



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 CARE PARTNERSHIPS LTD

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

November 2021

PLANNING INSPECTORATE REFERENCE: APP/B1930/W/21/3279463

LPA REFERENCE: 5/20/3022

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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. 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 16th August 2021 following my review of the application, the reasons for refusal of planning permission and the Appellant's 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 7th December 2021, 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:

- 1) The effect of the proposed development on the openness and purposes of the Green Belt;
- 2) The effect of the proposed development on the Character and Appearance of the Area;
- 3) The effect of the proposed development on the significance of the Grade II* listed Burston Manor House and the Grade II listed outbuilding
- 4) Whether the proposed development would make adequate provision for community and infrastructure needs; and
- 5) Whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposed development

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.

3.1.2 Photographs of the site and its surroundings are attached at Appendix SG1.

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. The Council's reasons for refusal are set out in the decision notice (CD1.4iii).

4.0 PLANNING HISTORY

4.1 Planning application reference 5/18/1324

4.1.1 The Council refused planning permission for the redevelopment of the Appeal 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 on the 20th March 2019.

4.1.2 There were two reasons for refusal of planning permission, which identified harm to the Green Belt, character and appearance of the area and the setting of adjacent listed buildings: the Grade II* listed Burston Manor House and associated Grade II listed granary/dovecote.

4.2 Planning appeal reference APP/B1930/W/19/3235642

4.2.1 An appeal was lodged against the refusal of planning permission and a Public Inquiry was held on the 27th to 28th of November and 3rd to 5th December 2019.

4.2.2 The appeal was dismissed on the 9th January 2020¹. The Planning Inspector, Claire Searson, identified four main issues. These were:

- i) The extent to which the development would harm the openness of the Green Belt and/or conflict with its purposes;
- ii) The effect of the proposal on the character and appearance of the area;

¹ Core Document 5.56 Appeal Decision Letter dated 9 January 2020

- iii) The effect of the proposal on the significance of the grade II* listed Burston Manor and grade II listed outbuildings, as derived from their setting; and
 - iv) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- 4.2.3 Regarding the effect of that development upon openness of the Green Belt the Inspector confirmed that LP Policy 1 seeks to restrict development in the Green Belt and sets out several exceptions to this or allows development in very special circumstances. However, she considered that Policy 1 does not fully align with the Green Belt policies of the Framework as the exemptions are more restrictive than those set out at paragraph 145 (now paragraph 149).
- 4.2.4 The Inspector confirmed at paragraph 24 that it was common ground that the site should not be regarded as previously developed land and as such the development proposals were inappropriate development, which is by definition, harmful to the Green Belt and that substantial weight should be accorded to that harm. The Inspector confirmed that such development should not be approved except in very special circumstances whereby inappropriateness and any other harm is clearly outweighed by other considerations.
- 4.2.5 Regarding the quality of the site the Inspector found at paragraph 25 that the existing structures including the glasshouses, polytunnels and other structures associated with the horticultural use of the site should not be seen as harmful to the purposes or characteristics of the Green Belt because they are structures that are common in rural areas and, crucially, are not seen as inappropriate in Green Belt policy terms.

- 4.2.6 In considering openness against the baseline above, the Inspector found that the development would result in a substantial loss of openness in spatial terms at paragraph 26. Regarding the visual impact upon openness the Inspector considered that the new buildings would have limited zones of visibility from outside of the site and would be largely confined to short or medium range views from the bridleway. However, she concluded that the loss of openness would be clearly perceived by users of the public right of way and very apparent for the many residents, staff, and visitors to the development.
- 4.2.7 In terms of openness, the Inspector concluded at paragraph 30 that the spatial and visual harm to openness would constitute visual harm to the Green Belt in addition to inappropriateness.
- 4.2.8 Regarding the purposes of the Green Belt the Inspector considered that that there would have been clear conflict with three of the five Green Belt purposes set out at paragraph 135 of the Framework (now paragraph 138), these were: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; and (c) to assist in safeguarding the countryside from encroachment.
- 4.2.9 The Inspector concluded at paragraphs 39 and 40 that *"the development would therefore result in a substantial loss of openness and would conflict with the purposes of the Green Belt. The development would not accord with the Framework nor LP Policy 1. I attach substantial weight to this conflict and the harm arising to the Green Belt and its purposes by virtue of the development's inappropriateness and the effect of openness. That harm will need to be outweighed by other considerations, if very special circumstances are demonstrated..."*
- 4.2.10 Regarding character and appearance, the Inspector concluded at paragraph 49 that despite the visual containment of the site, and the

positive aspects of that proposed development relating to legibility design and landscaping, the resultant effect would be of an urbanised site that would be out of step with its wider setting and give rise to a moderately harmful impact on the character and appearance of the area in the vicinity of the site in conflict with LP Policies 69 and 70. The Inspector found that these LP policies were consistent with the Framework.

4.2.11 Regarding the effect of the development upon designated heritage assets, the Inspector confirmed that LP Policy 86 reflects the statutory obligations to have special regard to the desirability of preserving a listed building or its setting or any features of architectural or historic interest that it possesses. The Inspector also confirmed that the Framework gives great weight to the conservation of designated heritage assets and that the more important the asset, the greater the weight should be, irrespective of the level of harm and that any harm requires clear and convincing justification.

4.2.12 The Inspector accepted that while the appeal site is unkempt and not in any way pristine, she considered that it represents the last legible remnant of the historic landscape setting of Burston Manor. At paragraph 60 the Inspector concluded that there would be significant change, the Burston Manor grouping would effectively be contained by urban development and agreed with the Council that this would amount to the severing of the last tangible link between the assets and their original setting. The historic relationship between Burston Manor grouping and How Wood and Birchwood would be all but lost.

4.2.13 At paragraph 65 the Inspector confirmed that she was mindful that grade II* listed buildings represent the top 7% of England's most significant designated heritage assets and states, *"in combination with the grade II listed building and the moat and archaeological potential, the development would be firmly within the realms of 'less than*

substantial harm. I am of the clear view that this would be to a moderate degree when applying the spectrum or scale put to me at the Inquiry, as opposed to the limited harm attested by the appellant.”

