the severity of the adverse impact and specify a suitable scheme of mitigation which secures an acceptable level of amenity in respect of the residential use in perpetuity. The report and scheme of mitigation shall be compiled by appropriately experienced and competent persons. The approved scheme of mitigation shall be implemented in full within 6 months of the date of approval.

3) Within 3 months of the date of this permission, details of surface water drainage works and a timescale for their implementation shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include an assessment of the potential for disposal of surface water by means of a sustainable drainage system. Where a sustainable drainage system is to be provided, the submitted details shall include: (a) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; (b) A timetable for its implementation; and, (c) A

management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The development shall be carried out fully in accordance with the approved details.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or re-enacting that Order with or without modification) there shall be no development under Part 6 (Agriculture and Forestry) Class A on the site of the farm without the prior written approval of the Local Planning Authority. The extent of the farm will be based upon a site plan that shall have been submitted to and approved in writing by the Local Planning Authority within 6 months following the first occupation of any dwellinghouses.

5) No dwellings hereby permitted shall be occupied, until work required by Remediation Report reference 10995 and dated February 2016 which was required as part of planning permission 4/00995/12/FUL (and subsequently Appeal Decision APP/A1910/W/19/3239104 <https://www.gov.uk/planning-inspectorate> 12 approved under application 4/02295/15/DRC) shall have been completed in accordance with the approved scheme. For the avoidance of doubt, the outstanding required work is; (c) Implementation of Approved Remediation Scheme The approved remediation scheme must be carried out in accordance with its terms prior to the residential occupation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and approved in writing by the Local Planning Authority. (d) Reporting of Unexpected Contamination In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part (a) of condition 10 of permission Ref 4/00995/12/FUL and the approved scheme under that condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part (b) of condition 10 of permission Ref 4/00995/12/FUL and the approved scheme under that condition, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition (c) above.

6) No dwellings hereby permitted shall be occupied until: (i) All works which form part of the Remediation Method Statement report pursuant to the above condition have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme. (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to and approved in writing by the Local Planning Authority.

7) Within 6 months of the date of this decision, a scheme for full details of both hard and soft landscaping, including a scheme for enclosures, shall have been submitted

to and approved in writing by the Local Planning Authority. The enclosures (including fencing and walls) shall not amount to an increase in linear metrage than those which were approved under permission 4/00995/12/FUL and shown in the plan approved under that permission - 2555/9 Rev A. The development hereby permitted shall be carried out in full accordance with the approved hard landscaping scheme within 12 months of the date of approval. Thereafter all the approved hard landscaping shall be retained.

8) The approved soft landscaping scheme subject to Condition 7 of this permission shall be carried out by the end of the first full planting season following its approval. Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of the same species, size and maturity.

9) Within 6 months of the date of this decision a Biodiversity Management Plan including a timetable for implementation, shall have been submitted to and approved in writing by the Local Planning Authority. The Biodiversity Management Plan shall be carried out fully in accordance with the approved details with reference to the above timetable.

Our reference: 20/00043/FUL

PINS Reference: APP/A1910/W/20/3245645

Land adjacent to 26 Station Road

BERKHAMSTED

HP4 2EY

Procedure: Written Representations

Decision

1. The appeal is allowed and planning permission is granted for the construction of two 3-bed semi-detached dwellings at land adjacent to 26 Station Road, Berkhamsted, Hertfordshire HP4 2EY in accordance with the terms of the application, Ref 4/00528/19/FUL, dated 4 March 2019, subject to the following conditions in the schedule to this decision letter.

Application for costs

2. An application for costs was made by Rivergate Homes Ltd & Paul and Elizabeth Rooksby against Dacorum Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Councils decision notice describes the proposal as the construction of two 3-bed semi-detached dwellings. I also note that the Appellant has utilised this description on their appeal form. Given this, and that the revised description reflects the proposal before me, I have utilised this for my decision.

Main Issue

4. The main issue is whether the proposal would provide for suitable living conditions for the future occupiers of the development.

