The Planning Inspectorate

Appeal Decision

Hearing Held on 13 and 14 October 2020

Site visit made on 15 October 2020

by Harold Stephens BA MPhil Dip TP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/A1910/W/20/3247645
Caddington Hall, Luton Road, Markyate, St. Albans AL3 8QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr R Gill against the decision of Dacorum Borough Council.
- The application Ref 4/02140/19/MFA, dated 27 August 2019, was refused by notice dated 6 December 2019.
- The development proposed is the demolition of a former residential care home (C1), 2 detached dwelling houses (C3) and erection of a 3 storey building forming 14 x 1-bed, 34 x 2-bed dwellings (total of 48 dwellings of which includes 12 affordable housing apartments and 5 shared equity units) with basement, associated hard and soft landscaping, parking, bin store and main entrance gateway.

Decision

1. The appeal is dismissed.

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 Aboricultural 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.[1] 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.

[1] 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 1,824m^2, a gross external floor area (GEA) of 1,891m^2 and a volume of 8,209.98m^3. From the same Summary Table, the Proposed Development with Basement and Sheds would have a footprint of 3,608.44m^2, a GEA of 5,606m^2 and a volume of 17,629m^3. 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 (1,544.20m^2) 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.

AMENDED APPLICATION AS REFUSED

Proposed Footprint (PF1)	m2	% Above/Below Existing Built form	% Above/Below Agreed Devel	%Total Potential
Proposed	1,792.90	-2%	-30%	-34%
External Bin store	91.54	5%	4%	3%
Basement	1,544.20	85%	60%	57%
Garden Sheds	179.80	10%	7%	7%
Total proposed Devel	3,608.44	98%	41%	34%

Proposed - GEA (GEA1)	m2	% Built form	%Agreed	% Total Potential
Building	3,791.10	100%	44%	37%
External Bin store	91.54	5%	3%	3%
Basement	1,544.20	82%	59%	56%
Garden Sheds	179.80	10%	7%	7%
Total proposed Devel	5,606.64	196%	113%	103%

Proposed - Vol (PV1)	m3	% Built Form	%Agreed	% Total Potential
Building	12,445.00	52%	-4%	-8%
External Bin store	91.54	1%	1%	1%
Basement	4,632.60	56%	36%	34%
Garden Sheds	460.00	6%	4%	3%
Total proposed Devel	17,629.14	115%	36%	30%

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 744m^2 to the existing footprint/floor area and 4,758.79m^3 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 131m^2 to the footprint/floor area and 618 m^3 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, semi-open 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.[4] I have taken into account

[3] 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 terms

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

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.

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 pre-commencement 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

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.

Harold Stephens

INSPECTOR

APPEARANCES

For the Appellant

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Martin Crook	Director, MSC Planning Associates Ltd
David Lomas	Director, MSC Planning Associates Ltd
Alan Hooper	Managing Director, HAP Architects
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For Dacorum Borough Council

Sally Robbins	Lead Planning Officer, Development Management
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Interested Persons

Peter Styles	Local resident
Keith Wright	Consultant
Sheila Pilkinton	Markyate Parish Councillor
Jane Timmis	Borough Councillor