- 4.2.14 The Inspector concluded on the issue of Designated Heritage Assets that the development would have caused harm to the significance of the grade II* and grade II listed buildings forming the Burston Manor group. As a result, the development would have conflicted with LP Policy 86 and in accordance with the Framework and the statutory obligations imposed, she gave great weight to that harm, which she weighed against the public benefits later in the decision.
- 4.2.15 The Inspector considered a range of other considerations that the appellant identified as favouring that proposed development.
- 4.2.16 Regarding General and C2 housing, in the light of the agreed housing supply, at 2.2 years and the need for C2 accommodation the Inspector considered that the development would have made a very significant contribution towards meeting such local need within 5 years and that the occupation of such housing by local people would be likely to free up existing housing stock, thereby assisting the wider market. The Inspector concluded that the benefits relating to general and C2 housing need were very significant which weighed substantially in favour of that development.
- 4.2.17 Regarding alternative sites, the Inspector considered how much weight can be apportioned to the lack of alternative sites and whether need can be met in a disaggregated way. The Inspector considered that the potential for alternative sites was limited to just three, but that the lack of robustness in respect of availability moderated the weight that she attached to the purported lack of alternative sites.
- 4.2.18 Health and wellbeing benefits of that proposed development were given substantial weight in the balance.

- 4.2.19 Regarding employment benefits, this was considered by the Inspector to add further weight to the case for the appeal but that the high levels of employment and low levels of unemployment in part moderated the employment benefits.
- 4.2.20 The Inspector considered that access improvements would add some weight in favour of that proposed development, but access to services and facilities were a policy expectation and therefore a neutral matter along with finding no discrimination relating to the Public Sector Equality duty and potential effect upon occupiers of Birchwood Bungalow.
- 4.2.21 The Inspector considered the identified benefits and the harms that would arise from that proposed development and concluded at paragraph 99, *"despite the considerable merits of the development, the inherent conflict with the development plan and national policy with regard to harm to the Green Belt, designated heritage assets and character and appearance lead me to conclude that the very special circumstances necessary to justify the proposed development have not been demonstrated."*
- 4.2.22 I consider that the previous appeal decision is relevant at this appeal for the following reasons:
- 1) There is a well-established principle of consistency in planning decision-making so that previous appeal decisions on similar applications are material considerations.
 - 2) That like cases should be determined in the same way unless there are good reasons not to.
 - 3) Here, the appeal proposals are very similar in their fundamental elements. The Appeal Site is the same site, and it has not changed in form or appearance since the previous appeal. The proposals are for residential development for a range of accommodation types of housing

for older people. The design detail has changed but the character of the development is very similar, and the spread of development is also similar. The policy context has not materially changed in relation to heritage or GB issues

4.2.23 I consider that it follows that the previous decision and its reasoning is a highly material consideration. In effect, it provides a starting point for consideration of the appeal proposals in order to ensure the principle of consistency is applied.

5.0 PLANNING POLICIES

5.1 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.

5.2 The National Planning Policy Framework 2021 (the Framework) is an important material consideration.

5.3 Development Plan Policy St. Albans Local Plan Review 1994 (LP)

5.3.1 I recognise that the adopted Local Plan is of some age. I consider the weight to be given to policies of the plan by reference to their consistency with the current Framework. The LPA cannot demonstrate a five-year supply of deliverable housing sites and therefore footnote 8 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 219 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 11(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.

5.3.2 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.

5.3.3 **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.

- 5.3.4 I consider that Policy 1 is consistent with the Framework, which confirms at paragraph 147 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 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. Paragraphs 149 and 150 set out exceptions to inappropriate development. Whilst LP Policy 1 does not fully align with the exceptions set out in paragraphs 149 and 150, the appeal proposals would not meet any of the identified exceptions. Therefore, I consider that full weight should be given to LP Policy 1 at this appeal.
- 5.3.5 **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.
- 5.3.6 I consider that Policy 69 is consistent with the Framework. Paragraph 126 confirms that the creation of high-quality buildings, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Policy 130 indicates, amongst other things, that planning policies should ensure that developments are sympathetic to local character, including surrounding built development and landscape setting.

5.3.7 **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.

5.3.8 I consider that policy 70 is consistent with the Framework, where paragraph 130 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 134 stipulates that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

5.3.9 **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.

5.3.10 I consider that Policy 86 is consistent with the Framework, whereby paragraph 200 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.

5.4 **National Planning Policy Framework 2021 (The Framework)**

5.4.1 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.

5.4.2 Paragraph 138 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.
- 5.4.3 Paragraph 147 confirms that inappropriate development is, by definition harmful to the Green Belt and should not be approved in very special circumstances.
- 5.4.4 Paragraph 148 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.
- 5.4.5 Paragraphs 149 sets out exceptions where the construction of new buildings would not be inappropriate development.
- 5.4.6 Regarding conserving and enhancing the historic environment paragraph 199 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
- 5.4.7 Paragraph 202 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.

5.4.8 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.

5.5 **National Planning Practice Guidance (NPPG)**

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

Heritage

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

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

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

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

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

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

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

Housing for Older People

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

5.5.9 ID: 63-001-20190626 – why is it important to plan for the housing needs of disabled people?

5.5.10 ID: 63-004-20190626 – what evidence can plan-makers consider when identifying the housing needs of older people?

5.5.11 ID: 63-008 –20190626 what are the benefits of accessible and adaptable housing?

5.5.12 ID:63-010 – what are the different types of specialist housing for older people?

Green Belt

5.5.13 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.

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

5.6.1 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.

5.6.2 The previous submission local plan was withdrawn, and work has commenced on its replacement.

5.6.3 Given the stage at which the emerging local plan has reached no weight can be given to it.

5.7 **St. Stephen Neighbourhood Plan (SSNP)**

5.7.1 The SSNP was recently the subject of Regulation 16 consultation from 3rd June to 15th July 2021. The St Stephen Local Plan was developed in anticipation that the emerging St. Albans City and District Local Plan would be adopted before the SSNP. The emerging Local Plan will set out the strategic planning policies for the district. Therefore, the withdrawal of the emerging St. Albans Local Plan will directly impact several proposed policies in the Pre-Submission SSNP, including Policy S20: Retirement and Care Home Facilities. In the circumstances, I consider that only limited weight can be attributed to the SSNP.

6.0 THE COUNCIL'S CASE

6.1 Effect on the Openness and Purposes of the Green Belt

6.1.1 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.

6.1.2 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 buildings some of which would be very substantial in scale which do not fall within any of the exceptions contained in paragraph 149 of the Framework.

6.1.3 The Appellant indicates that the appeal site is previously developed land in nature² but accepts that the proposal would be inappropriate development in the Green Belt. 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.

² Appellant's Statement of Case paragraph 6.22, first bullet point

- 6.1.4 Paragraph 147 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.
- 6.1.5 Paragraph 148 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.
- 6.1.6 The Appellant alleges 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.

I note that the Appellant alleges that harm to the openness of the Green Belt would be limited³. I disagree and consider that the harm to the openness of the Green Belt would be significant.

Effect on Openness

- 6.1.7 Paragraph 137 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.
- 6.1.8 The Planning Practice Guidance sets out what factors can be considered when assessing the potential impact of development on openness. There are both spatial and visual aspects to openness. Several factors are capable of being relevant when considering the facts of this case.

³ See paragraphs 6.22 to 6.25 of the Appellants' Statement of Case

One of the main considerations in this assessment is how built-up the Green Belt is now and how built-up it would be if the proposed development occurs.

6.1.9 The submitted Existing Site Plan (CD2.3) identifies the extent of existing coverage of the Appeal Site. I consider that it is noteworthy that a large portion of the site towards the east and south is free from buildings, and that most of the building footprint is that of polytunnels and glasshouses, which are lightweight structures of a temporary nature and the kind of structures that are not inappropriate in the Green Belt. The submitted Proposed Site Plan (CD2.5) shows the extent of site coverage of the proposed development and that the proposed development would extend over the whole site. An appreciation of bulk and form of the proposed buildings compared to the existing circumstances can be gained from the site Section Drawings (CD2.7 & CD2.8) and in my view there would be a significant increase in bulk, scale and spread of built development across the Appeal Site.

6.1.10 In assessing how built-up the Green Belt is now and how built up it would be if the development occurs there would be significant spatial impact upon the openness of the Green Belt.

6.1.11 A further relevant factor relating to the impact of the development upon openness as indicated at PPG 64-001, is the permanence of the development and remediability. Much of the existing site is open or covered by poly-tunnels and greenhouses, which are more lightweight and temporary in form and nature. In addition, whilst the former planting beds indicated in the Existing Site Plan (CD2.3) and greenhouses are under-used and unsightly⁴, they are temporary and remediable. Whereas the proposed buildings would be permanent and cause permanent harm to the openness of the Green Belt.

⁴ Appendix SG1, Photograph 5

- 6.1.12 In addition, the degree of activity likely to be generated by the proposed development, in terms of the coming and going of occupiers, visitors and staff would be greater than the existing circumstance on the Appeal Site, which would further increase the impact of the proposed development on the openness of the Green Belt.
- 6.1.13 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 149 of the Framework, such buildings are not inappropriate development in the Green Belt. I agree with the previous Inspector who indicated at paragraph 25 of her decision letter⁵ that the existing structures on the appeal site should not be seen as harmful to the purposes or characteristics of the Green Belt as they are structures common in rural areas and that they are not seen as inappropriate in Green Belt policy terms.
- 6.1.14 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 149) and land occupied by horticultural buildings or former horticultural buildings does not constitute previously developed land. This recognises the consistency of horticultural uses and

⁵ CD 2.56

buildings within 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 149(g). This is relevant to the assessment of openness⁶

6.1.15 It is common ground that the existing floorspace of buildings on this site, including greenhouses and polytunnels is 7215m², with heights ranging up to 9.8m⁷. The submitted Design and Access Statement indicates that the proposed floorspace would be 15,807, an increase of 8592m² on a site measuring 5.8 hectares (including highway)⁸. The height of the proposed buildings would vary from about 7.5m high to the ridge of the proposed bungalows to a maximum of about 12.5m high for assisted living block A. Therefore, I consider that there would be a significant increase in built form compared to the existing situation.

6.1.16 Moreover, most of the existing built form relates to polytunnels and glasshouses, which are lightweight and more temporary structures and, as found by the previous Inspector, this does not count as previously developed land and does not have the same impact on openness. 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 southwestern 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 925m² .

6.1.17 The Inspector found that the previous scheme would far exceed the height, volume and site coverage of the existing structures and would result in a substantial loss of openness in spatial terms.

⁶ See Samuel Smith at 22 – CD5.1

⁷ Statement of Common Ground para. 3.3 – CD1.5

⁸ D & A Statement Page 38 – CD2.36

There would be a reduction in floorspace compared to the previously dismissed scheme. This is addressed at page 38 of the submitted Design and Access Statement, which confirms that the floorspace has been reduced from 19,449m² to 15,807m²; a reduction of 3642m².

6.1.18 Clearly, there has been a reduction in the quantum of development proposed compared to the previous proposal, principally through the removal of a care home from the current scheme. The Proposed Site Layout Plan for the previous scheme (CD8.1) can be compared to the currently Proposed Layout Plan (CD2.4). I consider that a comparison of these two shows that development would be spread similarly across the whole Appeal Site. There would be changes in the layout compared to the previous scheme, along with a reduction in density and increase in space between bungalows and towards the boundaries to the north and east with additional landscaped areas. These changes would result in a modest increase in spatial openness compared to the previous scheme. However, the proposals only leave a small tract of the Appeal Site undeveloped. The extent of development across the site Appeal Site would not be much reduced compared to the previous scheme. There would be no fundamental change to the primary effects on openness of the Green Belt. The Appeal Proposal would still 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 than currently exists.

6.1.19 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 residential

development, which would have a substantial impact upon the openness of the site physically, visually and in policy terms.

6.1.20 Therefore, in considering the factors identified at 64-001 of the PPG, there would be spatial harm to the openness of the Green Belt. I will address visual harm further in considering the effect of the proposed development on the character and appearance of the area. The proposed development would be permanent in nature and form, unlike the nature and form of the existing greenhouses and polytunnels on the site, and the activity and traffic generation likely to be generated from the Appeal Proposal would be far greater than the current use of appeal site.

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

Conflict with Purposes of the Green Belt

6.1.22 Paragraph 138 of the Framework confirms that the Green Belt serves five purposes. The Council's Statement of Case sets out the three purposes of the Green Belt that the Appeal Proposals would conflict with⁹.

6.1.23 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 purposes (a) to check the unrestricted sprawl of the large built-up areas, (b) to prevent neighbouring towns for merging into one another, and (c) to assist in safeguarding the countryside from encroachment.

⁹ CD1.4 - Paragraph 5.9

- 6.1.24 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, along with the appeal proposal, I consider that this part of the Green Belt is under very significant pressure from development.
- 6.1.25 The Appeal proposals would be significant in scale and impact in terms of the urbanisation of the site. 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 and prevent neighbouring towns from merging into one another.
- 6.1.26 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 northeast 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. The existing Green Belt is performing a meaningful role in containing urban sprawl and the coalescence of settlements.
- 6.1.27 These two Green Belt purposes (a and b) were considered by the previous Inspector who states at paragraph 34 of her decision letter, *"there would not be a direct coalescence as a result of the proposal between How Wood Village and Chiswell Green. However, it would form a perceptible adjunct to How Wood Village and would diminish the gap and erode the open nature of the Green Belt in this location between these villages. Accordingly, there would be a degree of sprawl and merger of these and harm to the perception of the settlements."*

6.1.28 I have addressed the openness of the site earlier. In considering whether the previous scheme would conflict with purpose (c), which is to assist in safeguarding the countryside from encroachment, the Inspector states at paragraph 35 of her decision letter *"by virtue of its open nature the site contributes to the characteristic openness of the Green Belt. In my view, the proposed development could therefore do little else but to encroach on the countryside...the buildings and polytunnels which form part of the horticultural use of the site are not inappropriate in the Green Belt. These structures are also not comparable to that being proposed. There can be no doubt that the development would have an urbanising effect in this location that cannot be said to safeguard from encroachment."*

6.1.29 I accept that the quantum of development now proposed has been reduced compared to the previous scheme. However, the site currently is very largely undeveloped and that part of the site that is developed is mostly glasshouses and polytunnels that are not inappropriate in this Green Belt location. Its fundamental character is that of a very largely undeveloped open and countryside appearance. The proposed development for either the previous appeal or the current appeal would fundamentally change the nature and role of the Appeal Site as a whole. In addition, the character of the Appeal Site would permanently change. I consider that these are the key considerations and the more detailed elements relating to the difference between the two schemes are of much lesser consequence in terms of effect upon the Green Belt.

6.1.30 The detailed changes compared to the previous scheme are set out in the submitted Design and Access Statement (CD2.36), which are listed at page 42. These are:

- A reduction to the floor area of 3,520m²;
- Removal of the care home;
- Dispersal of the bungalows around the site;

- Increase distance between proposed cottages and boundary with Burston Manor House and use low level planting in the intervening space;
- Removal of access track to the northeastern boundary with How Wood and increase in depth of landscaping;
- Realignment of Access Road; and
- Layering of landscaping along the northern boundary.

6.1.31 The above changes can be discerned from an assessment of the Proposed Block Plan for the previous scheme and (CD8.1) and Landscape Masterplan (CD8.2) and the Proposed Block Plan for the Appeal Proposal (CD2.4) and Landscape Masterplan (CD2.6). However, I consider that the reduction in the quantum of development to be modest rather than substantial. The most notable change is the removal of the care home from the scheme. However, the care home has been replaced by bungalows, rather than as open space. There is little change towards the south of the site where large buildings are proposed for assisted living flats and Clubhouse.

6.1.32 I consider that the proposed development would still have an urbanising effect in this location that would not safeguard the Green Belt from encroachment. Given the quantum and form of the proposed development, it would result in significant encroachment into the Green Belt.

6.1.33 In conclusion on the purposes of the Green Belt, notwithstanding the changes compared to the previous scheme, I consider that the Appeal Proposals would conflict with three of the five purposes of the Green Belt.

Conclusion on openness and purposes

6.1.33 Whilst I acknowledge the modest reduction in built form compared to the previous proposal on this site, the Appeal Site currently is largely undeveloped and open. It's character relates to that of the countryside rather than that of the nearby settlements of Chiswell Green and How Wood. The proposed retirement village would still constitute a significant increase in built form on this predominantly open site. The nature and role of the Appeal Site would be fundamentally changed, and its character would be permanently changed. These are the key considerations in terms of the effect of the proposed development upon the Green Belt. There would be a substantial loss of openness and the proposed development would conflict with the purposes of the Green Belt and conflict with the Framework and LP Policy 1. The Government confirms that great importance should be attached to Green Belts and therefore substantial weight should be attached to the clear conflict with Green Belt policy along with the harm that I have identified to the Green Belt in terms of its purposes, inappropriateness of the development and the effect on openness.

6.2 Effect upon the Character and Appearance of the Area

6.2.1 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.

6.2.2 The existing character and appearance of the site has been considered earlier in my proof. The previous Inspector confirmed at paragraph 41 of her decision letter that "*the buildings are generally modest in their scale but are utilitarian in their appearance and are poor quality and dilapidated. The site also has an untidy and unkempt appearance*". I

agree with the Inspector's assessment. I also agree with the Inspector that the buildings within the appeal site have a visual association with the wider Burston Garden Centre. I have visited the site and the surrounding area recently in late October 2021, and I found no material changes to the site and its surroundings since the previous appeal decision.

6.2.3 The detached houses to the north are set within large grounds and the woodlands to the east and south present a sylvan setting to the appeal site. This immediate setting contrasts with the denser urban form of How Wood Village and How Wood, which is shown in the aerial photograph of the area at page 8 of the submitted Design and Access Statement (CD2.36).

6.2.4 The appeal site is not accessible to the public and is visually contained. I consider that the detailed design of the proposed buildings is acceptable. The formal layout proposed would also be acceptable within the context of the built form in the wider area. The scale of the proposed apartment blocks would also reflect the large footprints of the existing buildings at the garden centre.

6.2.5 The submitted LVIA identifies where visibility of the site is achieved at LVA2 pp 46-63. Regarding public vantage points, viewpoints 2, 3 and 4 show views of the site from the adjacent Public Right of Way. Viewpoints 1, 5, 6 and 7 show that the Appeal Site is screened from views the A405 North Orbital Road in the vicinity of the access to the Burston Garden Centre and from nearby streets within the settlement of How Wood, by dwellings and woodland.

6.2.6 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. That appreciation would change following the proposed development. There are footpaths running off the existing bridleway within the How Wood to the north. Whilst they are not defined as public footpaths, they are well-used, and 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 SG1 photographs showing the footpaths and public vantage points of concern¹⁰. 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, which would contrast with the immediate setting of the appeal site.

- 6.2.7 In considering the previous appeal the Inspector found at paragraph 46, that *"in combination with the bungalows and parking, the built elements of the proposed development would take up a large proportion of the site. This would give a distinctly urban form which would contrast with both the character and appearance of BGC and the general built form of dwellings of the surrounding areas"*.
- 6.2.8 There are several notable changes to the proposed development compared to the previously dismissed scheme. In addition to the removal of a care home from the scheme, peripheral landscaping is proposed, which would be greater in scope than the previously refused scheme. As I have indicated previously a comparison of the Proposed Block Plans for the previous application (CD8.1) and the current proposal (CD2.4) enables an assessment of the differences in the proposed layout. The respective Landscape Masterplans at CD8.2 and CD2.6 show the differences in peripheral landscaping between the previous scheme and the current proposal. Whereas the Proposed Site Sections Drawings at CD2.8 and CD8.3 allow an assessment to be made

¹⁰ Photographs 1, 2, 3 and 4 at Appendix SG1

regarding the bulk and height of the buildings for both schemes. The differences relate mainly to the removal of the care home from the revised scheme, evident in Sections A-A and D-D in both drawings. There would also be modest positive aspects of the scheme relating to legibility, enlarged village green and design of the proposed bungalows.

6.2.9 The impact of the development is assessed in the Landscape and Visual Impact Assessment (LVIA) by PRP (dated February 2021) 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 6.2.6.

6.2.10 Notwithstanding the removal of the care home from the current scheme, and improved opportunities for soft landscaping, the built elements and hard landscaping still take up a large proportion of the site. The overall impact upon the character and appearance of the area, in terms of the change to the fundamental character of the Appeal Site, which is currently very largely undeveloped, open and of countryside appearance, would be to change its character fundamentally and permanently from that of a nursery site appropriate within the countryside and Green Belt to an urban form of development. I consider that these are the key considerations, and the more detailed elements are of much lesser consequence in terms of the overall effect upon the character and appearance of the area.

- 6.2.11 Notwithstanding the reductions to the scheme compared to the previous proposal, the layout of the Assisted Living elements, community facilities and associated open spaces and relationship to the southern boundary of the site is similar to the previous proposal and they would remain as large imposing buildings, which would have a dominating and urbanising effect. This is evident from the visualisation within the LVIA (CD2.39) at LVA03 View 17 at page 69. A similar visualisation is not provided in the LVIA for the previous submission (CD 8.11). However, the respective site section drawings indicate that there is little difference between the two schemes at the southern end of the Appeal Site.
- 6.2.12 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.
- 6.2.13 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. Nevertheless, the effect of the proposed development would be moderately harmful to the character and appearance of the area, due to the fundamental change that would occur to the character of the appeal site.
- 6.2.14 I consider that this matter adds to the impact upon the openness of the Green Belt and the setting of the adjacent listed buildings, and weighs against the Appeal Proposals in the balance and conflicts with LP Policies 69 and 70.

6.3 **Effect upon Designated Heritage Assets**

- 6.3.1 The site is adjacent to Burston Manor, which is a Grade II* listed building and there is a separately listed Grade II outbuilding. There is the remnant of a moat within the garden of the house and other archaeological significance with records relating to a shrunken settlement. The Council will seek to agree a topic specific statement of common ground with the appellants that addresses the significance of these heritage assets and the extent of harm that the Appeal Proposals would cause to their significance.
- 6.3.2 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 stipulates that when considering whether to grant planning permission for development which affects a listed building or its setting the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural interests which it possesses.
- 6.3.3 The Framework places emphasis on the requirement to conserve and enhance the historic environment. Paragraph 190 (c) confirms that local plans should take into account the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 199 indicates that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm. Paragraph 202 stipulates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.3.4 LP Policy 86 requires the Council to have special regard to the desirability of preserving listed buildings or their setting.

- 6.3.5 A Built Heritage Statement (HS) accompanied the application the subject of this appeal. I have considered the submitted HS and I have intentionally focussed on the extent of harm that the proposal would have upon the significance of the adjacent designated heritage assets because of development within their setting.
- 6.3.6 Historic England’s Good Practice Advice Note 3: The Setting of Heritage Assets (CD4.3) confirms that the extent and importance of setting is often referenced to visual considerations, but is also influenced by other environmental factors, such as our understanding of the historic relationship between places. It sets out a stepped approach to proportionate decision making that apply proportionately to the complexity of the case. Step 1 is to identify which heritage assets and their settings are affected. Step 2 is to assess the degree to which these settings make a contribution to the significance of the heritage assets to allow significance to be appreciated. Step 3 is to assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it. Step 4 is to explore ways to maximise enhancement and avoid or minimise harm and, step 5 is to make and document the decision and monitor outcomes.
- 6.3.7 I disagree with judgements made in the HS relating to the extent of harm, Burston Manor House remains in residential use and retains the listed outbuilding in ancillary use. The two listed buildings have group value given their historical association, and the appeal site forms part of their setting as historically associated agricultural land.
- 6.3.8 I agree with the HS at paragraph at 3.33 that Burston Manor House exhibits aesthetic and evidential value as a small former Manor House with twelfth century origins derived through its materials, relative scale, and the differing approaches to design as the building evolved over the centuries. I also agree that the grouping (Burston Manor House and

grade II listed former dovecote/granary) shares an historic, residual functional association with the Appeal Site, which historically formed a small part of an extensive agricultural landholding associated with Burston Manor house and farm.

- 6.3.9 I also agree with the HS at 3.35 that the outbuilding exhibits a high historic value as a component of a small gentry house through its design and materials used, its original use as a dovecote and granary which provides a visual identifier as to the relative wealth of the Manor and that it shares a strong and important group value with the Manor House, having been historically subsidiary to this building. I consider that this reinforces the significance of the asset and its relationship to the surrounding land.
- 6.3.10 Burston Manor House was listed in October 1953 as Grade II*. It is therefore in terms of the NPPF, paragraph 200, an “asset of the highest significance”. The previous inspector in considering the significance of Burston Manor House, at paragraph 65, was mindful that grade II* listed buildings represent the top 7% of England’s most significant designated heritage assets.
- 6.3.11 The listing description (CD 2.57) confirms the 12th century origins of the manor house. As a manor house it would have had a farmstead complex and associated farmland forming an important aspect of its historic interest. Whilst these agricultural associations have now ceased, the remaining rural setting forms an important part of its history and therefore its significance as a designated heritage asset. Indeed, the definition of a manor house in the Oxford English Dictionary is “*a large country house with lands*”. The manor being defined as “*a unit of land, originally a feudal lordship, consisting of a lord’s demesne and lands rented to tenants.*” The separately listed outbuilding is a former dovecote and granary, which is one of the associated former agricultural buildings.

