



**TOWN AND COUNTRY PLANNING ACT 1990**

**PROOF OF EVIDENCE OF  
SHAUN GREAVES BA (HONS) DipURP, MRTPI**

**ON BEHALF OF  
ST. ALBANS CITY AND DISTRICT COUNCIL**

**APPEAL BY CASTLEOAK LTD**

**LAND TO THE REAR OF BURSTON GARDEN CENTRE, NORTH ORBITAL  
ROAD, CHISWELL GREEN, ST. ALBANS, HERTFORDSHIRE**

PLANNING INSPECTORATE REFERENCE: APP/B1930/W/19/3235642

LPA REFERENCE: 5/2018/1324

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## **1.0 INTRODUCTION**

### **1.1 Qualifications and Experience**

1.1.1 My name is Shaun Greaves. I am a chartered Town Planner and a Director of G C Planning Partnership Ltd, a planning consultancy that undertakes work for private and public sector clients. I hold a Bachelor of Arts degree with honours in Geography and History from Lancaster University and a Postgraduate Diploma in Urban and Regional Planning from Sheffield City Polytechnic (now Sheffield Hallam University). I have been a member of the Royal Town Planning Institute since 1996.

1.1.2 Prior to establishing G C Planning Partnership in 2007 I worked for planning authorities in Derbyshire and Bedfordshire.

1.1.3 Between 2008 and 2010 I worked as a Planning Inspector dealing with appeals by way of the written procedure.

1.1.4 I have appeared as an expert witness at planning appeals and given evidence at public inquiries, which have included development within conservation areas and their setting, as well as within the setting of listed buildings as Team Leader of the Appeals and Conservation Team at Bedford Borough Council and for private clients. As a Planning Inspector I handled appeals through the written procedure regarding sites that were within conservation areas. Therefore, I have experience of dealing with heritage appeals, particularly relating to setting.

1.1.5 I am familiar with the appeal site and its surroundings.

### **1.2 Appointment by St. Albans City and District Council**

1.2.1 I have been appointed by St. Albans City and District Council to give evidence as an expert witness. I was instructed to act on the Council's behalf on the 10<sup>th</sup> September 2019 following my review of the

application, the reasons for refusal of planning permission and the Appellants' grounds of appeal.

1.2.2 I confirm and declare that to my knowledge and belief:

All matters contained in this document are an accurate and true record of all matters put forward.

My proof includes all facts which I consider as being relevant to the opinions which I have expressed, and I have included in my proof all matters which would affect the validity of the opinions I have expressed. I believe that the facts I have stated in this report are true and that the opinions I have expressed are correct.

## **2.0 SCOPE OF EVIDENCE**

**2.1** This proof of evidence is presented to the Public Inquiry, scheduled for six days commencing on 27 November 2019, on behalf of St. Albans City and District Council. This proof provides the Council's evidence in respect of the appeal.

**2.2** My evidence details the Council's case as it relates to the identified main issues:

- The effect on the openness and purposes of the Green Belt;
- The effect of the proposal on the Character and Appearance of the Area;
- The effect of the proposal on adjacent listed buildings, as derived from their setting;
- Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances required to justify the proposal; and
- The Planning Balance.

### **3.0 THE PROPOSED DEVELOPMENT**

#### **3.1 The Site**

3.1.1 A description of the appeal site has been agreed in the Statement of Common Ground.

#### **3.2 The application the Subject of the Appeal**

3.2.1 A description of the application has been agreed in the Statement of Common Ground

#### **4.0 PLANNING POLICIES**

**4.1** Section 38 (6) of the Planning and Compulsory Purchase Act confirms that the determination of applications for planning permission must be made in accordance with the development plan unless material considerations indicate otherwise.

**4.2** The National Planning Policy Framework (the Framework) is an important material consideration.

#### **4.3 Development Plan Policy St. Albans Local Plan Review 1994 (LP)**

4.3.1 This Local Plan is time expired and therefore I consider that in that respect the plan is out-of-date. The LPA also cannot demonstrate a five-year supply of deliverable housing sites and therefore footnote 7 to paragraph 11 (d) of the NPPF deems the most important policies for determining the application out-of-date. However, the saved policies remain development plan policies until the emerging local plan is adopted. In the light of paragraph 213 of the Framework I shall consider the weight that should be attributed to relevant saved policies according to their degree of consistency with the Framework. However, the effect of paragraph (d)(i) is that policies in the Framework relating to the green Belt and the protection of heritage assets have to be applied to ascertain whether those policies provide a clear reason for refusal.

