



Appeal Decision

Site visit made on 3 September 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th September 2025

Appeal Ref: APP/A1910/W/25/3366066

1 Cheverells Close, Markyate, St Albans, Hertfordshire AL3 8RJ

- 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 Mr Umair Nisar against the decision of Dacorum Borough Council.
- The application Ref is 24/01866/FUL.
- The development proposed is described as 'change of use of land to domestic curtilage'.

Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. A planning application to change of use of the appeal site to garden was dismissed at appeal in August 2016¹ ('the 2016 appeal'). Following this, the Council issued an enforcement notice in January 2017 to a previous owner of No 1, requiring the cessation of the use of the site as a residential garden, removal of close-boarded fencing and the reinstatement of a boundary treatment to delineate the garden area. Subject to corrections, the requirements of this notice were upheld at appeal² ('the enforcement appeal'). The appellant states that the enforcement case was subsequently closed. In 2020, the Council refused a planning application for a new dwelling on the site³. Although the current proposal differs from those previously considered, I have had regard to the earlier decisions, including the findings of the other Inspectors, insofar as they are relevant to the matters in dispute.
3. At the time of my site visit, in addition to a laurel hedge, I saw a close-boarded fence located on the part of the site subject of the appeal proposal. Nevertheless, the description of development refers solely to a change of use and does not include the erection of fencing. The appellant has confirmed the site is currently in use as a domestic garden. I have therefore determined the appeal on that basis.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the wildlife corridor including whether mandatory biodiversity net gain (BNG) is required.

¹ Appeal ref: APP/A1910/W/16/3148092.

² Appeal refs: APP/A1910/C/17/3172794 and APP/A1910/C/17/3166977.

³ Council ref: 20/02777/FUL Change of use of land to residential and construction of a new two-bedroom dwelling with off-street parking.

Reasons

Character and appearance

5. The proposed change of use relates to part of the appeal site situated to the side of 1 Cheverells Close (No 1), located at the corner of Pickford Road and Cheverells Close ('the site'). Pickford Road is a main route leading into and out of the settlement of Markyate. As the route transitions towards the countryside, its character becomes increasingly verdant, with mature trees, hedgerows and grass verges lining its edges. Upon entering Markyate, the character becomes more suburban, with dwellings interspersed between undeveloped parcels of land. The dwellings are typically set back from the road with open frontages. Where boundary treatments exist, they generally comprise hedges, shrubs, low walls or fences. Cheverells Close is a cul-de sac, containing semi-detached and detached bungalows, each set back behind similarly sized front garden areas. The overall consistency in boundary treatments and the green edge to Pickford Road positively contribute to the character and appearance of the area.
6. The appeal site is allocated as Open Land, forming part of a larger area of Open Land located near to the edge of the settlement. Policy CS4 of the Dacorum's Local Planning Framework Core Strategy 2006 – 2031 (2013) (CS) identifies the primary planning purpose of open land areas is to maintain the generally open character.
7. Prior to the development subject of this appeal, the evidence before me indicates that the site was a wide wooded verge. This feature contributed to the verdant and semi-rural character of the area and provided an important visual buffer between Pickford Road and the bungalows on Cheverells Close. Although densely planted, photographs provided by the Council show that the previous vegetation and trees varied in height and the extent to which they were setback from the roadside and collectively provided a generally open character to the site.
8. My site visit confirmed that the trees and shrubs that previously existed on site have been removed, and the majority of the land has been laid to lawn. While the removal of vegetation and the planting of the laurel hedge do not constitute development in themselves, the proposed plans indicate the hedge is to be retained in conjunction with the change of use proposed.
9. Although evergreen, the current boundary treatment presents a distinctly suburban and manicured appearance which contrasts with the informal, native hedgerows and wooded verges that characterise the green edges along Pickford Road and the remaining section of Open Land. Whilst the hedge provides some visual screening of the close-boarded fence and any domestic items placed on the lawn, the overall appearance of the lawn and its boundary is formal and markedly different from its previous, more natural condition. This change has eroded the site's open character and diminished its contribution to the area's informal and visual quality. While the appellant has offered to remove the fence, and the lawn within the confines of the site would remain generally open particularly if permitted development rights for the construction of incidental buildings⁴ were to be removed, this would not sufficiently mitigate the harm resulting from the change of use.

⁴ Part 1 Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

10. My assessment aligns with the conclusions reached by Inspectors in both the 2016 appeal and the enforcement appeal. In particular, those Inspectors found that the removal of the landscaped buffer on the site would be detrimental to the character and appearance of the area.
11. I therefore conclude that the development has an adverse effect on the character and appearance of the area. In this regard, the development conflicts with Policies CS4, CS10 and CS12 of the CS and Policies 99 and Policy 116 of the saved Dacorum Borough Local Plan 1991 – 2011 (2004) (LP) which require changes of use to be well related to the character of the existing settlement and not compromise the integrity or future of the wider area of Open Land.
12. The development is also contrary to paragraph 135 of the Framework, which among other things, includes a requirement to ensure development adds to the overall quality of the area. It also conflicts with the guidance on managing change set out in the Landscape Character Assessment Supplementary Planning Guidance Document in relation to Markyate Ridges and Valleys (2004) which advises that development should maintain and the traditional pattern of roadside verges as a local feature, and when damage is unavoidable, replacement should be included into the proposed scheme.