- 6.3.12 Therefore, the open setting offered by the appeal site, which is agricultural land historically associated and related to Burston Manor House, with a separately listed dovecote and granary, that reinforces the former agricultural association, contributes to the significance of the heritage assets as a 12th century manor with an agricultural barn set in a rural setting provided by the land to the rear.
- 6.3.13 I agree with the HS at 3.40 that the wider setting of the Manor House has changed over time and that it would have previously existed in relative isolation and in a largely rural context. I agree also that the commercial uses at the Garden Centre and nursery have altered the rural surrounds. Existing landscaping limits intervisibility between the Appeal Site and the Burston Manor Grouping. However, landscaping does not require planning permission and can change over relatively short periods of time through removal and felling, as referred to at paragraph 3.48 of the HS, and a mature conifer planting belt that ran from the boundary with Burston Manor's Garden, southeast into the Appeal Site.
- 6.3.14 I disagree with the HS (paragraph 3.42) that the surrounds of the listed buildings should be viewed in a commercial brownfield context as a working nursery. From a land use planning viewpoint, whilst the Garden Centre and other retail uses fall within the definition of previously developed land a nursery does not. The site contains predominantly agricultural (horticultural) buildings and is open and agricultural in character.
- 6.3.15 I consider that there are elements of commercial use at Burston Garden Centre that make a negative contribution to the overall significance of the Grouping, these are the urban elements of the site such as the large-scale retail buildings, lighting, car parking and associated noise and

activity. The close-boarded fencing around the appeal site also a feature that is urban in character that detracts from the setting of Burston Manor.

In addition, I accept that there are aspects of the nursery use, that has had a negative impact upon the setting of the listed buildings. The run-down glass houses and polytunnels have a negative impact. However, these relate to agricultural (horticultural) use. As I have indicated previously, the planting of trees within the Manor House site limits inter-visibility. This forms part of its setting along with the grounds to the Grouping including the moat. Unlike the main Garden Centre Site, a large part of the appeal site remains open, albeit unkempt in appearance and allows limited views towards adjacent woodland. However, I disagree with the HS at 3.49 that the Appeal Site makes a negative contribution to the significance of the Grouping arising from the use of the Appeal Site for a commercial nursery. The open aspects of the Appeal Site such as planting beds and grasslands to the eastern and southern parts retain agricultural character and the historic relationship of Burston Manor with the Appeal Site and adjacent woodland. Notwithstanding the negative aspects to the Appeal Site that I have identified, I consider that the contribution that the Appeal Site makes to the significance of Burston Manor is positive because of the generally open character of the site, which assists in maintaining a link to the historic relationship. The setting of the Group may be enhanced by the removal of the structures that have a negative impact and the clearing-up of the site.

6.3.16 The previous Inspector considered that the setting of the listed buildings has been greatly changed and urbanised during the 20th century and that this has had an adverse effect on the Burston Manor grouping. The Inspector considered that the BGC site has distinctly urban elements and that the general intensity of its use also has an impact. However,

at paragraph 58, the Inspector found that *"the appeal site with its low level polytunnels, along with the planting beds and grasslands to the eastern and southern parts helps maintain a semblance of the open agricultural character, albeit diminished. As historic early 19th Century woodland groups Brichwood and How Wood form a positive part of the historic evolution of the wider environs of Burston Manor. Today, the appeal site does allow for the appreciation of these woodlands from the grounds of Burston Manor and vice-versa. This helps to maintain a sense of the historic relationship here..."*

6.3.17 Consequently, the previous Inspector found at paragraph 59 that *"the appeal site has a more limited negative impact upon setting than the remainder of the BGC site. Furthermore, while it is unkempt and not in any way pristine, I consider that it does represent the last legible remnant of its historic landscape setting* This point also reflects that made in the Heritage Statement submitted with the original application¹¹ which stated at 4.2.2 *"the remnant unmanaged grassland on the eastern reaches of the Site represents the last vestige of the asset's historic pastoral landscape setting..."*

6.3.18 I agree with the previous Inspector's assessment of the contribution that the Appeal Site makes to the setting of the listed buildings.

6.3.19 In considering whether additional change would further detract from, or enhance the significance of the heritage assets, the previous Inspector found at paragraph 60 that *"there would be a significant change and the Burston Manor grouping would effectively be contained by urban development. I agree with the Council that this would amount to the severing of the last tangible link between the assets and their original setting. The historic relationship between the Burston Manor grouping and How Wood and Birchwood would be lost"*. The HE Advice Note 3

¹¹ CD8.7

confirms that negative change can include severing the last link between an asset and its original setting¹².

6.3.20 As to impact, the Inspector previously accepted my evidence that the previously proposed development fell within the realms of 'less than substantial harm' and that this would have been to a moderate degree when applying the spectrum, as opposed to the limited harm attested by the appellant.

6.3.21 There are changes to the current proposal that have sought to reduce the impact of the proposed development on the setting of the Burston Manor Grouping and address the previous Inspector's concerns. These include the removal of the previously proposed care home and thereby reducing the quantum and massing of development in the north-eastern quarter of the site, locating built form further away from the boundary with Burston Manor's grounds, the realignment of the access road to allow increased buffer landscaping with the Burston Manor grounds, and retention of a view between buildings from Burston Manor towards How Wood.

6.3.22 Burston Manor House is of very high heritage significance and has a relationship with the Appeal Site. Originally, the grade II*listed building would have stood in a relatively isolated location, but this has changed over time, most notably in the second half of the 20th century, when the setting of the heritage assets was urbanised, resulting in an adverse effect on the Burston Manor grouping. The appeal site is immediately adjacent to the Grouping, it is historically associated land, and a visual, aesthetic and historic relationship remains. The proposed alterations to the scheme would reduce the impact upon the heritage significance of the listed building though changes to its setting. However, the proposed development of the site would still present a very significant change to

¹² CD4.3 page 4

the immediate setting of the listed buildings., which would effectively be contained by urban development. The open appearance and agricultural use of the site would still be lost and the remaining aesthetic and historic relationship with the site would be wiped away. I consider that the placing of buildings further way from the boundary with Burston Manor House and the provision of gap through the development to glimpse How Wood would have little impact in terms of the degree of harm to the heritage significance of the Burston Manor grouping. The listed buildings would be viewed within a totally urban context of a 21st century retirement village rather the more rural context offered by the horticultural use of the appeal site.

