



Appeal Decisions

Site visit made on 15 April 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal A Ref: APP/A1910/X/24/3338702

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Ben Sterling of Kedgling Developments Ltd against the decision of Dacorum Borough Council.
- The application ref 23/01468/LDP, dated 14 June 2023, was refused by notice dated 16 August 2023.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which a certificate of lawful use or development is sought is insertion of two doors and internal layout changes.

Appeal B Ref: APP/A1910/W/23/3326421

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Ben Sterling of Kedgling Developments Ltd against the decision of Dacorum Borough Council.
- The application Ref is 22/03574/FUL.
- The development proposed is extension of existing dwelling to split into 4 dwellings.

Appeal C Ref: APP/A1910/W/24/3342737

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Ben Sterling of Kedgling Developments Ltd against the decision of Dacorum Borough Council.
- The application Ref is 23/02187/OUT.
- The development proposed is insertion of two doors and converting existing dwelling into four dwellings.

Appeal D Ref: APP/A1910/W/24/3343237

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Ben Sterling of Kedgling Developments Ltd against the decision of Dacorum Borough Council.
- The application Ref is 23/02188/OUT.
- The development proposed is Insertion of two doors and converting existing dwelling into five dwellings.

Appeal E Ref: APP/A1910/W/24/3349857

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ben Sterling of Kedgling Developments Ltd against the decision of Dacorum Borough Council.
 - The application Ref is 23/02399/FUL.
 - The development proposed is Conversion of existing dwelling into 3 dwellings with addition of a porch.
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Decision: Appeal A

1. The appeal is dismissed.

Decision: Appeal B

2. The appeal is dismissed.

Decision: Appeal C

3. The appeal is dismissed.

Decision: Appeal D

4. The appeal is dismissed.

Decision: Appeal E

5. The appeal is dismissed.

Applications for costs

6. Applications for costs have been made by Mr Ben Sterling of Kedgling Developments Ltd against Dacorum Borough Council. These applications are the subject of separate decisions.

Preliminary Matters

7. Appeals C and D were submitted for outline planning permission with all matters reserved, for the 'insertion of two doors and converting dwelling into four dwellings' and the 'insertion of two doors and converting existing dwelling into five dwellings' respectively. The power to grant outline planning permission is contained in section 92 of the 1990 Act and Article 5 of the Town and Country Planning (Development Management Procedure)(England) Order 2015 (the DMPO).
8. The DMPO defines outline permission as a planning permission "for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters". Reserved matters in relation to an outline planning permission means any of the following matters in respect of which details have not been given in the application (a) access; (b) appearance; (c) landscaping; (d) layout; and (e) scale.
9. The DMPO sets out that "outline planning permission" means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters.
10. The Act defines "building" as 'includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. The insertion of doors would, in my view, constitute the erection of a building and, as the Council has determined the applications on the basis that they are seeking outline planning permission, so shall I.

Appeal A

Main Issue

11. The main issue of the appeal is whether the Council's decision to refuse the certificate of lawfulness is well-founded.

Reasons

12. An application under section 192(1)(b) of the Act seeks to establish whether any operations proposed to be carried out in, on, over or under land, would have been lawful at the time of the application. Section 191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
13. The main thrust of the appellant's case is that the appeal property is a dwelling and benefits from permitted development rights and that the proposed works would be permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO). Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is firmly on the applicant to demonstrate on the balance of probabilities that the development would be lawful.
14. Planning permission 21/02796/FHA was granted on 22 October 2021 for the removal of garage, reduction in ground level to create a level garden (maximum reduction 1400mm) and construction of 8m split level rear extension. This permission has subsequently been amended by applications submitted pursuant to section 73¹ and section 96a² of the Act.
15. While I do not have full details of the approvals before me, the appellant does not dispute that the proposed works would not comply with plans conditions attached to the various approvals, rather the appellant suggests that insisting on an extension being built fully before permitted development rights apply is unreasonable. However, where a condition requires development to be carried out in accordance with approved plans, development carried out which is not in accordance with those plans would constitute a failure to comply with that condition.
16. Section 191(3) of the Act sets out that any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if: (a) the time for taking enforcement action in respect of the failure has then expired; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
17. If the proposed works would not be lawful because enforcement action in respect of the failure to comply with a condition may be taken, the fact that the proposed

¹ 22/02398/ROC was granted on 16 January 2023

² 21/04141/NMA was granted on 11 November 2021 and 23/01321/NMA was granted on 8 June 2023

works could lawfully be carried out once the development was completed in accordance with the approved plans does not overcome that.

