

## **Castleoak Care Developments Ltd**

Burston Garden Centre

St Albans

AL2 2DS

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### **Planning Appeal Statement of Common Ground**

### **Planning Matters**

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LPA ref: 5/18/1324

S&P ref: DP/204884

28 October 2019

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## **1. Introduction**

- 1.1. This Statement of Common Ground has been prepared jointly by Strutt & Parker on behalf of Castleoak Care Developments Ltd ("The Appellant") and GC Planning Partnership on behalf of St Albans District Council ("The LPA").
- 1.2. The appeal by Castleoak Care Developments Ltd is made against the decision of St Albans DC on 18 March 2019 to refuse planning permission for 125 self-contained extra care apartments, a 64 bedroom nursing home (Class C2) and associated ancillary development on the site, including the provision of incidental communal and support facilities (LPA ref: 5/18/1234).
- 1.3. This Statement sets out general planning matters agreed and the extent of the matters of disagreement.

## 2. The Appeal

2.1. The description of development is agreed as follows:

***“Demolition of all existing horticultural structures and redevelopment of the site to provide a new retirement community comprising a 64 bedroom care home, 125 assisted living bungalows and apartments, a community clubhouse together with associated access and alterations to pedestrian/bridleway, landscaping, amenity space and car parking (amended plans and additional information)”.***

2.2. Members of the Council's Planning (Development Control) South Planning Committee determined to refuse the application (LPA ref. 5/18/1324) on 18 March 2019.

2.3. A decision notice was issued on the 20 March 2019 which sets out the Council's 2 reasons for refusing planning permission (RR); namely:

***“1. The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, its siting and layout results in a lack of space for appropriate landscaping and a poor quality of external environment. This would be uncharacteristic of the wooded character of the area and the open character of the site and would result in an urban form of development that is uncharacteristic and harmful to the character of the wider area. Furthermore the development would result in a substantial ribbon of development in this part of the Green Belt, contributing towards the merging of How Wood and Chiswell Green which contributes towards urban sprawl in this part of the Green Belt. This is contrary to the aims of the Green Belt to prevent towns from merging. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994.***

***2. The intensification in the level of development and planting at the boundary of Burston Manor and the associated dovecote would obscure the historic boundary of these Grade II\* and Grade II Listed Buildings and its relationship with How Wood and Birchwood. The care home would encroach on the space between the houses and the care home, such that the development would reduce the dominance of the Manor House. The development would significantly alter the setting of the Manor House by creating a much more urban environment, fully encasing the Manor House in residential development. The high levels of lighting and introduction of activity at night would have a considerable impact on the***

***setting of the Manor House outside of daylight hours. During the winter and autumn months the plant screening provided would diminish and would increase the inter-visibility between the development and the Manor House. As such the proposal would result in less than substantial harm to the setting of the adjacent Grade II\* and Grade II Listed Buildings which is not outweighed by public benefits, including the provision of additional dwellings. As such the proposal is contrary to the NPPF 2019 and Policy 86 of the St Albans District Local Plan Review 1994.”***

- **Dealing with the Evidence**

2.4. With a view to avoiding unnecessary repetition at the Inquiry, both parties agreed with the Inspector at the Case Management Conference on the 9 October 2019 that some of evidence can be heard as round table discussions that the Inspector will lead. These discussions are to be informed by the proofs and topic specific statements of common ground, plus the site visit. It is agreed that the areas that will proceed on this basis are:

- Character and appearance;
- Heritage assets; and
- Alternative sites and need (depending on the submissions made).

2.5. Both parties agree that the Green Belt, any outstanding matters, planning policy, any benefits and the overall planning balance will be presented as formal evidence by both the appellant and the LPA through the formal inquiry process.

2.6. Both parties also agree that other matters raised by interested parties are to be addressed by the appellant and Council in the proofs of the respective planning witnesses and at the Inquiry itself as necessary.

- **Statements of Common Ground**

2.7. It is intended to produce separate statements of common ground on the following:

- Landscape and visual impact: to include a table setting out the parties' competing positions in terms of the baseline, landscape impact, visual impact and impact on openness;
- Heritage: to identify the significance of Burston Manor (Grade II\*) and the Dovecote Granary (Grade II); the extent to which the appeal scheme would impact upon the settings of these assets; the gradation of that harm in terms of the NPPF;
- Alternative Sites: to identify the extent of the issues (if any) that the Council has with the Appellant's alternative site assessment work; and
- Need: to identify the extent of the issues (if any) that the Council has with the Appellant's needs assessment work.

- **The Planning Issues**

- 2.8. It is common ground that the development would cause harm to the Green Belt by virtue of it being an inappropriate form of development and insofar as it would have some detrimental impact on the openness of the Green Belt.
- 2.9. It is also agreed that the proposals would cause less than substantial harm to designated heritage assets.
- 2.10. Accordingly, there is no dispute between the parties that substantial weight should be given to the harm caused to the Green Belt and any other harm in this respect. It is agreed there would be no other additional harm resulting from the proposals
- 2.11. The key issue between the parties is whether there are Very Special Circumstances to justify the grant of planning permission, i.e. whether the harm caused by the scheme's inappropriateness, and any other harm the scheme would cause (including the less than substantial heritage harm it would cause) would be clearly outweighed by the scheme's public benefits.
- 2.12. The matters agreed and not agreed are considered in Section 6.