6.3.23 Historic England (HE) were consulted on the application the subject of this appeal. Their formal consultation response of 2 March 2021¹³ confirms that Burston Manor has historically been an important building. The Appeal Site is identified as part of *"the former wider setting of the Burston Manor House, the reason for its existence and therefore integral to its character and significance. The proposed development would negatively impact upon this open connection from Burston Manor to the landscape beyond... This would have a negative impact upon the significance of the grade II* listed building. Historic England considers that there is the potential for less than substantial harm moderate in scale to the setting and significance of the grade II* listed Burston Manor through development within its setting"*

6.3.24 HE's Inspector of Historic Buildings and Areas (Herts and Suffolk) Lynette Fawkes IHBC, responded to Jonathan Smith of RPS Group following a site visit and confirmed that the scheme would have a low/moderate impact upon the significance of the grade II* listed building and acknowledged that following the previous appeal, the scheme has been reduced in size and an attempt made to address the

¹³ CD7.1

Inspector's concerns. A number of areas were identified that could be improved upon to lessen the harm¹⁴. However, the scheme has not been amended to address these.

6.3.25 I agree with HE's comments that the scheme has been reduced in size and changes made to lessen the harm. Whilst the previous scheme fell squarely within the realms of moderate harm in the spectrum of less than substantial harm, I consider that the current proposal falls towards the lower end of moderate harm within that spectrum.

6.3.26 Consequently, given the combination of factors identified, and the degree of change proposed to the setting of Burston Manor grouping, I agree with the Appellants that the proposal would harm the significance of the listed buildings as designated heritage assets. I agree with the HS that this would be less than substantial harm and therefore that paragraph 202 of the Framework is engaged. However, I do not agree that the level of harm would be minor or low. I am of the view that the degree of harm would be remain moderate within the spectrum of less than substantial harm than the previous scheme.

Conclusion on the effect upon Listed Buildings

6.3.27 I consider that there would be moderate harm to the significance of listed buildings through changes to their setting. This attracts substantial weight and constitutes a significant adverse effect of the proposed development in the light of the statutory duty to have special regard to the desirability of preserving the setting of listed buildings. As interpreted by the Court of Appeal¹⁵, this harm must be given considerable importance and weight in the determination of this appeal.

¹⁴ CD7.2

¹⁵ East Northamptonshire DC & Barnwell Manor Wind Energy Ltd v Secretary of State [2015] 1 W.L.R. 45 (CD5.4); R. (Forge Field Society) v Sevenoaks DC [2015] J.P.L. 22 (CD5.15)

6.3.28 Where a development will lead to less than substantial harm to the significance of a designate heritage asset, paragraph 202 of the Framework requires the harm to be weighed against the public benefits of the proposal, including securing its optimum viable use.

6.3.29 In terms of the public benefits of the proposal, I address these shortly in considering whether there are very special circumstances and against the provisions of paragraph 202 in the overall planning balance.

6.4 **Whether the proposed development would make adequate provision for community and infrastructure needs**

6.4.1 The proposed development would have an impact upon local services, facilities and infrastructure. The appellant has indicated an intention to enter into planning obligations and seek agreement with the Council. At the time of writing my proof a draft S106 agreement had been provided by the Appellant.

6.4.2 Hertfordshire County Council have submitted an Appeal Statement in support of planning obligations sought towards their services.

6.4.3 Paragraph 57 of The Framework proposes that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to development; and
- Fairly and reasonably related in scale and kind to the development

6.4.4 The contents of the submitted S106 Agreement will be addressed at the Public Inquiry.

6.5 Whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and whether this would amount to very special circumstances required to justify the proposal.

6.5.1 In assessing the original scheme, the previous Inspector considered the benefits of that proposal and the very special circumstances case put forward by the appellant, and concluded at paragraph 99 that despite the considerable merits of that development, the inherent conflict with the development plan and national policy with regard to harm to the Green Belt, designated heritage assets and character and appearance lead her to conclude that the very special circumstances necessary to justify the proposed development had not been demonstrated.

6.5.2 Notwithstanding the previous Inspector's conclusions, she gave substantial and significant weight to several benefits that were put forward by the appellant, and these are identified in table format at Appendix B to the Statement of Common Ground (CD1.5). Having regard to the principle of consistency in decision making, I consider that the previous Inspector's decision is an important material consideration at this appeal.

6.5.3 The Appellant has identified several planning benefits of the Appeal Proposals. The Appellant's Statement of Case lists 9 points. These are:

- (i) Local need for care accommodation and lack of alternative sites;
- (ii) General housing needs;
- (iii) Affordable housing needs
- (iv) Health and wellbeing benefits;
- (v) release of under-occupied family housing;
- (vi) meeting a local need;
- (vii) employment and economic benefits;
- (viii) highway improvements; and

(ix) site availability and achievability;

6.5.4 The Appellants have put forward the case that these nine planning benefits are material considerations that outweigh the harm to the Green Belt by reason of inappropriateness and any other harm and that this amounts to very special circumstances required to justify the Appeal Proposals. This was considered by the Council when determining the application¹⁶ and by the previous Inspector for the original scheme. These matters are addressed in the Council's Statement of Case¹⁷, and I will address these in the sequence set out in it. The weight attached to a planning benefit or material consideration is a matter of planning judgement based upon the circumstances of the case.

General Housing Supply

6.5.5 The latest published data indicates that the Council currently has 2.4 years supply of deliverable housing sites based upon a need to supply 902 homes per annum with the addition of a 20% buffer. This is a slight improvement compared to when the previous appeal was determined when it was common ground that there was a 2.2 years' supply. The previous Inspector gave significant weight to this benefit. I consider that this improvement in housing supply is marginal and not significant enough to change the weight attributed to this matter. The Appeal Proposals would provide 124 new units if they are delivered within five years towards the District's five-year housing supply, this compares to 189 new units that would have been delivered by the previous scheme. However, I consider that the reduction in the number of units that would be delivered also does not reduce the weight that the previous Inspector attributed to this planning benefit.