Reasons

5. The appeal site is located on the north side of Station Road and is currently an undeveloped parcel of land. The land rises away from the road with a row of trees to the rear. Beyond the row of trees is the West Coast mainline railway line which is set at a lower land level than the trees. On the south side of Station Road there are residential properties.

6. My attention has been drawn to a previous appeal decision¹ at this location, which was for a similar development, albeit on a smaller site than the current appeal proposal. In summary, this appeal was dismissed on the basis that it provided insufficient functional garden space for the future occupants of the dwellings.

7. The current appeal proposal is similar in that the development would still be for two dwellings which would be sited a similar distance back from the street and the rear boundary. However, the width of the site has been increased so that additional garden space would be provided to the side of each dwelling.

8. From the Appellants statement, the side garden for each dwelling would be around 100 square metres in area, with a further area of around 32 square metres to the rear of each dwelling. Therefore, given the size of the appeal dwellings it is clear that the amount of space would be sufficient for the future occupiers of the development.

9. In coming to that view, I acknowledge that the rear garden space is somewhat limited and constrained by land level differences. However, given the level of garden area to the side, I consider that this is not a factor which indicates that planning permission should be withheld. Additionally, it must also be acknowledged that there are rooms to the rear of the dwelling which are dual aspect with windows or doors facing the side garden area. The other rooms with rear facing windows are either non-habitable rooms or have windows to both the front and rear aspect thereby ensuring that there is a sufficient amount of light and outlook to these rooms.

10. The Council have drawn my attention to Appendix 3 of the Dacorum Borough Local Plan 1991-2011, (2004) (DLP) which states that private gardens should normally be positioned to the rear of the dwellings. However, this does not indicate that gardens to the side would be unacceptable per se and therefore each case must be considered on its individual merits. The key issue is therefore whether such a side garden would provide an appropriate space which affords a sufficient degree of privacy.

11. The plans indicated that the side garden area would be largely set at the same finished floor level of the dwellings themselves with a terraced garden/retaining structure towards the rear of the site. I am also conscious that the plans indicate some form of screening of the garden area from the streetscene which would provide the necessary level of privacy for the future occupants of the dwellings.

12. Whilst I agree that a fence of a sufficient height to provide such privacy would not necessarily be acceptable given the location of the public parking (and the fact that the site is within a Conservation Area), I am conscious that a fence is not the only method of providing such a screen. One such alternative method could be the provision of a suitably designed wall. Taking this into account, the exact details of the necessary screening could be secured by a suitably worded planning condition should I be minded to allow the appeal.

13. In terms of the visual aspects of the acoustic fence, it is an inescapable fact that this would be in an elevated position in relation to the garden and dwellings themselves. However, given the amount of garden space to the side, and the dual aspect habitable rooms, I consider that this is not so harmful to justify the withholding of planning permission on this ground.

14. In addition to the above, I have considered the proximity of the railway line to the rear of the site and the noise and vibration issues which may arise. However, as acknowledged by the Council, these matters can be addressed by suitably worded planning conditions. Furthermore, and from what I observed on site with passing trains (including freight trains which are likely to cause greater noise and vibration issues), I consider that any such concerns can be addressed in this manner.

15. The Council have suggested that as a result of the harm they considered would arise in respect of the future living conditions of the occupiers of the proposal it would constitute an overdevelopment of the site. However, given that the proposal easily provides for all the facilities one would expect for such a development this cannot be the case.

16. Finally, I have also considered the proximity of the trees to the rear of the site and whether the development would result in any undue pressure for their removal or reduction in size. In that sense, I consider that the amenity areas would be provided with sufficient sunlight and daylight given the position of the trees in relation to sunrise through to sunset. Furthermore, whilst the dwellings themselves would be close to the trees, in this case, I consider that the relationship between the dwellings and the trees themselves is not unacceptable.

17. The Council have referred to Policy CS12 of the Dacorum Core Strategy 2006-2031 (2013) in their reason for refusal. However, this policy does not concern itself with the living conditions of the future occupants of a development. As such I find that there is no conflict with it.