### **3. Site and Surroundings**

- 3.1. The site is located south of the A405 North Orbital Road some 3.6 km south of St Albans city centre and some 8 km north of Watford town centre within the countryside and designated Green Belt.

#### **Site Characteristics**

- 3.2. The site, which is 3.8 ha in size, falls within the eastern part of the wider Burston Garden Centre formerly used as a commercial rose production site. This part of the main site represents some 20% of the combined land holding. The site consists of 12 built structures and part structures.
- 3.3. The combined footprint of the 12 structures equates to 7,215 sqm. The sheds, polytunnels and glass houses are single storey buildings with maximum heights ranging from circa. 8.8m to 9.8m. The largest buildings are located adjacent to both the western (sheds and glass houses) and southern boundaries (polytunnels) of Burston Manor.
- 3.4. There is a pocket of degraded rough grassland occupying the north eastern part of the site.
- 3.5. The site is generally flat.
- 3.6. The western flank boundary abuts the Burston nurseries outside of the site and comprises glasshouses and planting beds. To the north the Burston Manor House curtilage abuts the site. The majority of the boundary is formed with mature trees. A two-metre boundary fence runs the entire length of the eastern boundary separating the Site from a public bridleway. To the south, temporary heras fencing separates the Site from Birch Wood. The site seamlessly flows into the wider nursery complex with glass houses and outbuildings on the site's western edge.
- 3.7. The current access drive and entrance element of the site presently comprises ongoing nursery activities, including external storage, single storey post-war buildings and glasshouses. Much of the site here is bounded by fencing with some palisade style security fencing present. The interface between the site and the A405 road presently comprises an access for the nursery and garden centre, and a separate access for the Manor House and other nearby buildings. Further security fencing provides some enclosure around additional car parking for the retail nursery which sits to the immediate north west of the Burston Manor House grounds.
- 3.8. Access into the site is from the A405 North Orbital Road and is shared with the main garden centre site.

#### **Surrounding Area**

- 3.9. The adjacent land uses comprise:

- To the west and south west is the existing Garden Centre (which is to continue operating) which comprises a series of large single storey buildings and structures, with extensive hardstanding. As the site is currently under the same ownership there is no boundary treatment separating this land from the subject site.
- To the north Burston Manor comprises a series of single and two storey buildings including the Grade II\* listed Manor building, and an adjacent Grade II listed outbuilding. At present, this land is separated from the subject site by an open fence, together with large mature trees within the Burston Manor curtilage.
- To the north-east and east, the site is bounded by a close boarded fence to the east of which is a public footpath. Beyond this is a wooded area that separates the site from residential properties set on Mayflower Road and Grovelands.
- To the south-east is Birchwood Bungalow, a single storey C2 care home served by a narrow access to its south (which links to the pedestrian pathway to the east of the site).
- To the south of the site is an area of undeveloped land covered by mature trees known as Birch Wood. Also at the southern boundary is a telecommunications tower.

### **Accessibility**

- 3.10. The application site occupies a location on the rural-urban fringe of How Wood. There are unlit pedestrian links from the site to How Wood Local Centre and Park Street Surgery (0.2 miles and 0.3 miles) and How Wood train station (0.5 miles), which provides connections to St Albans Abbey. The facilities within Chiswell Green to the north are also within close proximity, although this does require access over the A405.
- 3.11. The site benefits from excellent road links to the A405 (North Orbital Road), A414, M1 and M25. A Transport Link Plan and a Local Amenities Plan are provided in the Design & Access Statement.

### **Visual Receptors**

- 3.12. In the wider surrounds, views from the site are largely restricted to the existing nursery complex. It is contained to the east and south by the mature woodland planting. Slightly longer views are granted west over parts of the wider nursery outside of the site, though contained by tree screening beyond this. To the north views are granted, in places, into the gardens of Burston Manor House (with some views of the listed buildings within also possible). Further to the north-east views feed into the curtilages of later post-war housing, though partially screened by mature tree planting along the northern boundary.
- 3.13. In return views the site cannot be easily seen from the wider surroundings although some filtered views are likely obtained from the limited number of dwellings which back onto the Site to the north and from within the wider nursery. The woodland with boundary fencing, in parts, limits views from the south and east.