18. The LDC application was made on 14 June 2023. The Council advise that a site visit carried out on 8 August, during which it was confirmed that the development was still under construction. The Council has provided photographs which show this to be the case. Indeed, the development was not completed at the time of my site visit. Consequently, at the date the LDC application was made, compliance with the relevant plans condition/s would still have been required.
19. The appellant suggests that the majority of extensions/new builds are built with some variation to the approved plans. However, this does not mean that the developments referred to are lawful, or that the local planning authority in question would be unable to take enforcement action. While a local planning authority may decide not to take enforcement action where a development does not accord with a plans condition, this will be a matter for the local planning authority concerned, given that enforcement action is discretionary.
20. The appellant has applied for an LDC and so while the Council has discretion over whether to take enforcement action or not because something does not fully accord with approved plans, the same latitude does not apply to an LDC. Either the development would be lawful at the date of the LDC application or it would not.
21. From the evidence provided, it appears likely that proposed works would not have been lawful at the date the LDC application was made, because it would have meant the development would not have been in accordance with approved plans, which would have constituted a failure to comply with a condition subject to which a planning permission has been granted.
22. I note the appellant's arguments that the only details required would be the size of the doors³, that the doors and internal works would not be development, that Articles 3(4) and 3(5) of the GPDO do not prevent the appeal from succeeding⁴ and the proposed works would comply with the conditions and limitations of the GPDO.
23. However, even if I were to find that the proposed works are not development for the purposes of the Act, that Article 3(4) does not apply⁵, or that Article 3(5) does not bite, the appeal cannot succeed because it has not been demonstrated that the proposed works would accord with the approved plans, as required by condition.
24. Thus, on the balance of probabilities, I find that, at the time of the LDC application, the insertion of two doors and internal layout changes would not have been lawful and so Appeal A must fail.

Appeal A: Conclusion

25. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the insertion of two doors and internal layout changes is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

³ Or that a condition could be applied that they are of similar appearance to the existing dwelling.

⁴ The appellant asserts that 'Planning Enforcement' confirmed that the works were lawful, however, no LDC confirming this has been provided.

⁵ I have set out my consideration of this matter in the associated Costs Decision Letter.

Appeals B, C, D and E

Background:

26. Appeals B, C, D and E all relate to 1 The Orchard, which previously comprised a detached bungalow. Although the appellant has carried out significant works at the site to increase the height of the building and to extend it to the rear, there is no suggestion that the works permitted (whether granted by express planning permission or by the GPDO), would allow the use of the building as two or more separate dwellinghouses⁶. Given the similarities between the different developments, I shall deal with them together.

Main Issues

27. The main issues of the appeals are:

- The effect of the appeal schemes on the character and appearance of the area;
- The effect of the appeal scheme on the setting of the Kings Langley Conservation Area and Church House, a Grade II listed building (Appeal B only);
- Whether the proposed dwellings would provide satisfactory living conditions for future occupants, having particular regard to outdoor amenity space; and
- The effect of the appeal scheme on parking provision (Appeal E only); and
- The effect of the appeal schemes on the Chilterns Beechwoods Special Area for Conservation.

Reasons

Character and appearance

28. The appeal site comprises a corner plot in a prominent location along The Orchard, a cul-de-sac, which is adjacent to the Kings Langley Conservation Area and Church House, a Grade II listed building. Properties along The Orchard generally comprise semi-detached two storey dwellings with modest front gardens, some of which are used for parking. Boundary treatments are typically low level, with vegetation in gardens giving a verdant character which makes a positive contribution to the character and appearance of the area.

29. The appeal site previously comprised a bungalow, which has since been extended upwards, to the side and to the rear. Various planning permissions have been granted at the site, with works to extend the appeal building were well underway during my site visit, though not completed. The main thrust of the appellant's case with respect to the appeals is that once approved works have been completed, the appeal site will have the same appearance as is proposed in the application.