18. For the above reasons the proposal would provide suitable living conditions for the future occupants of the dwelling and it would accord with the National Planning Policy Framework and the aims of Appendix 3 of the DLP which seeks to ensure that new housing developments are provide with suitable amenity space. Other matters

19. As noted above, the appeal site is located within the Berkhamstead Conservation Area (BCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the character or appearance of the Conservation Area. That said, the Council have not identified any harm to the character or appearance of the BCA and

from the evidence before me (and what I observed on site) I have no reason to disagree with that assessment.

20. I have also had regard to the representations made by local residents and other interested parties including matters relating to the traffic and parking characteristics in the area. At my site visit, I observed that there were a large amount of cars parked on street and across the site frontage. Whilst my visit was only a snapshot in time, I have no reason to conclude that this was not a typical occurrence.

21. That said, whilst it is clear that larger vehicles would struggle to traverse this section of the road, the appeal proposal would provide for a better more formalised parking area on that side of the road together with a pedestrian footpath. To my mind, this would improve the current situation. Furthermore, the introduction of two additional dwellings, each with their own off-street parking provision, would not introduce a significant amount of additional traffic.

22. Taking all of this into account I consider that the traffic and parking characteristics of the area, and how the development would impact on them, does not provide a compelling reason why planning permission should not be granted.

Conditions

23. The Council has suggested a number of conditions that it considers would be appropriate and I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording, including combining some of the suggested conditions to avoid duplication.

24. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.

25. In the interests of the character and appearance of the area (including the BCA) conditions are necessary in relation to the external materials of the development, details of the fenestration and eaves, landscaping, tree protection measures and slab levels.

26. In the interest of highway safety, conditions are necessary in relation to the provision of parking spaces. In the interest of highway safety and in order to protect the living conditions of the occupiers of nearby residential properties during the construction process, a construction management plan (CMP) condition is necessary. In respect of the living conditions of the future occupiers of the development, a condition is necessary in respect of noise mitigation measures.

27. For environmental reasons, conditions relating to contaminated land matters are also necessary. For nature conservation reasons, a condition relating to a method statement for the translocation of any common lizards from the application site is also required.

28. With the exception of the conditions relating to the CMP, contaminated land matters, lizard translocation and tree protection measures, it is not necessary for any of these to be pre-commencement conditions. It is however necessary for these

matters to be agreed prior to any works commencing as they involve matters which relate to the period of construction works or could affect the initial site works.

29. In relation to the suggested condition restricting permitted development rights, given the Conservation Area status of the site I consider that there is no need to remove the rights from Class A which still apply. Furthermore, I consider that it is not necessary to remove rights relating to other roof alterations or means of enclosure.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

SCHEDULE OF CONDITIONS

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

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 26SR/5 revision B; DPL/19/06-1 and DPL/19/06-2.

3) No development above slab level shall take place until samples and / or details of the materials proposed to be used on the external walls and roofs of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The approved materials shall be used in the implementation of the development.

4) No development above slab level shall take place until full details of the design of the eaves joinery and corbelling detail, and all new windows, roof lights, external doors and openings (including materials, finishes, cills, window headers and vertical cross sections through the openings at a scale of 1:20) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

5) No development shall take place until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. The assessment shall include: i) a survey of the extent, scale and nature of any contamination; ii) the potential risks to: • human health; • property (existing or proposed) including buildings, pets, woodland and service lines and pipes; • adjoining land; • ground waters and surface waters; and • ecological systems.

6) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the

Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out. Upon completion of the approved remediation scheme a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority prior to the first occupation of either dwelling.

7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

8) Notwithstanding the submitted details, no development above slab level shall take place until full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include: i. hard surfacing materials; ii. means of enclosure (including those necessary to ensure that the side gardens are a private amenity space); iii. soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; iv. Biodiversity features such as bat boxes; v. proposed finished levels of the site; vi. proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines, manholes, supports etc); vii. arrangements for how surface water from the site will be intercepted and disposed of separately so that it does not discharge into the highway.