Biodiversity

13. The appellant contends that the mandatory 10% biodiversity net gain (BNG) requirement does not apply to the development. The *de minimis exemption*⁵ is intended to apply to changes of use where there is no, or only minimal impact on onsite habitat. In this context, the biodiversity gain planning condition does not apply where the development does not impact an onsite priority habitat; involves less than 25 square metres of onsite habitat with a biodiversity value greater than zero and includes less than 5 metres of onsite linear habitat.
14. Planning Practice Guidance advises that where unauthorised degradation of onsite habitat has occurred between 30 January 2020 and the date of the planning application, the pre-development biodiversity value of the onsite habitat should be calculated based on the condition of the habitat on the date immediately prior to such degradation.
15. As previously outlined, the wooded verge previously occupying the site has been removed. While it is acknowledged that this clearance may not have been deliberate and the removal of vegetation and trees did not, in itself, require planning permission, it is likely that the works occurred in anticipation of a future development. Although the evidence indicates that much of the clearance may have occurred prior to 30 January 2020, the Council maintains that substantial trees, potentially constituting a priority habitat exceeding 25 square metres or over 5 metres of linear habitat, may have been removed after this date. In the absence of any substantive evidence to the contrary, I am not satisfied that the development qualifies for the *de minimis* exemption. Consequently, there is insufficient information⁶ to demonstrate that the BNG objective would be met.
16. Moreover, the vision diagram within the Markyate Place Strategy in the CS identifies the edge of the appeal site adjacent to Pickford Road as forming part of a

⁵ Section 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

⁶ in accordance with Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

local wildlife corridor. Policy CS16 requires the Green Infrastructure Network to be protected, extended and enhanced. No technical information, such as ecological surveys, have been submitted to demonstrate how this requirement would be achieved. Although the laurel hedgerow has been planted, this is a non-native species. While it provides a linear natural feature, its capacity to support local wildlife particularly given its narrow extent and location within a domestic garden, has not been substantiated by technical evidence or views from a qualified ecologist. Therefore, even if it had been demonstrated that BNG is not required, it has not been demonstrated that the change of use has not resulted in the erosion of the corridor to the potential detriment of wildlife in the area.

17. The appellant has expressed a willingness to secure biodiversity enhancements commensurate to the change of use, including planted borders and the provision of a hedgehog house, bird and bat boxes. However, in the absence of any detailed ecology surveys or landscape plans, it is unclear whether these measures would be sufficient to protect or enhance the local wildlife corridor.
18. I conclude that the development has resulted in a harmful effect on the wildlife corridor and it has not been demonstrated that BNG is not required. In this regard, the development conflicts with Policies CS26 and CS29 of the CS which require development to minimise impacts on biodiversity and incorporate positive measures to support wildlife. For the same reasons, the development would conflict with Paragraph 187 and 189 of the National Planning Policy Framework (the Framework) which requires planning decisions to enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
19. The Council also cited conflict with Policy 97 of the LP which relates to the Chilterns Area of Outstanding Natural Beauty, now known as a National Landscape (NL). The statutory purpose of a NL is to conserve and enhance the natural beauty of the area. Under Section 85 of the Countryside and Rights of Way Act 2000 (as amended), relevant authorities must seek to further this purpose when exercising any functions that may affect land within an NL. The Council has not raised specific concerns regarding the effect of the development on the setting of the NL in relation to its landscape and scenic beauty. I find no reason to disagree in this regard. Nonetheless, the Framework emphasises that the conservation and enhancement of wildlife are important considerations in NL. The site is located outside of the NL and there is no substantive evidence before me to demonstrate that the development has caused indirect harm to this recognised area of ecological importance. Therefore, while it remains unclear whether the development also conflicts with Policy 97 of the LP this does not alter the other conflict with the development plan identified, and so is not determinative in my overall assessment.

Other Matters

20. The appellant asserts that the development provides a private, safe and secure place for anyone using the garden and that the site was previously prone to fly tipping and had not been maintained properly. However, a private and usable area of garden would remain to the rear of No 1, even if this appeal is dismissed. The inability to use the site as an extended garden as proposed has the potential to affect the enjoyment of the home and family life of the occupiers of No 1. I have, therefore, had regard to human rights of the individual provided under Article 8(1) of the Human Rights Act 1998. However, the dismissal of the appeal is a

proportionate and necessary approach as the harm to the character and appearance of the area and the local wildlife corridor/biodiversity caused by the appeal proposal outweighs the benefits. Furthermore, there are likely to be other ways of addressing any of the potential problems highlighted and similar benefits could potentially be achieved through an alternative scheme.

21. The Council identified no other harm in relation to living conditions, flood risk, heritage, contamination or highway safety. However, these considerations are not a reason to allow the appeal given the harm identified under the main issues.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR