



Appeal Decision

Site visit made on 15 January 2026

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 February 2026

Appeal Ref: APP/A1910/C/24/3348971

The Factory Church End, Markyate, St Albans AL3 8PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Alistair Cooper of Church View Properties Ltd, against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 17 June 2024.
 - The breach of planning control as alleged in the notice is without planning permission the installation of a raised platform and outbuilding.
 - The requirements of the notice are:
 - Step 1 Remove the area of raised platform in its entirety from the land;
 - Step 2 Remove all fencing and railings for the raised platform from the land;
 - Step 3 Remove any fixtures or fittings for the raised platform area;
 - Step 4 Remove the outbuilding in its entirety from the land;
 - Step 5 Remove any fixture and fittings for the outbuilding;
 - Step 6 Restore the ground to its original condition;
 - Step 7 Remove any materials arising from steps 1-6 above from the land.
 - The periods for compliance with the requirements are:
 - Steps 1-5 Three (3) months;
 - Step 6 Six (6) months;
 - Step 7 Seven (7) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The notice refers to the property as “The Promotional Centre” although the appellant has referred to it as “The Factory”. I have used the appellant’s description. The appellant has previously made a planning application for the development alleged on the notice which the Council did not register or therefore determine. That application is not before me to consider.

Appeal on ground (a)

3. The reasons for issuing the notice rely at least in part to the allegation that the development is on land owned or controlled by Hertfordshire County Council as highway authority. It is well established that planning decisions should be based on land use considerations rather than matters concerning land ownership or land controlling rights. Whether the controller or owner of the land can take other measures to remove the development is not a matter for me to consider.

4. Given the above, the main issues are therefore:
- 1) Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - 2) The effect of the development on the character and appearance of the area including upon the setting of nearby Listed Buildings; and
 - 3) The effect on highway safety including consideration of the effect on people walking and riding by the site.

Reasons – GB and whether inappropriate

5. The raised platform is to the side of the large building and adjoins the carriageway of the road close to the end of this cul-de-sac. The side of the building faces towards the road. The structure is joined to that side of the building and also to the lower block-paved area which leads around the back of the property. The raised platform appears as an extension or alteration of the building.
6. The site is within the Green Belt (GB) and Policy CS5 of the Core Strategy, 2006 – 2031, adopted 25 September 2013 (CS) states that the Council will apply national GB policy to protect the openness and character of the GB amongst other things. The Framework states that the extension or alteration of a building is not inappropriate development in the GB provided that it does not result in disproportionate additions over and above the size of the original building.
7. CS Policy CS5 also states that small scale development will be permitted including at paragraph (c) “limited extensions to existing buildings”. The Council in their statement refer to sub-paragraphs ‘i’ and ‘ii’ relating respectively to such development having no significant impact on the character and appearance of the countryside and that it supports the rural economy and maintenance of the wider countryside. However, the punctuation of those sub-paragraphs, particularly the colon at the end of the wording of paragraph (e) indicates that those provisions only apply to paragraph (e) “the redevelopment of previously developed sites....”.
8. The host building extends back from the road for a substantial distance over 1 ½ storeys and taking up a large footprint. I have only been given some limited basic details of previous planning proposals. I do not know from what I am given, whether the building has been increased in size to any significant extent when its use changed or since. Based upon what I could see and the submitted evidence, the development is a small addition to the existing building. As such, in relation to this main issue, the development is not inappropriate development in the GB and complies in that respect with the Framework and policy CS Policy CS5.

Reasons – character and appearance

9. The appeal site is in a rural part of the Markyate which is separated from the main core of the settlement by a busy main road which is in a raised position relative to the appeal site. This remote part of the town is linked to the rest of the town by an underpass which incorporates utilitarian safety features such as the metal railings and bright lighting within the tunnel. However, even though these features provide a strong, barrier between the site and the rest of Markyate, once out of the underpass, the area opens-up. This part of the settlement has a distinctly rural

feel where the collection of buildings set around the head of the cul-de-sac adjoin the countryside.