30. Policy CS11 of the Adopted Core Strategy (2013)(the CS) seeks development which respects the typical density intended in an area and enhances spaces

⁶ Although it appears from the evidence that planning permission was granted on 27 January 2020 for the demolition of existing dwelling and outbuildings and construction of two 4-bedroom semi-detached dwellings, inconsistent planning permissions have been implemented and so it has lapsed.

between buildings and general character and policy CS12 of the CS seeks development which respects adjoining properties in terms of layout, landscaping and amenity space, amongst other things. Saved appendix 3 of the Dacorum Borough Local Plan (2004)(the DBLP) advises that proposals should respect the character of the surrounding area. Policy KL3 of the Kings Langley Neighbourhood Plan (2022)(the KLNP) seeks development which conserves and where practicable, enhances the character of the Character Area in which it is located and policy KL4 seeks development which integrates well with their surroundings.

31. The appeal site is bound by a low level brick wall, beyond which has been erected close boarded fencing. Vegetation has been planted between the brick wall and the close boarded fencing. An enforcement notice, which was upheld on appeal, has previously been issued in respect of the site, which alleged the erection of a fence on the land. From the evidence provided, it appears that the fence which is now *in situ* is a different fence, in a slightly different location.
32. The appellant has drawn my attention to advice they say they have received from the Council's enforcement department, who are asserted to have deemed the fence lawful. In support of their case, the appellant has provided a report, dated 5 September 2023, which suggests the fence is no longer 'adjacent to the highway' and therefore complies with Permitted Development [sic]. However, I am not aware that a lawful development certificate has been issued in respect of the fence. A local planning authority cannot fetter its discretion to issue an enforcement notice through informal agreement.
33. Part 2 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) grants planning permission for the erection of a fence, where the fence is adjacent to a highway used by vehicular traffic, 1 metre above ground level and where it is not adjacent to a highway, 2 metres. The fence which has been erected, in my view, visually encloses the front garden of the property and, as a matter of fact and degree is adjacent to the highway and is therefore not permitted by the GPDO.
34. While it may be possible to move the fence so that it is no longer adjacent to the highway, it seems likely the appellant has chosen to subdivide the garden in this way to facilitate the use of the building as multiple dwellings (whether 3, 4 or 5). The subdivision of the front garden in this way has a harmful effect on the character and appearance of the area.
35. An Inspector has previously considered the acceptability of a proposal to 'split' the premises into 4 dwellings, reference APP/A1910/W/22/3298236. That scheme included an extension, which has since been granted planning permission. In that case, the Inspector found proposed boundary treatments would likely dominate the appeal site and surrounding area and would fail to integrate with the existing green and spacious streetscape character.
36. The appellant states that the boundary treatment does not form part of the applications as it is currently lawful. It is suggested that the Council was wrong to find that sub-division is proposed and will cause harm. However, as set out above, it seems likely the appellant has erected the fencing to facilitate the material change of use of the property to multiple dwellings. Were the property to be used as a single dwelling, it is unlikely that it would be necessary to subdivide the front garden in this way due to the availability of outside space to the rear.

37. If it is not proposed as part of the development, but is relied upon as existing lawful development, this is problematic, as it has not been shown that the fencing is lawful. Without the fencing, the outdoor amenity space for dwellings which face towards No 10 The Orchard, would be overlooked from the public domain and there would be harm to living conditions due to the lack of private outdoor amenity space for those dwellings. Furthermore, occupants of those dwellings would be obliged to use the space for activities such as the hanging out of washing, which would be uncharacteristic of the area and itself would harm the character and appearance of the area.
38. The Inspector in respect of APP/A1910/W/22/3298236 also found that the proposed parking would appear cramped and contrived and would fail to integrate with the spacious character of the surrounding area. The Council states that there has been no change to the proposed parking layout. However, the appellant suggests that it is permitted development, as it is permeable and that they will create the same parking area, using a permeable surface. I saw that they have laid crushed hardcore to the parking area during my visit. From the evidence, it seems some parking was previously located in this part of the site, albeit less than is currently proposed.
39. While it is far from clear that the parking area would be permitted development given the complex history of the site, I acknowledge that, once permitted development rights do apply, so long as the hardstanding created is permeable, it is likely that the appellant could create off-street parking in this location. While occupants of a single dwelling are unlikely to require four parking spaces, the effect of such parking in terms of the character of the area is likely to be similar to that which would occur as a result of the proposed scheme. Moreover, it may reduce the extent of on-road parking in this location, which, at the time of my visit was significant along this part of The Orchard.
40. Significantly, the built development (the rear extension) which is proposed has since been granted planning permission and has been partially constructed. Although the appeal site would be identifiable as multiple separate dwellings, the building would still have a residential character, which is consistent with the area.
41. The layout of development is not uniform along this part of The Orchard and while it would not have the same green and spacious character of other dwellings in the area, given the built development which has already been constructed, I consider the effect of the proposed doors and parking would not be so harmful as to cause significant harm to the character and appearance of the area. Furthermore, it would create an active frontage along this part of the street.
42. Notwithstanding the above, I concur with the previous Inspector's conclusion that the subdivision of the amenity space would be harmful, particularly to the front of dwellings, between the front elevation and the highway. The subdivision of the site creates private amenity space which is not characteristic of this part of The Orchard and which harmfully diminishes the character and appearance of the area, contrary to policies CS11 and CS12 of the CS, and policies KL3 and KL4 of the KLNP, the requirements of which are set out above, and the advice contained within Appendix 3 of the DBLP. I draw this same conclusion for Appeal E, which proposes amenity space to the front of dwellings B and C.

43. Although the layout of private amenity space is subject to change for appeals C and D⁷, both schemes are likely to utilise space to the front of dwellings. It has not been shown that the subdivision of the appeal site would not harm the character and appearance of the area, or that there would be no conflict with policies CS11 and CS12 of the CS or policies KL3 and KL4 of the KLNP, the requirements of which are set out above, or the advice contained within Appendix 3 of the DBLP.

Setting of listed building and the Kings Langley Conservation Area (KLCA): Appeal B only

44. The appeal site is adjacent to the Kings Langley Conservation Area (the KLCA) and Church House, a Grade II listed building. The Council refused the application on the basis that it would reduce the gap between the property and the adjacent designated heritage assets (Grade II Listed Building and Conservation Area). Given the proximity of the appeal site to Church House and the KLCA, I agree it is within the setting of these heritage assets.
45. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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.
46. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the KLCA. Furthermore, paragraph 212 of the National Planning Policy Framework ('the Framework')(2024) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
47. The KLCA comprises three distinct parts, which derives its significance from the historic layout of development and fine architectural detailing. Church House is a two storey building which fronts on to Church Lane and is constructed in red brick, chequered with flint panels. The significance of the building derives from its historical function and its architectural detailing.
48. Policy CS27 of the CS seeks development which protects, conserves, enhances and if appropriate enhances the setting of designated heritage assets. Policy 119 of the Dacorum Local Plan (2004)(the DLP) seeks development which retains the character and setting of a listed building and policy 120 seeks development which preserves or enhances the character and setting of a conservation area. Policy KL3 of the KLNP seeks development which conserves and where practicable enhances the character of the conservation area and policy KL4 seeks development which minimises any adverse impacts on the historic environment.
49. The appeal property is located to the rear of Church House and was previously a detached bungalow. The appellant states that they have removed an asbestos

⁷ The plans provided are illustrative.

roofed, concrete garage from the appeal site and that this has resulted in an improvement for Church House and the KLCA. The proposed works would extend the built form to the rear, closer to the listed building and the KLCA. However, by the time of my visit, the property had already been extended vertically and to the rear under existing planning permissions and so, were I to allow the appeal there would be no greater effect on the gap between the appeal building and the KLCA or the listed building within.

50. The Council acknowledge that more recent decisions, including 23/02187/OUT and 23/02188/OUT, do not include a reason for refusal due to harm to the conservation area or the listed building. While the Inspector in respect of APP/A1910/W/22/3298236 had regard to the fallback position of extant permissions and permitted development rights and weighed this into their assessment, the works had not been carried out at that time, and it is on this basis that they concluded there would be less than substantial harm to the adjacent heritage assets. The current situation is materially different, with approved works now well underway.
51. Although I have found the appeal scheme would harm the character and appearance of the area above, given the position of the amenity space proposed for dwellings A and B relative to the KLCA and Church House, this would not affect the setting of Church House or the KLCA. It would be possible to secure details of materials by condition, which would ensure the settings are preserved.
52. Given the works which are being carried out to the appeal building under existing planning consents, I consider the proposal would result in a neutral outcome on the setting of the KLCA and the setting of Church House and so there is no conflict with policy CS27 of the CS, policies 119 or 120 of the DLP or policies KL3 or KL4 of the KLNPs in this regard, the requirements of which are set out above.

Living conditions

53. The Framework seeks a high standard of amenity for existing and future users. Appendix 3 of the DBLP advises that all residential development is required to provide private open space for use by residents whether the development be houses or flats. It goes on to advise that private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5m. It states that a reduced rear garden depth may be acceptable for small starter homes, homes for the elderly and development backing onto or in close proximity to, open land, public open space or other amenity land.
54. The appellant has drawn my attention to a number of schemes, including 21/01208/FUL, where it is asserted that no private outdoor space is provided other than a driveway, which is also used by the flat above. Part of the justification appears to have been that Boxmoor Common, which was located approximately 280 away, could compensate somewhat for a lack of outdoor space at the application site. However, in that case, it seems there was already a lack of private outdoor space for the property above. It is not, therefore, comparable to the appeal scheme before me.
55. Reference is also made to 21/01851/FUL, where the garden would have been around 10.1m long and so didn't meet the requirements set out within Appendix 3 of the DBLP. In this case, it was noted that the garden would be of similar

dimensions for a mid-terrace dwelling that could exercise its permitted development rights for rearward extensions. It is clear from these and other examples provided⁸ that the Council does not apply the 11.5m set out in Appendix 3 of the DBLP rigidly and that, where justified, a lesser depth of garden may be acceptable. However, generally all gardens should be of a width, shape and size to ensure the space is functional and compatible with the surrounding area.

56. Although each dwelling would be provided with some private outdoor amenity space, with respect to Appeal B, the space for dwellings A and B would be located to the front of the properties and the space for dwelling C would be enclosed by the dwelling itself and the neighbouring property, resulting in a very limited outlook, such that the sense of enclosure is likely to feel oppressive, particularly given its limited size. I found the space between the rear of the property and Church House to have a similar sense of enclosure by virtue of the limited space between the two buildings. As a consequence, occupants of the proposed dwellings, particularly dwelling C, are unlikely to wish to use the space to any significant degree.
57. While sufficient light may reach each of the spaces proposed, overall, I find the provision of outdoor space is unlikely to provide a satisfactory level of amenity for future users of the proposed dwellings. I recognise that the appellant could subdivide the rear garden using permitted development rights, however, I see no reason why an occupant of a single dwelling would choose to subdivide the rear garden in this way. Fencing which has been erected could be easily removed following completion of the works.
58. The appellant has drawn my attention to the provision of green space within walking distance of the appeal site, including Green Park, the Village Garden and Sunderland Yard Allotments. While allotments can provide space for individuals to spend time and to grow their own food, I have no substantive evidence to show that future occupants of the dwellings would be able to access such space. The appellant details that, at October 2020, they were fully let, with a waiting list for potential allotment holders.
59. Green Park, however, is a substantial open space, which occupants of the properties could reasonably walk to. I note that the shortest route is via an alleyway, which may deter some individuals from accessing the park in this way. However, there are other routes which occupants could choose, which would enable them to access the park (notwithstanding the previous Inspector's comment that it is 'some distance from the appeal site'). The Village Garden is also a modest walk from the appeal site.
60. However, while public open space is likely to be able to meet some of an occupant's needs, private outdoor space provides an important space for people to dry clothes and for individuals to enjoy the outside without intrusion from others. With respect to Appeal B, the private amenity space provided for dwellings C and D is, in my view, unlikely to provide a satisfactory level of amenity for future occupants, contrary to the guidance set out in Appendix 3 of the DBLP and the expectations of the Framework.
61. With respect to Appeal D, the appellant suggests the amenity space could be communal, all private, or a combination of both. In support of their case, the

⁸ 21/01792/FUL, 21/00491/FUL, 21/00708/FUL and 21/00820/FUL

appellant has provided an indicative layout, which shows space could be provided to the front for three of the dwellings and to the rear for two. However, it is not clear to me from the information provided that it would be possible to provide adequate amenity space for the dwellings proposed.

62. With respect to Appeal C and Appeal D, although such matters would be dealt with at the reserved matters stage, it has not been shown that it would be possible to provide satisfactory private amenity space, such that the proposed dwellings would provide a satisfactory living conditions for future occupants, contrary to the advice contained within Appendix 3 of the DBLP and the expectations of the Framework.
63. With respect to Appeal E, the amenity space proposed for dwellings B and C would be located to the front of the dwellings. Notwithstanding the fencing currently *in situ*, as set out above, it has not been shown that the fencing is lawful. Without the fencing, the spaces to the front of the dwellings would be overlooked and would fail to provide private space for future occupants of the dwellings and so would not provide satisfactory private amenity space, contrary to the advice contained within Appendix 3 of the DBLP and the expectations of the Framework.

Parking provision: Appeal E only

64. The Orchard comprises a cul-de-sac, with some on-road parking and is located within Accessibility Zone 3. Policy CS8 of the adopted Core Strategy (2013)(the CS) seeks to ensure that development provides sufficient, safe and convenient parking based on car parking standards and policy CS12 seeks sufficient parking and sufficient space for servicing. The Parking Standards Supplementary Planning Document (2020)(the Parking SPD) advises that a 2 bedroom dwelling should have 1.5 allocated⁹ or 1.25 unallocated car parking spaces.
65. The appellant proposes a total of 3 parking spaces, which would likely result in on-street parking demand. The appellant suggests that the appeal scheme would result in a 6.45% increase in the number of cars. The appellant suggests that the proposal will have a very limited impact on the additional number of cars. However, occupants of the dwellings are likely to choose to own cars and, given the limited provision of off-road parking within the site, are likely to choose to park their vehicles along The Orchard.
66. During my visit, I saw that on street parking in the area was in demand and this was affecting the free flow of traffic during my visit towards the junction with Church Lane. While I recognise that this is just a snapshot in time, and that a survey carried out by the appellant in support of other appeal schemes point towards there being on-street capacity, a number of interested parties have raised concern regarding the availability of parking in the area, particularly given existing parking stress arising from demand from visitors to the nearby church and Church House.
67. While it may be possible to design a scheme so that vehicles do not mount the proposed riser or kerb when entering or exiting the site, given the limited width of The Orchard, the increase in parking demand is likely to result in individuals choosing the park on the pavement, limiting accessibility for individuals who use walking aids, wheelchairs or buggies and would be harmful to pedestrian safety.

⁹ 'Allocated' refers to a location where 50% or more of the spaces are allocated to individual units or within the curtilage of a dwelling. 'Unallocated' refers to all other locations where less than 50% of spaces are allocated or within the curtilage of a dwelling.

68. It is suggested that previous applications and appeals at the site have all been found to provide safe highway access and suitable parking provision. The Inspector in respect of APP/A1910/W/22/3298236 considered 'the extension of existing dwelling to split into 4 dwellings'. In that case, the Inspector concluded, under 'Other Matters' that the proposal is likely to be able to meet with the relevant local and national policies in terms of parking, access and highway safety.
69. However, with respect to Appeal B, I note that the Council did not refuse the application on the grounds of highway safety and found that the proposal, which included the provision of 4 spaces, met the requirements of the Parking Standards SPD. Similarly, with respect to Appeal C, the Council found that it would be possible to provide sufficient parking on site and that as such, did not refuse the application on that basis. With respect to Appeal D, the appellant proposed 3 1-bedroom units and 2 2-bedroom units, which was identified as giving rise to a parking requirement of 5 or 6 spaces, depending upon whether the spaces are allocated or unallocated. The appellant proposed a total of 5 spaces.
70. In those cases, from the evidence, it seems the parking proposed would meet the requirements of the Parking Standards SPD. However, as set out above, the parking proposed in this case would fall below the requirements set out in the Parking Standards SPD and is likely to result in increased demand for on-street parking. While it may be possible to provide additional parking within the site, this was not proposed as part of the application or the appeal scheme. For the reasons set out above, the appeal scheme would harm highway safety and conflict with policies CS8 and CS12 of the CS and the advice contained within the Parking SPD, the requirements of which are set out above.

The effect on the Chilterns Beechwoods Special Area of Conservation (SAC)

71. Policy CS26 of the CS seeks to protect designated sites and paragraph 187 of the Framework seeks to protect sites of biodiversity value in a manner commensurate with their statutory status. The appeal site lies within the Chilterns Beechwoods 'zone of influence', which is within 12.6km of the Chilterns Beechwoods Special Area of Conservation (the SAC). The qualifying features of the SAC are *Asperulo-Fagetum* beech forests ('Beech forests on neutral to rich soils'), semi-natural dry grasslands and scrubland facies on calcareous substrates and Stag Beetle *Lucanus cervus*.
72. The Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest sets out that recreation pressure is impacting the integrity of the site and that housing growth will result in further damage to the SAC. Ways in which public access and disturbance can an impact upon the conservation interest of the site include: damage: encompassing trampling and vegetation wear, soil compaction and erosion; contamination: including nutrient enrichment (e.g., dog fouling), litter, invasive species; Fire: increased incidence and risk of fire and other impacts, including harvesting and activities associated with site management.
73. Natural England objected to the appeal schemes on the basis that further information was required to determine impacts on designated sites, as the appeal scheme comprises development within 12.6 kilometres of the Chilterns Beechwoods Special Area of Conservation and recommends that a Habitats Regulations Assessment is required to determine Likely Significant Effect.

Mitigation measures will be necessary to rule out adverse effects on integrity: Provision of Suitable Alternative Natural Greenspace (SANG) or financial contributions towards a strategic SANG; Financial contributions towards the Strategic Access Management and Monitoring (SAMM) strategy.

74. In respect of Appeal D, NE has drawn my attention to an appeal decision, reference APP/X0415/W/21/3278072, which concerned the proposed creation of a site to create a multifunctional parish centre, church led café, purpose built day nursery, replacement rectory, additional staff dwelling and associated parking and landscaping. The Inspector in that case found that there was insufficient evidence that the proposal would preserve the integrity of Chilterns Beechwoods SAC and that, as a consequence, there would be conflict with Policy CS24 of the Chiltern District Core Strategy 2011, the Framework and the Habitats Regulations.
75. The appellant asserts that its proposal sits near the very top priority of sites for SANG and SAC and that they are more than happy to contribute the required financial payments set out under these policies, and if insufficient capacity exists at present, then they are happy for a condition to be added to the approval that they must wait for new capacity to be found. I note that the Council also advises that the proposed development would be eligible to financially contribute to Dacorum's mitigation strategy for the two SANG Management Plans for Bunkers Park and Chipperfield Common. However, no legal agreement to secure the SAMM and SANG contributions has been provided.
76. The appellant has drawn my attention to an appeal decision, reference APP/A1910/W/23/3333545. That appeal proceeded by way of inquiry, where a Unilateral Undertaking (UU) was submitted and discussed. The UU contained a single obligation relation to the provision of Suitable Alternative Natural Green Space (SANG). In that case, capacity of two SANG sites was identified and considered and demonstrated, to the Inspector's satisfaction, that there would be sufficient capacity at Council-led SANG sites to accommodate the proposed development without prejudicing the delivery of future development in the borough.
77. However, in that case, the Inspector found that there was a reasonable certainty that the Appellant would be able to comply with the condition's requirements and that they were reasonable and necessary, thereby meeting the relevant statutory tests. The proposed mitigation also included the provision of Strategic Access Management and Monitoring (SAMM) which would be secured and managed via a section 106 agreement. It is therefore not comparable to the appeal schemes before me.
78. I have been provided with a copy of the Mitigation Strategy, which sets out the key principles of the Strategic Access Management and Monitoring Strategy (SAMMS) which is to directly manage and avoid impacts at its source and to better educate those visiting the Chilterns Beechwoods SAC at Ashridge Commons and Woods SSSI. The total cost of the SAMMS is then identified per dwelling. In addition to the SAMMS contributions, all qualifying development is stated to need to contribute towards either a) a new (bespoke) SANG or b) towards Strategic SANG projects elsewhere.
79. The document advises that proposals for up to 9 net new residential dwellings are not restricted to catchment areas for SANG and that if such development is not within the catchment area of a SANG with sufficient capacity, it can contribute

towards an existing SANG elsewhere. The document sets out how the Council will secure contributions, which is through the provision of a UU (identified as being suited to smaller developments) or a section 106 agreement (identified as being suited to larger developments).

80. The PPG advises that positively worded conditions cannot be imposed which require the payment of money. The PPG also advises that a positively worded condition which requires an applicant to enter into a planning obligation is unlikely to be enforceable and that a negatively worded condition which requires an applicant to enter into a planning obligation is unlikely to be appropriate in the majority of cases; entering into an obligation prior to a grant of permission is the best way to ensure certainty and transparency.
81. The PPG advises that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk. However, the developments proposed are not complex development schemes and I consider it unlikely that the delivery of the developments would otherwise be at serious risk. This is in contrast to the findings of the Inspector in respect of 3333545, who found in that case, the circumstances were exceptional and that the delivery of that development and therefore much needed housing would be at risk without the condition.
82. Evidence shows that new housing within 12.6km of the SAC can be expected to result in an increase in recreation pressure, resulting from damage from trampling and vegetation wear, soil compaction and erosion; contamination, including nutrient enrichment from dog fouling, litter and invasive species; increased incidence and risk of fire and other impacts, including harvesting and activities associated with site management. Since appeals B, C, D and E would all result in additional housing, mitigation measures will be necessary to rule out adverse effects on the integrity of the SAC from the cumulative impacts of development.
83. I am not satisfied, on the basis of the evidence before me, that the adverse effects on the integrity of the Chilterns Beechwoods Special Area of Conservation (SAC) can be ruled out beyond all reasonable scientific doubt. Thus, the appeal schemes conflict with policy CS26 of the CS and the relevant expectations of the Framework.

Other Matters

84. The appellant asserts that the proposed dwellings would be more energy efficient. However, the built development has already been approved, and, even if the appeals were dismissed, the works are likely to need to comply with building regulations which would require improved energy efficiency compared with the bungalow. This is therefore a neutral factor in my consideration of the appeals.

Planning balance: Appeals B-E

85. The Kings Langley Housing Needs Assessment (2020), concluded there is an over-supply of larger dwellings, which is leading to high levels of under-occupation. Policy KL2 of the KLNP supports proposals which seek to deliver a higher proportion of one and two bedroom homes. Each of the appeal schemes propose one and/or two bedroom properties, which are supported by the KLNP.

86. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting planning permission unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance¹⁰ provides a strong reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
87. The Council acknowledges that it cannot demonstrate a 5 year supply of housing and so, since the proposals are for housing, the policies which are most important for determining the applications are out of date. However, as set out above, it has not been shown that the adverse effects on the integrity of the Chilterns Beechwoods Special Area of Conservation (SAC) can be ruled out beyond all reasonable scientific doubt. The application of policies in the Framework that protect areas of particular importance, namely Special Area of Conservation, provides a strong reason for refusing the developments proposed.
88. With respect to Appeal B, although the proposal would result in additional homes, I have found there would be harm to the character and appearance of the area, that the proposed dwellings would fail to provide satisfactory living conditions for future occupants and that it has not been demonstrated that the proposal would not, beyond all reasonable scientific doubt, lead to an adverse effect on the integrity of the SAC. Thus, the appeal scheme conflicts with the development plan as a whole and there are no material considerations of sufficient weight to indicate the decision should be made otherwise.
89. With respect to Appeal C, although the proposal would result in additional homes, I have found there would be harm to the character and appearance of the area, that the proposed dwellings would fail to provide satisfactory living conditions for future occupants and that it has not been demonstrated that the proposal would not, beyond all reasonable scientific doubt, lead to an adverse effect on the integrity of the SAC. Thus, the appeal scheme conflicts with the development plan as a whole and there are no material considerations of sufficient weight to indicate the decision should be made otherwise.
90. With respect to Appeal D, although the proposal would result in additional homes, I have found there would be harm to the character and appearance of the area, that the proposed dwellings would fail to provide satisfactory living conditions for future occupants and that it has not been demonstrated that the proposal would not,

¹⁰ Footnote 7 of the Framework states: 'The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.'

beyond all reasonable scientific doubt, lead to an adverse effect on the integrity of the SAC. Thus, the appeal scheme conflicts with the development plan as a whole and there are no material considerations of sufficient weight to indicate the decision should be made otherwise.

91. With respect to Appeal E, although the proposal would result in additional homes, I have found there would be harm to the character and appearance of the area, that the proposed dwellings would fail to provide satisfactory living conditions for future occupants, that there would be harm to highway safety and that it has not been demonstrated that the proposal would not, beyond all reasonable scientific doubt, lead to an adverse effect on the integrity of the SAC. Thus, the appeal scheme conflicts with the development plan as a whole and there are no material considerations of sufficient weight to indicate the decision should be made otherwise.

M Savage

INSPECTOR