### **Site Designations**

- 3.14. Within the adopted Local Plan Proposals Map the site is located within the Green Belt and also within a Landscape Development Area. The site is also identified as an area of Archaeological Significance where planning permission may be subject to conditions regarding archaeological assessment.
- 3.15. There are two statutory listed buildings to the north of the site at Burston Manor; the Grade II\* listed Manor Farm building; and an adjacent Grade II listed dovecote. The Site also lies adjacent to two County Wildlife Sites - Birch Wood and How Wood.
- 3.16. The site is within Flood Zone 1 (the lowest risk of flooding).
- 3.17. The site is identified on the Environment Agency Flood Maps as being within Flood Zone 1 and therefore at low risk from flooding.

## **4. Planning History**

- 4.1. Planning permission was granted in July 2015 for the provision of highway works to provide improvement and introduction of new signal controls at the Garden Centre access onto the A405 (LPA ref: 5/2014/3049).
- 4.2. The planning permission for the highways works has not been implemented to date and this permission has now expired
- 4.3. The adjoining garden centre has an extensive planning history relating to the horticultural use. The most recent application relates to an extension to the existing garden centre to create a larger kitchen and restaurant, which was approved in May 2010 (LPA ref: 5/2010/0581). Amendments were later approved in May 2011 under a revised planning permission (LPA ref: 5/2010/2317). This permission has since been implemented.
- 4.4. An application was submitted on 26 September 2019 for Demolition of all existing structures and redevelopment of the site to provide a new retirement community comprising a 62 bedroom care home, 122 assisted living a 62 bedroom care home, 122 assisted living bungalows and apartments , a community clubhouse together with associated access and alterations to pedestrian/bridleway, landscaping, amenity space and car parking (resubmission following refusal of 5/2018/1324). The LPA has declined to determine the application in accordance with Sections 70B(1) (b) and 70B(3) of the Town and Country Planning Act 1990 (as amended).

## 5. The Appeal Proposals

5.1. The description of development is:

***“Demolition of all existing horticultural structures and redevelopment of the site to provide a new retirement community comprising a 64 bedroom care home, 125 assisted living bungalows and apartments, a community clubhouse together with associated access and alterations to pedestrian/bridleway, landscaping, amenity space and car parking (amended plans and additional information).”***

5.2. The following documents were submitted with the application

Title	Author
Planning Application form	S&P
Ownership Certificate	S&P
Article 12 Certificate (Agricultural Land Declaration)	S&P
Community Infrastructure Levy Form	S&P

Title	Drg. Number	Scale	Author
<b>Plans</b>			
Site Location Plan	00-SL-PL-A-G7-001	A1 @ 1:1250	PRP
Existing Site Plan	00-SL-PL-A-G7-002	A1 @ 1:500	PRP
Proposed Block Plan	00-SL-PL-A-G7-003	A1 @ 1:1250	PRP
Proposed Site Plan	00-SL-PL-A-G7-004	A1 @ 1:500	PRP
Proposed Site Sections	00-SL-PL-A-G7-005	A1 @ 1:250	PRP
Contextual Site Sections	00-SL-SE-A-G7-006	A1 @ 1:250	PRP
Landscape Masterplan	0653-00-SL-PL-L-G7-010	A1 @ 1:500	PRP
Assisted Living - Ground Floor Plan	0653 - 01-00-PL-A--100	A1 @ 1:200	PRP
Assisted Living - First Floor Plan	0653 - 01-01-PL-A--101	A1 @ 1:200	PRP
Assisted Living - Second Floor Plan	0653 - 01-02-PL-A--102	A1 @ 1:200	PRP
Assisted Living - Roof Plan	0653 - 01-02-PL-A--103	A1 @ 1:200	PRP
Assisted Living - Elevations Sheet 1	0653 - 01-99-EL-A--104	A1 @ 1:200	PRP
Assisted Living - Elevations Sheet 2	0653 - 01-99-EL-A--105	A1 @ 1:200	PRP
Care Home - Ground Floor Plan	0653 - 02-00-PL-A--200	A1 @ 1:200	PRP
Care Home - First Floor & Roof Plan	0653 - 02-01-PL-A--201	A1 @ 1:200	PRP
Care Home - Elevations	0653 - 02-99-EL-A--202	A1 @ 1:200	PRP
Bungalows Type A - Plans and Elevations	0653 - 03-00-PL-A--300 A	A1 @ 1:100	PRP
Bungalows Type B - Plans and Elevations	0653 - 03-00-PL-A--301 A	A1 @ 1:100	PRP
Bungalows Type C - Plans and Elevations	0653 - 03-00-PL-A--302 A	A1 @ 1:100	PRP
Bungalows Type D - Plans	0653 - 03-00-PL-A--303 A	A1 @ 1:100	PRP

Document	Author	Date
Planning Policy Statement (inc Statement of Community Involvement)	S&P	May 2018
Design and Access Statement	PRP Architects	May 2018
Care Needs Assessment	Carterwood	Apr 2018
Alternative Site Assessment	Carterwood	Apr 2018
Flood Risk Assessment and Drainage Strategy	QuadConsult Ltd	Apr 2018
Landscape and Visual Impact Assessment	PRP Landscaping	Oct 2018
Arboricultural Survey and Planning Integration Report	Quaife Woodlands	May 2018
Preliminary Ecological Appraisal (including Preliminary Ecological Assessment for Bats)	Ecosulis	Aug 2017
Heritage Statement	CgMs Consulting	May 2018
Archaeological Desk Based Assessment	CgMs Consulting	July 2017
Preliminary Geo-environmental and Geotechnical Assessment	Tweedie Evans Consulting	Aug 2017
Transport Assessment	Peter Evans Partnership	May 2018
Travel Plan	Peter Evans Partnership	May 2018

- 5.3. During the course of the application various additional and replacement drawings and documents. The Council's decision was made against the following documents. Revised/updated (\*) and new (\*\*) documents submitted since the original application submission are highlighted.