10. The Church of St John the Baptist is set a substantial distance back from the cul-de-sac but distinctive brick walls define the boundary of that land and the road. The brick wall links with the higher walls, gateposts and gates which define the edge of the land to the side of Cell Lodge and then in turn also then link-up with the lower stone wall that leads further into the countryside on that side of the road. On the same side of the road as the appeal site, there is a more residential character to the street-scene although the appeal site and the adjoining building together reflect an industrial history of these adjoining sites which is shown in the old photographs provided by the Council. The boundary of The Homestead further along has a less traditional, domestic appearance than the more distinctive boundary on the opposite side of the road.
11. It is clear from the historic photographs that the visual effects from the change of use of the appeal site had previously been limited in terms of changes on the side of the cul-de-sac. What has been constructed now is a raised patio where people may sit-out and where various domestic items could be used and stored. The development and its use in that way, whilst reflective of the new use of the building, has caused a stark change in appearance from the simple path with a curb alongside the carriageway of the road. This has caused a clear encroachment of domestic activity and development on the margins of where the town meets the countryside. A previously semi-rural street-scene has been altered substantially by this development.
12. In relation to this main issue, the development has had a harmful impact upon character and appearance of the area which has not at least preserved the setting of the Listed Buildings of Cell Lodge as well as its adjoining gates and gate posts. This does not comply with CS Policy CS11 which requires development within settlements to amongst other things, to respect and enhance spaces between buildings and general character. Additionally, CS12 is not complied with as this requires development to integrate with the street-scape. This has not adhered to the advice in the Framework to create visually attractive development that are sympathetic to local character and history. The development has led to less than substantial harm of a low level to the significance of the setting of the Listed Buildings. The benefits of the development however are personal to the occupiers of the building who use enclosed raised patio, are not public benefits and do not outweigh the harm to the significance of the heritage assets.

Reasons – highway safety

13. The pathway through from the main part of Markyate emerges from the underpass close to the site. When I visited, there were lots of vehicles parked around the turning-head of the cul-de-sac which made it difficult for me to turn my own car around. I drove back across the main road and parked in the core of the settlement and walked back through the underpass to the appeal site. I noted that there is a Scout hut a little further along the road from the appeal site.
14. Notwithstanding the status or ownership of the land on which the development has been constructed, the historic photographs provided by the Council which pre-date the construction, show a length of what can reasonably be described as a footpath in the ordinary sense of the term. It had a hard-surface the same as the other

nearby paths and there was a curb defining the edge of it, differentiating it from carriageway of the road.

15. Pedestrians approaching from the underpass are no longer able to walk past the site on what used to be a footpath and they now need to walk in the carriageway of the road which sometimes at least has substantial numbers of vehicles parked around it. Those people wishing to go towards the Scout hut for example will need to walk on the road and at times between parked vehicles. Young people and those in wheelchairs or mobility scooters may not be easily seen by drivers of vehicles and in turn may not easily see moving vehicles. This could cause conflicts between people and users of vehicles as well as being a hazard. The development has caused a significantly less safe environment.
16. Those who wish to access the church may be unaffected by this development and I do not have survey information of pedestrian movements or traffic levels from either party. The previous industrial use the site may have resulted in some occasional blocking of the footpath but from the photographs provided, that does not appear to have been a constant problem as it is now given the permanence of the development and its blockage of the footpath. The development has been built across what in common-sense terms can be considered as a footpath regardless of who owns or controls the land. This would not encourage walking and riding from the core of Markyate via the underpass contrary to Policies 1 and 5 of the of the Hertfordshire Local Transport Plan 2018. Those policies place particularly emphasis on considering vulnerable road users and encouraging sustainable transport modes.
17. In relation to this main issue, the development has had a harmful effect on highway safety particularly with respect to people walking and riding past the site. CS Policy CS8 is not complied with. That requires all new development to contribute to a well-connected and accessible transport system including the principle of giving priority to pedestrians and also ensuring good access for people with disabilities. CS9 does not seem relevant to this issue as it relates to development that generates traffic.

Other Matters

18. Although not very private given its prominent position in the street-scene, the development may well be a useful additional amenity area for the residents of the adjoining building. Whether or not Council officers communicated about the proposed enforcement action that resulted in the issuing of the notice, does not affect the suitability of the development. These matters do not outweigh my conclusion on the second and third main issues.

Conclusion

19. For the above reasons, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should fail and consequently, the deemed planning application shall be refused.

Andy Harwood

INSPECTOR