9) All hard landscaping shall be completed prior to the first occupation of the dwelling it relates to and soft landscaping, including planting, seeding or turfing comprised in the approved details of landscaping, shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling it relates to or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

10) No construction works shall take place until details of the proposed slab and finished floor levels of the building in relation to the existing and proposed levels of the site and the surrounding land shall have been submitted to and approved in writing by the local planning authority. The buildings shall be constructed in accordance with the approved levels.

11) Prior to the first occupation of each dwelling, the new access and parking spaces relevant to that dwelling shall be provided in accordance with the approved details and shall be maintained as such for the life of the development.

12) Prior to the first occupation of either of the dwellings hereby approved, details of the how the parking spaces across the site frontage will be implemented and

maintained shall be submitted to and approved in writing by the local planning authority. The parking spaces shall be implemented in accordance with the approved details prior to the first occupation of either dwelling.

13) No development shall take place (including any site clearance works) until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of : i. the parking of vehicles of site operatives, contractors and visitors; ii. loading and unloading of plant and materials; iii. storage of plant and materials used in constructing the development; iv. construction access arrangements; v. wheel washing facilities; vi. measures to control dust and dirt during construction; The construction works shall only be carried out in accordance with the requirements of the CMP.

14) Prior to the first occupation of the either of the dwellings, a 2 metre high acoustic fence shall be erected along the northern, eastern and western boundaries of the site. This barrier will be imperforate, have a minimum surface density of 10kg/m² and shall be retained as such for the life of the development.

15) No development above slab level shall take place until an alternative ventilation scheme to protect each habitable room from railway noise has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented to each dwelling prior to its first occupation and shall be maintained as such for the life of the development.

16) No development shall take place (including any site clearance works) until a detailed method statement for the translocation of any common lizards from the application site has been submitted to and approved in writing by the local planning authority. The statement should include details of the proposed receptor site; its current condition and the management required to maintain and enhance the receptor site to ensure it remains in a condition sufficient to support the translocated population for at least the following 5 years, consistent with their otherwise continued presence at the development site, and a timescale of when the translocation would take place in relation to the development.

The development shall only be carried out in accordance with the approved method statement.

17) No development shall take place (including any site clearance works) until a scheme for the protection of the retained trees shown on drawing no. DPL/19/06-1, including a tree protection plan (TPP) and an arboricultural method statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the

- i. Details of construction/excavation within any root protection area that may impact on the retained trees;
- ii. location and installation of services/ utilities/ drainage; and

iii. details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well as concrete mixing.

The development shall only be carried out in accordance with the approved scheme for the protection of the retained trees.

COSTS DECISION

Decision

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

Reasons

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

3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The Applicant acknowledges that the Councils Planning Committee are not compelled to follow the advice and recommendations of their Officers - but if they do not do so they have a duty to set out explicitly why they have chosen to disregard that advice in clearly stated reasons for refusal. However, it is submitted that the Council has not substantiated its reason for refusal and offers nothing more than uncorroborated assertions about the impact of the appeal proposal. The Council has not responded to the application for costs.

5. It is clear to me that a Planning Committee decision which goes against officer advice is not a reason to give an award of costs as the Committee were entitled to come to their own conclusions on the merits of the proposal. However, as noted by the Applicant, the key issue is whether the Council have provided sufficient evidence to substantiate their reason for refusal at appeal.

6. In considering development proposals, whether a particular scheme would provide suitable living conditions for its future occupants is clearly a matter of planning judgement.

7. In this case, the Council ultimately considered that the proposal would not provide a suitable living environment and this was further explained within their appeal statement, including reference to Appendix 3 of the Dacorum Borough Local Plan

1991-2011, (2004) which includes guidance that private gardens should normally be positioned to the rear of the dwellings.

8. Whilst I have found in favour of the Applicant in my decision, given the subjective nature of the matter in dispute, I find that the Council have provided sufficient evidence to support their judgement to the extent that they did not act unreasonably in refusing planning permission.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

APPEALS WITHDRAWN

None