Title	Drg. Number	Scale	Author
<b>Plans</b>			
Site Location Plan*	00-SL-PL-A-G7-001 A	A1 @ 1:1250	PRP
Existing Site Plan	00-SL-PL-A-G7-002	A1 @ 1:500	PRP
Proposed Block Plan*	00-SL-PL-A-G7-003 D	A1 @ 1:1250	PRP
Proposed Site Plan*	00-SL-PL-A-G7-004 C	A1 @ 1:500	PRP
Proposed Site Sections*	00-SL-PL-A-G7-005 B	A1 @ 1:250	PRP
Contextual Site Sections*	00-SL-SE-A-G7-006 A	A1 @ 1:250	PRP
Landscape Masterplan*	0653-00-SL-PL-L-G7-010 Rev C	A1 @ 1:500	PRP
Assisted Living - Ground Floor Plan*	0653 - 01-00-PL-A--100 A	A1 @ 1:200	PRP
Assisted Living - First Floor Plan*	0653 - 01-01-PL-A--101 A	A1 @ 1:200	PRP
Assisted Living - Second Floor* Plan	0653 - 01-02-PL-A--102 A	A1 @ 1:200	PRP
Assisted Living – Roof Plan	0653 - 01-02-PL-A—103	A1 @ 1:200	PRP
Assisted Living - Elevations Sheet 1*	0653 - 01-99-EL-A--104 A	A1 @ 1:200	PRP
Assisted Living - Elevations Sheet 2*	0653 - 01-99-EL-A--105 B	A1 @ 1:200	PRP
Care Home - Ground Floor Plan*	0653 - 02-00-PL-A--200 A	A1 @ 1:200	PRP
Care Home - First Floor & Roof Plan*	0653 - 02-01-PL-A--201 A	A1 @ 1:200	PRP

Care Home – Elevations*	0653 - 02-99-EL-A--202 A	A1 @ 1:200	PRP
Bungalows Type A - Plans and Elevations*	0653 - 03-00-PL-A--300 A	A1 @ 1:100	PRP
Bungalows Type B - Plans and Elevations*	0653 - 03-00-PL-A--301 A	A1 @ 1:100	PRP
Bungalows Type C - Plans and Elevations*	0653 - 03-00-PL-A--302 A	A1 @ 1:100	PRP
Bungalows Type D – Plans*	0653 - 03-00-PL-A--303 A	A1 @ 1:100	PRP
Bungalows Type D – Elevations*	0653 - 03-99-EL-A- 304 A	A1 @ 1:100	PRP

Title	Drg. Number	Scale	Author
Topographical Survey 1	186/3493/1	1:500	Clifton Surveys Ltd
Topographical Survey 2	186/3493/2	1:500	Clifton Surveys Ltd

Title	Drg. Number	Scale	Author
“The Avenue” (View 01) Computer Generated Image**	AA6903 – 00-SL-3D-A--011	-	PRP
“Fruit Tree Walk” (View 02) Computer Generated Image**	AA6903 – 03-SL-3D-A--305	-	PRP
“Village Green” (View 03) Computer Generated Image**	AA6903 – 01-SL-3D-A--106	-	PRP
“Courtyard Garden” (View 04) Computer Generated Image**	AA6903 – 03-SL-3D-A--306	-	PRP

Title	Drg. Number	Scale	Author
Suds Features**	0653-SP-SL-DE-C-G7-011 (1/2)	NTS	Quad
Suds Features**	0653-SP-SL-DE-C-G7-012 (2/2)	NTS	Quad
External Works Layout**	0653-SP-SL-PL-C-G7-001_D (1/3)	1:250@A1	Quad
External Works Layout**	0653-SP-SL-PL-C-G7-002_D (2/3)	1:250@A1	Quad
External Works Layout**	0653-SP-SL-PL-C-G7-001_D (3/3)	1:250@A1	Quad
Drainage Layout Plan**	0653-SP-SL-PL-C-G77-005_G (1/3)	1:250@A1	Quad
Drainage Layout Plan**	0653-SP-SL-PL-C-G77-005_G (2/3)	1:250@A1	Quad
Drainage Layout Plan**	0653-SP-SL-PL-C-G77-005_G (3/3)	1:250@A1	Quad