4.3.2 I set out below policies that I consider are relevant to the appeal proposal and identify the weight that should be attached to them in terms of consistency with the Framework.

4.3.3 **Policy 1 – Metropolitan Green Belt** is referred to in reason for refusal 1. This policy confirms that in the Green Belt, permission will not be granted for development outside Green Belt Settlements except in

identified exceptional circumstances, which do not apply to the Appeal Proposals or very exceptional circumstances. The Policy goes on to indicate that new development within the Green Belt shall integrate with the existing landscape. Siting, design and external appearance are particularly important and additional landscaping will normally be required.

4.3.4 I consider that Policy 1 is consistent with the Framework which confirms at paragraph 143 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 confirms that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 145 sets out exceptions to inappropriate development and the appeal proposals would not meet any of the identified exceptions.

4.3.5 **Policy 69 – General Design and Layout** requires all development to have an adequately high standard of design taking account of context, materials and other policies such as conservation and historic buildings.

4.3.6 I consider that Policy 69 is consistent with the Framework. Paragraph 124 confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Policy 127 indicates, amongst other things, that planning policies should ensure that developments are sympathetic to local character, including surrounding built development and landscape setting.

4.3.7 **Policy 70 – Design and Layout of New Housing** confirms that the design of new housing development should have regard to its context and the character of its surroundings, setting out seven objectives.



4.3.8 I consider that policy 70 is consistent with the Framework, where paragraph 127 requires that developments are sympathetic to local character and establish or maintain a strong sense of place. In my view, the Framework goes further than policy 70 where paragraph 130 stipulates that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides.

4.3.9 **Policy 86 – Buildings of Special Architectural or Historic Interest** stipulates that in considering any application for planning permission for development which affects a listed building or its setting, the Council will have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest.

4.3.10 I consider that Policy 86 is consistent with the Framework, whereby paragraph 194 stipulates that 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.

#### **4.4 National Planning Policy Framework (The Framework)**

4.4.1 This is an important material consideration, policies of which will be addressed in the body of this proof. Relevant sections are identified in the Council’s Statement of Case and the Statement of Common Ground.

4.4.2 Paragraph 134 sets out five purposes of the Green Belt:

- (a) to check the unrestricted sprawl of large built-up areas;
  - (b) to prevent neighbouring towns merging into one another;
  - (c) to assist in safeguarding the countryside from encroachment;
  - (d) to preserve the setting and special character of historic towns;
- and

- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
  
- 4.4.3 Paragraph 143 confirms that inappropriate development is, by definition harmful to the Green Belt and should not be approved in very special circumstances.
  
- 4.4.4 Paragraph 144 stipulates that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.
  
- 4.4.5 Paragraph 145 sets out exceptions where the construction of new buildings would not be inappropriate development.
  
- 4.4.6 Regarding conserving and enhancing the historic environment paragraph 193 confirms that when considering a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance
  
- 4.4.7 Paragraph 196 confirms that where a proposed development will lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
  
- 4.4.8 Annex 2 defines previously developed land as land which is or was occupied by a permanent structure including the curtilage of the developed land. This excludes land that is or was last occupied by agricultural buildings.

#### **4.5 National Planning Practice Guidance (NPPG)**

4.5.1 Relevant sections of the NPPG are set out in the Council’s Statement of Case.

##### Heritage

4.5.2 Section 18a addresses heritage. Of particular importance are:

ID: 18a-001-20190723 – what is the main legislative framework for the historic environment?

4.5.3 ID: 18a-006-20190723 – what is significance?

4.5.4 ID: 18a-007-20190723 – why is significance important to decision-making?

4.5.5 ID: 18a-013-20190723 – what is setting of a heritage asset and how can it be taken into account?

4.5.6 ID: 18a-018-20190723 – How can the possibility of harm to a heritage asset be assessed?

4.5.7 ID: 18a-020-20190723 – What is meant by the term public benefits?

##### Housing for Older People

4.5.8 In addition, of relevance is guidance relating to housing for Older People at Section 63.

##### Green Belt

4.5.9 Of importance to this appeal is Green Belt policy. ID 64-001-20190722 sets out what factors can be taken into account when considering the potential impact of development on the openness of the Green Belt. These include but are not limited to:

- Openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant as could its volume;

- The duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- The degree of activity likely to be generated, such as traffic generation.

#### **4.6 St. Albans City and District Submission Local Plan (SLP)**

- 4.6.1 The Framework identifies the weight that may be attributed to emerging Local Plan policies by decision-takers at Paragraph 48. Weight is attributed to the stage of preparation of the emerging plan; the more advanced the preparation, the greater the weight that may be given; the extent to which there are unresolved objections; and the degree of consistency of the policies with the Framework.
- 4.6.2 Hearings sessions of the Examination of the emerging local plan have been provisionally set for week commencing 20 January 2020 and week commencing 3 February 2020.
- 4.6.3 Given the stage at which the emerging local plan has reached, and the extent of unresolved objections, I consider that only limited weight may be attributed to its policies. Nevertheless, of relevance to this case is that the appeal site would remain in the Green Belt and Policy S3 – Metropolitan Green Belt reflects national green belt policy. It is also of relevance that the site is not within in one of the Broad Locations for Development where Policy S6 would apply. Therefore, the emerging local plan does not advocate a change in the direction of travel of policy for the appeal site, which would remain one of restraint.

## **5.0 THE COUNCIL'S CASE**

### **5.1 Effect on the Openness and Purposes of the Green Belt**

- 5.1.1 The site lies between the settlements of Chiswell Green and How Wood, outside the identified settlement boundaries for these villages in the adopted Policies Map and within the Green Belt.
- 5.1.2 It is common ground between the main parties that the Appeal Proposals would be inappropriate development in the Green Belt. Saved LP Policy 1 stipulates that in such cases planning permission will not be granted unless there are very special circumstances. The proposals are plainly inappropriate development because they involve the construction of a large number of very substantial buildings which do not fall within any of the exceptions contained in paragraph 145.
- 5.1.3 Paragraph 143 of the Framework stipulates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.1.4 Paragraph 144 of the Framework requires local planning authorities to give substantial weight to any harm to the Green Belt and confirms that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations.
- 5.1.5 The Appellants allege that 'very special circumstances' exist, which justify the Appeal Proposals and ensure compliance with LP Policy 1 and national policy. However, before considering this matter I shall address the harm to the openness to the Green Belt and its purposes.

5.1.6 I note that the Appellants allege that harm to the openness of the Green Belt would be limited<sup>1</sup>. I disagree and consider that the harm to the openness of the Green Belt would be significant, an important aspect of that harm is any conflict with the purposes of the Green Belt.

Effect on Openness

5.1.7 Paragraph 133 of the Framework stipulates that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open – that is free from development – and that the essential characteristics of Green Belts are their openness and their permanence.

5.1.8 Whilst I consider that the appeal site is relatively well contained within the landscape and would not be prominent from wider views the site remains predominantly open in appearance and contributes to the openness of the Green Belt and the separation of the two settlements of Chiswell Green and How Wood. There are some agricultural buildings on the site that diminish openness. However, under LP Policy 1 and paragraph 145 of the Framework, such buildings are not inappropriate development in the Green Belt.

5.1.9 The construction of buildings, car parking and roads on land will influence openness, irrespective of the effect upon landscape and visual amenity. I will address the latter in considering the effect of the proposed development upon the character and appearance of the area later. However, it is relevant to note that the definition of previously developed land in the glossary of the Framework is consistent with the Framework’s approach to agricultural (including horticultural) buildings in the Green Belt. Accordingly, the construction of horticultural buildings is not inappropriate (paragraph 145) and land occupied by horticultural buildings or former horticultural buildings does not constitute previously developed land. This recognises the consistency of horticultural uses and

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<sup>1</sup> See paragraphs 6.9 to 6.12 of the Appellants’ Statement of Case

buildings with a Green Belt location, whereas residential buildings are inappropriate in a Green Belt location. As an example, the redevelopment of a nursery could not be appropriate development under 145(g).

5.1.10 The Application Form for the Appeal Proposals does not identify the existing floor space but confirms that the amount of C2 Use floorspace proposed is 17,593m<sup>2</sup> on a site measuring 3.8 hectares. It is clear from the submitted Design and Access Statement <sup>2</sup> that most of the existing built form relates to polytunnels and glasshouses. As above, this does not count as previously developed land. The portion of the site that can be considered brownfield in planning policy terms is minimal. There are two buildings that are located within the southern boundary that appear to have been used in association with the garden centre, which, in my view, is previously developed land and these buildings have a footprint of about 925m<sup>2</sup>. This compares to a footprint of approximately 8620m<sup>2</sup> for the proposed buildings, which would equate to a net increase of about 7695m<sup>2</sup> of building footprint.

5.1.11 The Appeal Proposal would significantly increase the amount of built development on this site. It would also introduce built development of a very different, and far more permanent character. The appeal site is mostly open including rough grassland and propagation fields. There are buildings on the appeal site but most of the floorspace is that of greenhouses and polytunnels associated with the horticultural use of the land. These are partly see-through and have a temporary, and horticultural character. The current rural appearance of the site from horticultural use, would be replaced by a high-density form of residential development, which would have a substantial impact upon the openness of the site physically, visually and in policy terms.

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<sup>2</sup> Page 10 of the Design and Access Statement

5.1.12 The Appellants assert that the appeal site is previously developed land. However, the available evidence indicates that the appeal site was used for the growing of plants (roses). I consider that this is horticultural use. Horticulture includes nursery uses. Section 336 of the Town and Country Planning Act 1990 confirms that agriculture includes horticulture. Annex 2 of the Framework confirms that the definition of previously developed land excludes "*land that is or was last occupied by agricultural or forestry buildings.*" Further, the extent of the PDL would not in any event extend beyond the footprint of the buildings – such buildings having no curtilage to speak of. I consider that the vast majority of appeal site is not previously developed land.

5.1.13 I conclude on this matter that the Appeal Proposals would significantly increase the amount buildings, car parking and hardstanding on the site, which along with residential paraphernalia would have a substantial urbanising effect that would have a significant detrimental effect on the openness of the Green Belt.

#### Conflict with Purposes of the Green Belt

5.1.14 Paragraph 134 of the Framework confirms that the Green Belt serves five purposes. One of these purposes is to assist in safeguarding the countryside from encroachment.

5.1.15 Given the current horticultural use of the site and the urban nature and appearance of the appeal proposals, I consider that the proposed development would conflict with one of the Green Belt purposes of assisting in safeguarding the countryside from encroachment.

5.1.16 Two other purposes of the Green Belt are to check the unrestricted sprawl of large built up areas and prevent neighbouring towns from merging into one another.



- 5.1.17 There is good access to the local and strategic road network in this part of the Green Belt, and the site is close to railway stations and services and facilities. In the light of these factors, recently approved developments and the appeal proposal, I consider that this part of the Green Belt is under very significant pressure from development.
- 5.1.18 The Appeal proposals would be significant in scale and impact in terms of the urbanisation of the site. However, when combined with other developments that have been built in the vicinity along with the recently approved hotel at Copsewood<sup>3</sup> the proposed development would conflict with the purpose of the Green Belt to check the unrestricted sprawl of the large built-up areas such as Chiswell Green and How Wood.
- 5.1.19 Attached as Appendix SG2 is an extract from the Proposals Map for the adopted Local Plan that identifies the defined settlement boundaries for Chiswell Green and How Wood. The Appeal Site forms part of an important gap, designated as Green Belt, between the two settlements of Chiswell Green and How Wood. I consider that this open gap is obvious to users of the bridleway (HCC FP3) that runs along the north east boundary of the site and that the effect of the development within the perception of users of that bridleway would be the merger of the two settlements.
- 5.1.20 Therefore, I consider that the Appeal Proposals would conflict with three of the five purposes of the Green Belt.