Document	Author	Date
Planning Policy Statement (inc Statement of Community Involvement)	S&P	May 2018
Supplemental Planning Statement**	S&P	Oct 2018
Design and Access Statement	PRP Architects	May 2018
Design and Access Addendum – Landscape Rev A*	PRP Architects	Oct 2018
Care Needs Assessment	Carterwood	Apr 2018

Alternative Site Assessment	Carterwood	Apr 2018
Flood Risk Assessment and Drainage Strategy	QuadConsult Ltd	Apr 2018
Drainage Strategy Report – Addendum to FRA**	QuadConsult Ltd	Oct 2018
Landscape and Visual Impact Assessment*	PRP Landscaping	Oct 2018
Arboricultural Survey and Planning Integration Report	Quaife Woodlands	May 2018
Preliminary Ecological Appraisal (including Preliminary Ecological Assessment for Bats)	Ecosulis	Aug 2017
Badger Survey, Reptile Presence / Absence Great Crested Newt Presence / Absence Survey***	Ecosulis	June 2018
Heritage Statement	CgMs Consulting	May 2018
Archaeological Desk Based Assessment	CgMs Consulting	July 2017
Preliminary Geo-environmental and Geotechnical Assessment	Tweedie Evans Consulting	Aug 2017
Transport Assessment	Peter Evans Partnership	May 2018
Responses to Highway Authority Consultation Comments**	Peter Evans Partnership	Oct 2018
Travel Plan (v2)*	Peter Evans Partnership	Oct 2018

## **6. Planning Policy**

6.1. The policies referred to below are relevant to the consideration of this appeal.

### **National Planning Policy Framework**

6.2. The Framework is a material consideration in planning decisions. It sets out the Government's planning policies for England and how they will be applied in terms of securing sustainable development. Sections of the Framework that are of particular relevance to the appeal proposals are:

- Section 1: Introduction (paras. 1 to 6);
- Section 2: Achieving sustainable development (paras. 7 to 14);
- Section 5: Delivering a sufficient supply of homes (paras. 59 to 79);
- Section 6: Building a strong competitive economy (paras. 80 to 84);
- Section 8: Promoting healthy and safe communities (paras. 91 to 101);
- Section 11: Making efficient use of land (paras. 117 to 123);
- Section 12: Achieving well-designed places (paras. 124 to 132);
- Section 13: Protecting Green Belt land (paras. 133 to 147);
- Section 14: Meeting the challenge of climate change, flooding and coastal change (paras. 148 to 169);
- Section 15: Conserving and enhancing the natural environment (paras. 170 to 183).; and
- Section 16: Conserving and enhancing the historic environment (para. 184 to 202).

### **Planning Practice Guidance**

6.3. The National Planning Policy Guidance (March 2014 and updated ad-hoc) places significant emphasis on the need for local authorities to meet their housing targets and clearly states that care home bedrooms (falling within Use Class C2) can contribute towards these objectives with specific reference to paras: ID: 3-043-20180913, ID: 2a-17-20190220, ID: 63-001-20190626, ID: 63-002-20190626, ID: 63-003-20190626, ID: 63-004-20190626, 005 Reference ID: 63-000-20190626 01 Reference ID: 63-010-2019062, ID: 63-012-20190626 and ID: 63-013-20190626), ID: 63-016-20190626, ID: 63-017-20190626 and ID: 63-019-20190626.

### **Local Planning Policy**

6.4. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, the determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant Local Development Plan against which the proposals will be considered comprises the saved St Albans Local Plan (1994).

6.5. The following “saved” Local Plan policies are considered to be relevant in the context of this proposal:

- Policy 1 - Metropolitan Green Belt;
- Policy 34 - Highways Considerations in Development Control;
- Policy 35 - Highways Improvements In Association with Development;
- Policy 39 - Parking Standards, General Requirements;
- Policy 43 - Elderly Persons Dwellings and Residential Homes Hostels, Parking Standards;
- Policy 69 - General Design and Layout;
- Policy 70 - Design and Layout of New Housing;
- Policy 74 - Landscaping and Tree Preservation;
- Policy 84a - Drainage Infrastructure;
- Policy 86 – Buildings of Special Architectural or Historic Interest;
- Policy 97 – Existing Footpaths, Bridleways and Cycleways;
- Policy 104 - Landscape Conservation;
- Policy 106 - Nature Conservation;
- Policy 111 - Archaeological Sites;
- Policy 143a - Watling Chase Community Forest;
- Policy 143b – Implementation; and
- Revised Parking Policies and Standards, January 2002.

6.6. The following supplementary guidance issued by the Council is also relevant:

- Design Advice Leaflet No. 1: Design and Layout of New Housing, November 1988; and
- Revised Parking Policies and Standards, January 2002.

### **Emerging Planning Policy**

6.7. The Council are in the process of preparing a new Local Plan to cover the period 2020 to 2036. Once adopted it will replace the current Local Plan. The St Albans City & District Local Plan Publication Draft was submitted to the Secretary of State for examination in March 2019.

6.8. The emerging Local Plan is yet to be heard at examination and it may therefore be modified prior to its adoption as part of the development plan.

6.9. Nevertheless for completeness references may be made to the following policies which may have some bearing on this appeal:

- Policy S3 – Metropolitan Green Belt;
- Policy S6 – Broad Locations for Development;
- Policy L2 – Provision of Older Persons Housing and Special Needs Housing;
- Policy L30 - Historic Environment.



- 6.10. The Appellant considers that no weight should be given to policies of the emerging local plan and the LPA consider that limited weight should be given to them. Neither party rely upon emerging local plan policies in this appeal.

### **Neighbourhood Plan**

- 6.11. The Site also falls within the St Stephen Neighbourhood Plan area, which was designated in 2014. The Parish Council ran a Call for Sites exercise which closed in March 2017 and the Neighbourhood plan was submitted in draft form to St. Albans District Council Planning Department in July 2018. There have been subsequent adjustments made to the Plan as a result of detailed discussions with the Council's planning policy officers. Public consultation with the Draft Neighbourhood Plan is currently anticipated in the Autumn of 2019.

## 7. Planning Issues

7.1. Parties are in agreement with the following statements.

### Matters agreed

- 7.2. There is no objection to the demolition of the existing structures on the Appeal Site.
- 7.3. The proposals fall within Class C2 of the Use Classes Order of the 1990 TCPA (as amended).
- 7.4. There is no policy requirement to provide any form of affordable housing.
- 7.5. The proposal comprises 'inappropriate' development within the Green Belt, for which "Very Special Circumstances" must be demonstrated.
- 7.6. The proposals would cause less than substantial harm to the significance of Grade II\* listed Burston Manor House and a Grade II listed ancillary outbuilding through development within their setting.
- 7.7. As at a baseline date of 1 April 2018, the Council can only demonstrate a 2.2 years deliverable supply of housing (including the relevant 20% buffer).
- 7.8. It is common ground that there is a demonstrable need for specialist housing to meet the needs of older people as part of the overall housing need.
- 7.9. The appellant states that the proposals will deliver a range of benefits. However the respective parties disagree on the weight to be attached to each of these benefits. To assist the Inspector the following table sets out both parties positions on the weight to be attached to each of these benefits:

Benefit	Appellant Weight	LPA Weight
Meeting the needs for specialist housing in the area for older people	Very significant	Significant
Making a substantial contribution to housing land supply	Very significant	
Lack of suitable sequentially preferable alternative sites to accommodate the proposals	Significant	
Health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services	Very significant	Limited
Release of under-occupied family housing	Significant	Significant as part of contributing to housing land supply
Employment opportunities the scheme will deliver	Very significant	Moderate
Site access improvements that the scheme will deliver	Some	Limited

Community benefits the scheme will deliver.	Some	Limited as part of the health and well-being benefit
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- 7.10. The landscape and visual impacts of the development would be limited to the immediate environs of the site.
- 7.11. Subject to the imposition of appropriate conditions the scheme's arboricultural impact would be acceptable.
- 7.12. The proposed scheme will not give rise to any material harmful impacts in respect of residential amenity (both in respecting of neighbouring properties and within the development itself).
- 7.13. The scheme is acceptable in respect of impacts on highways capacity, access and car parking provision subject to an appropriately worded condition.
- 7.14. There are no known environmental or technical constraints such as contamination, flood risk that preclude the site from development.
- 7.15. The servicing and refuse arrangements for the use are acceptable, subject to conditions.

#### **Matters disputed**

- 7.16. The following matters remain in dispute:
- The extent of previously developed land;
  - The degree to which the site is contained within the existing landscape particularly the extent the proposals would contribute towards the merging of How Wood and Chiswell Green and consequent Green Belt impacts;
  - The relationship of the Appeal site with Burston Manor and its curtilage and the degree of harm to these designated heritage assets within the spectrum of less than substantial harm through development within their setting;
  - The case for very special circumstances which outweighs the harm to the Green Belt by reason of inappropriateness, and any other harm including to heritage assets;
  - The weight to be attached to and full extent of the public benefits the scheme would deliver; and
  - The weight to be attached to draft planning policies set out in the Submission draft St Albans City and District Local Plan – see 6.9 above

## 8. Conditions, S106 and Community Infrastructure Levy

### Conditions

- 8.1. The Appellant and the LPA have sought to agree an appropriate list of conditions in advance of the Inquiry to aid the Inspector in the determination of this Appeal.

### Conditions not agreed

- 8.2. The Appellant and the LPA have agreed to the following conditions.

#### Time limit

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990

#### Approved plans

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

**Reason:** For the avoidance of doubt and in the interests of proper planning.

#### Materials

- 3) No above ground works shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the finished appearance of the development is satisfactory. To comply with Policy 69 of the St. Albans Local Plan Review 1994.

- 4) No above ground works shall take place until details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking area have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the finished appearance of the development is satisfactory. To comply with Policies 69 and 85 of the St. Albans Local Plan Review 1994.