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<sup>3</sup> Shown on Aerial Photograph at Appendix SG1

## **5.2 Effect upon the Character and Appearance of the Area**

- 5.2.1 LP Policy 69 requires all development to have an adequately high standard of design taking account matters such as context, materials and other policies of the local plan. LP Policy 70 addresses the design and layout of new housing and requires housing development to create attractive places where people will live.
- 5.2.2 The Appeal Proposals are of a scale and form that would appear as a relatively high-density development. This is an application for full permission. There is limited space for landscaping and the development relies heavily upon neighbouring woodland and the grounds to Burston Manor house to provide a landscaped setting to the development.
- 5.2.3 The proposed woodland edge identified on the submitted Landscape Master Plan (Drawing No. 0653-00-SL-PL-L-G7-010) would constitute the planting of trees within a boundary hedge and not woodland planting. Indeed, the proposed care home would be just 1.5m away from the boundary adjacent to the existing bridleway (HCC FP3) at its closest point and some of the bungalows would be a similarly short distance from that boundary. There would not be sufficient space for much if any tree planting within a 1.5m wide gap and certainly not a 'woodland edge' to the proposed development, as identified in the submitted Landscape Master Plan.
- 5.2.4 It is proposed to provide a 3.5m wide gap between the boundary to the curtilage to adjacent listed Burston Manor House and proposed bungalows which would not be sufficient to provide a 'woodland edge' identified in the Landscape Master Plan.
- 5.2.5 Whilst I consider that an existing close boarded fence along the site boundary with the adjacent bridleway has a visual impact on users, the

openness of the site remains evident for users of the bridleway and footpaths within the adjacent wood. I consider that there is an appreciation from the bridleway of being within the countryside. There are footpaths running off the existing bridleway within the wood to the north. Whilst they are not defined as public footpaths, they offer public vantage points in the vicinity of the appeal site where views would be substantially changed by the appeal proposals. I attach at Appendix SG5 and photographs showing the footpaths and public vantage points of concern<sup>4</sup>. The existing open and horticultural semi-rural character of the site would be lost because of the substantial built form of the Appeal Proposals and their domestic appearance.

5.2.6 Peripheral landscaping is very limited, and this would do little to mitigate the visual impact of the development upon the immediate area. The impact of the development is assessed in the Landscape and Visual Impact Assessment (LVIA) by PRP that was submitted with the application. The Council will seek to agree common ground and identify areas of disagreement regarding the impact upon the landscape and visual amenity in a topic related statement of common ground. I agree with the Appellants that the site is relatively contained and that the landscape and visual impacts are localised. However, I consider that the narrowness of this gap between the two settlements of Chiswell Green and How Wood increases the sensitivity to change in terms of Green Belt policy, in the light of the purposes of the Green Belt, notwithstanding the approach and methodology of the submitted LVIA. Further, although localised, the site is readily visible from many public vantage points in close proximity to the appeal site referred to previously at 5.2.5.

5.2.7 Concerns were raised about the layout of the proposed development whilst the planning application was being considered and whilst the

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<sup>4</sup> Photographs 1, 2, 3 and 4 at Appendix SG5

layout was improved there remains concerns about the development. The proposed development would be very dense and would not deliver a scheme that would comply with the design concepts expressed in the Design and Access Statement. The built elements and hard landscaping take up a large proportion of the site, which significantly limits opportunities for soft landscaping within and around the site. Trees are proposed to be planted within the scheme very close to buildings, which may result in conflict in terms of overshadowing from the trees when they grow.

- 5.2.8 I consider that the design of the proposed development would be significantly improved by a less regimented layout with more space dedicated to soft landscaping, including associated tree planting and water features, which would result in a lower density and less cramped appearance more appropriate to the context of the site.
- 5.2.9 The LVIA identifies several sensitivities to change and proposes landscape mitigation measures. I would agree with the proposed mitigation suggested in the LVIA to reduce the impact of the proposals in the event that permission is granted. However, the suggested mitigation would not, in my view, be delivered by the development based upon the Landscape Master Plan (Drawing No. 0653-00-SL-PL-L-G7-010).
- 5.2.10 Some of the buildings on the appeal site, and the overall lack of maintenance in my view detract from the appearance of the site and the character of the area. However, the site is of a particularly identifiable and open character consistent with its horticultural use and agricultural history as a site beyond the settlement. The existing site character does not form the basis for justifying development that would fail to enhance the character and appearance of the area and the way it functions, which I consider would be the effect of the proposed development.