### **Tree Protection**

- 5) The development hereby approved shall be carried out wholly in accordance with the tree protection measures set out in the document entitled “Arboricultural Survey and Planning Integration Statement” (ref AR/3741/jq) dated 1 May 2018 produced by Quaife Woodlands.

**Reason:** To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

### **Landscaping**

- 6) The development hereby approved shall not be occupied until details of a scheme of hard and soft landscaping, which shall include the submission of a planting schedule prescribing details of the size and species of proposed planting, are submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full in the first planting season following the completion of the development or otherwise in accordance with a timetable which shall have been agreed in writing by the local planning authority. If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.

**Reason:** To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

### **External lighting details**

- 7) No lighting columns or external lights shall be installed until details of external lighting has been submitted to and approved in writing by the Local Planning Authority. The details shall include the design and location of lights and lighting columns, the level of illumination and time of operation. The development shall be implemented in accordance with the approved details.

**Reason:** In the interests of amenity, visual amenity, the effect on the setting of the adjacent listed buildings and highway safety. To comply with Policies 34 and 86 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

### **Highway Safety and Public Rights of Way**

- 8) Prior to the occupation of any of the buildings hereby permitted the vehicular access at North Orbital Road shall be upgraded in accordance with drawing numbers 3019.14, 3019.15 and 3019.16 and arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

**Reason:** To ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity.

### **Travel Plan**

- 9) Following commencement of construction of the development hereby permitted an Interim Travel Plan shall be submitted to and approved by the Local Planning Authority. None of the buildings hereby permitted shall be occupied until the Interim Travel Plan has been approved and implemented. A Full Travel Plan based upon the Interim Travel Plan shall be submitted to the Local Planning Authority for approval following occupation of 75% of the floorspace of the buildings hereby approved. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.

**Reason:** To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

### **Construction Management**

- 10) No development shall commence, including demolition, until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved plan unless otherwise agreed with the Local Planning Authority. The Construction Management Plan/Statement shall include details of:

- A. Access arrangements to the site;
- B. Traffic management requirements;
- C. Construction and storage of compounds (including areas designated for car parking, loading/unloading and turning areas);
- D. Siting and details of wheel washing facilities;
- E. Cleaning of site entrances, site tracks and the adjacent public highway;
- F. Provision of sufficient on-site parking prior to commencement of construction activities;

- G. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- H. Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

**Reason:** In order to protect highway safety and the amenity of other uses of the public highway and rights of way.

#### **Rights of Way**

- 11) Notwithstanding the details indicated on the submitted drawings no works impacting on Rights of Way shall commence on site unless otherwise agreed in writing until a Rights of Way Improvement Plan for the off-site and on-site Rights of Way improvement works has/have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor.

- 12) Prior to the first occupation/use of the development hereby permitted the off-site and on-site Rights of Way improvement plan works (including any associated highway works) referred to in Part A of this condition shall be completed to the written satisfaction of the Local Planning Authority.

**Reason:** To ensure that the highway network is adequate to cater for the development proposed.

#### **Archaeology**

- 13) No development-related works shall take place within the site until a written scheme of archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority. This must be carried out by a professional archaeological/building recording consultant or organisation in accordance with the agreed written scheme of investigation.

**Reason:** To ensure adequate opportunity is provided for archaeological research on this historically important site. To comply with Policy 111 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019. To ensure the appropriate

identification, recording and publication of archaeological and historic remains affected by the development.

- 14) Following the completion of the fieldwork, formal provision for the post investigation assessment shall be put in place. This assessment will be in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 1. Provision will be demonstrated and confirmed in writing with the LPA for the analysis and publication of the site archive, if appropriate. This will include all necessary works up to and including an appropriate publication and will include an agreed timetable and location for that publication. Should these provisions not be required, formal agreement will be sought and shall be agreed in writing with the LPA.

**Reason:** To ensure adequate opportunity is provided for archaeological research on this historically important site. To comply with Policy 111 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework (Paragraph 141). To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.

#### **Flood Risk and Drainage**

- 15) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy produced by Quad Consulting reference 0653-00-SL-RE-GO-1041 Rev C dated April 2018 including the following mitigation measures detailed within the FRA:
- (a) Undertake appropriate drainage attenuation to limit discharge into unnamed ditch/watercourse to 10 l/s.
  - (b) Provide attenuation to ensure that there is no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.
  - (c) Implement the drainage strategy to include permeable paving, swales, ponds, tree pits and attenuation tanks as indicated on drainage drawings 0653-SP-SL-PL-C-G77-005\_G, 0653-SP-SL-PL-C-G77-006\_G and 0653-SP-SL-P-C-G77-007\_G.

**Reason:** To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- 16) No development shall commence, excluding demolition and site clearance works, until the final design of the drainage scheme, which shall be based upon the submitted Flood Risk Assessment is submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme, which shall include:



- (a) Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should also show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes;
- (b) Silt traps for protection of any residual tanked elements; and
- (c) Details of final exceedance routes, including those for an event which exceeds 1:100 + climate change rainfall event.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

- 17) Within 1 month of completion of the approved drainage works a management and maintenance plan for SuDS features and drainage network shall be submitted to the Local Planning Authority for approval. The Plan shall include final confirmation of management and maintenance requirements and a complete set of as-built drainage drawings. The management and maintenance of the drainage infrastructure shall be carried out in accordance with the approved plan.

**Reason:** To reduce the risk of flooding of the proposed development.

#### **Refuse**

- 18) Facilities for the storage of refuse shall be provided within the development hereby approved. Details of such facilities, including screening shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The refuse areas shall remain thereafter and shall not be used for any other purpose.

**Reason:** To ensure a satisfactory appearance and standard of environment. To comply with Policy 70 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

#### **Car Parking**

- 19) The Car Parking shown on the approved drawings shall be retained as car parking and used for no other purpose, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that the car parking facilities within the site are not eroded and to comply with Policies 39 and 40 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

***Conditions not agreed***

8.3. The LPA also want to impose the following conditions. The appellant disagrees.

**Contamination**

- 1) A desk-top study shall be carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The desk-top study shall comply with BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice. Copies of the desk-top study shall be submitted to the LPA without delay upon completion.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

- 2) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and provide information for a detailed assessment of the risk to all receptors that may be affected. The site investigation shall comply with BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice. Copies of the interpretative report shall be submitted to the LPA without delay upon completion. The site investigation shall not be commenced until:

- (i) a desk-top study has been completed satisfying the requirements of (10) above;
- (ii) The requirements of the LPA for site investigations have been fully established; and
- (iii) The extent and methodology have been agreed in writing with the LPA.

Copies of the interpretative report on the completed site investigation shall be submitted to the LPA without delay on completion.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

- 3) The results of the site investigation and the detailed risk assessment shall be used to prepare an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The options appraisal and remediation strategy shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

- 4) A verification report demonstrating completion of the works set out in the remediation strategy in (12) and the effectiveness of the remediation shall be submitted in writing and approved by the LPA. The report shall include results of validation sampling and monitoring carried out in accordance with an approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

- 5) Prior to the commencement of the construction works hereby permitted, reclamation of the site shall be carried out in accordance with the options appraisal and remediation strategy approved by the LPA. Any amendments to these proposals relevant to the risks associated with the contamination shall be submitted to the Planning Authority for prior approval in writing.

On completion of the works of reclamation, the developer shall provide a validation report which confirms that the works have been completed in accordance with the approved documents and plans.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

- 6) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, subject to the approval of

the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

**Reason:** To ensure that adequate protection of human health is maintained, and the quality of groundwater is protected. To comply with Policy 84 of the St. Albans District Local Plan Review 1994.

#### **Slab levels and surrounding ground levels**

- 7) Details of the proposed finished floor levels of all buildings and the finished ground levels of surrounding property, including the finished relationship with the adjacent buildings shall be submitted to and approved in writing by the Local Planning Authority before any work commences. The development shall be thereafter be implemented in accordance with the approved details.
- 8) Reason: This is a pre – commencement condition in the interest of Proper Planning as required by The Town and Country Planning (Development Management Procedure) (England) Order 2015, Part 3 Article 6 (a) (b), Article 11(1) (d) (i) to ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring occupiers, in compliance with Policy 69 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

#### **Removal of permitted development rights**

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be constructed without the prior permission of the Local Planning Authority.

Reason: To allow the Local Planning Authority to retain control over the development in the interests of visual amenity and the openness of the Green Belt and to comply with Policies 1, 69 and 70 of the St. Albans District Local Plan Review 1994 and The National Planning Policy Framework 2019.

### **Planning Obligations**

- 8.4. An agreed draft version of the proposed S106 Agreement has been submitted to the Planning Inspectorate under separate cover. An engrossed S106 Agreement will be provided to the Inquiry before it closes.

8.5. A detailed section 106 agreement has been prepared on behalf of the appellant that sets out the obligations to St Albans DC and Kent CC. The legal agreement will make the following provisions:

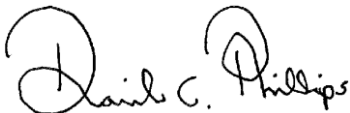

- Library contribution;
- Audit and monitoring contribution;
- Provision of fire hydrants;
- Bridleway and access improvements;
- Travel plan;
- Communal facilities provision; and
- A commitment to elderly care package.

8.6. The agreement will be completed before the close of the inquiry to ensure commitment to the obligations.

#### **Community Infrastructure Levy (CIL)**

8.7. There is no adopted CIL charging schedule in place.

## 9. Signatories

	
David Phillips	Shaun Greaves
Director – Strutt & Parker	Director -G C Planning Partnership Ltd
On Behalf of the Appellant	On Behalf of the LPA
Date: 28 October 2019	Date: 28 October 2019