¹⁶ CD2.54 - Committee Report paragraph 8.10.

¹⁷ CD2.4 – Section 5

6.5.6 In coming to this view, I have also had regard to other recent appeal decisions, including one referenced in the Statement of Common Ground¹⁸ where the Inspector considered the housing supply shortfall. Any judgement on the weight to be attributed to a particular matter is based upon the circumstances of the case. In my view the previous appeal on the Appeal Site is most relevant at this appeal having regard to the circumstances of this case and the principle of consistent decision-making.

Specialist Housing Supply

6.5.7 The previous Inspector was provided with a Statement of Common Ground on need that identified the positions of the appellant and the Council on the issue of need, with the appellant identifying a much greater need than the Council.

6.5.8 There remains an identified need for specialist housing for older people. The Council's Committee Report (CD2.54) identifies the Council's position at 8.5.2 and confirms that significant weight should be attributed to this matter. The PPG at 63-001 confirms that the need to provide housing for older people is critical and sets out what evidence plan-makers can consider when identifying the housing needs of older people at 63-004. In addition it sets out the different types of specialist housing for older people at 63-010, including extra care housing.

6.5.9 The Appellant sets out in the application submissions a need for high quality care accommodation. The proposed assisted living apartments would provide self-contained accommodation that would encourage future residents to maintain independence whilst benefiting from a range of care and support facilities that would be provided on site.

¹⁸ CD1.5 pg. 15)

6.5.10 A Planning Need Assessment (PNA) was commissioned by the Appellants and the results submitted with the application for planning permission. The proposed assisted living apartments and care bungalows are referred to collectively as 'private extra care' within the submitted report. This assessment indicates that there is a greater need than that set out in the Southwest Hertfordshire Local Housing Needs Assessment (August 2020)¹⁹ which concludes that there is a current shortfall of 100 leasehold housing with care units (private extra care) in St. Albans City and District, increasing to 175 units by 2036. The report submitted with the application sets out a need for an additional 470 units of private extra care accommodation in St. Albans City and District in 2023, with the shortfall expected to rise to 529 units by 2030 and to 642 units by 2040. The Appellant's position was similar at the previous appeal regarding need and supply for extra-care accommodation.

6.5.11 It is common ground that there is an unmet and growing need for extra care accommodation. The Council will seek to agree a statement of common ground on the topic of need which will clarify the differences between the Council and the Appellants.

6.5.12 I consider that there remains a need for specialist accommodation for older people. The previous Inspector considered that the proper forum for determining the precise position is as part of the development plan process and that it was not necessary for her to reach a precise conclusion on the need and supply of this type of housing, given that the main parties were in agreement that there was an unmet and growing need that would not be met by the emerging LP in the short term.

6.5.13 Paragraph 63-004 of the PPG confirms that plan makers should identify the housing requirements of older people and that future needs for older

¹⁹ CD 6.11

people broken down by tenure and type may need to be assessed using on-line toolkits. Paragraph 63-006 confirms that plan making authorities should set clear policies to address the housing needs of older people.

6.5.14 The Council has assessed the current supply (2018) and demand (2020) position based upon the Southwest Hertfordshire Local Housing Need Assessment, that was carried out by GL Hearn for several local authorities in this part of Hertfordshire including St. Albans C&DC. Set out at Paragraph 8.5.2 of the Committee Report²⁰ is a table that provides details of older Persons' Dwelling Requirements 2020 to 2036 for St Albans.

6.5.15 The information provided by the Committee Report is that there is a need for older peoples housing and therefore weight should also be given to the delivery of older peoples housing.

6.5.16 A care home has been removed from this revised scheme. Care homes have been delivered within the urban areas within the district and I consider that the removal of the care home does not diminish the identified need for this type of accommodation. The previous Inspector gave very significant weight to the contribution that the original scheme would have made to meeting the needs for specialist housing for older people and I consider that a similar degree of weight should be attributed to this benefit in this appeal, notwithstanding the removal of the care home.

6.5.17 I consider that the identified need for extra care accommodation contributes to the weight in terms of overall housing need and that overall the benefits relating to general and C2 housing need weighs substantially in favour of the proposed development.

²⁰ CD2.54

Availability of other sites

- 6.5.18 The Appellant commissioned an Alternative Sites Assessment (ASA), the results of which accompanied the planning application. The ASA indicates that sites of between 2.4 and 4 hectares are of a size necessary to deliver a care village. However, a site search range of 1.0 and 4.0ha was adopted for assessment. The selection criteria are set out in the Alternative Site Assessment. Based upon the criteria the application site was the only site to be found suitable, available, and achievable, albeit the same methodology of site assessment does not appear to have been applied to the appeal site. There is no evidence to suggest that the appeal site was actively marketed and would thereby have failed based upon the methodology used for most sites considered in the assessment. The assessment identifies the site as previously developed land in the Green Belt. However, I have set out previously why I consider that the Appeal Site is mostly not previously developed land.
- 6.5.19 The site selection criteria relate to the delivery of a care village. Extra care accommodation can be and is provided in different forms and on smaller sites. In my view, the available evidence indicates that there are no alternative sequentially preferable sites outside the Green Belt for a care village of the nature and scale proposed. However, C2 accommodation can and is delivered on smaller sites. For example, planning permission was recently granted on appeal for a 63-bed care home at Chelford House, Coldharbour Lane, Harpenden AL5 4UN. This was on the site of a commercial building, used for retail, within an established and designated employment area. That site extended to 0.35 hectares, which is below the threshold for the alternative sites assessment.
- 6.5.20 In considering the issue of how much weight can be apportioned to a lack of alternative sites and whether need can be met in a disaggregated way, the previous Inspector considered this at paragraphs 75 to 79 of

her decision letter. In terms of disaggregation the Inspector's view was that it was clear that smaller extra care units and standalone nursing homes can be provided on smaller sites. The revised study went down to 1ha, as does the Carterwood Report for the current proposal, and the Inspector found that to be robust for the purposes of assessing alternatives, including disaggregation.

6.5.21 Three sites that were found to be suitable and achievable were not seen as being available in the report submitted for the previous appeal because they were not being marketed. The Inspector found this to be a fundamental flaw of what was otherwise a robust exercise and the weight that she attached to the lack of alternative sites was moderated on that basis.

6.5.22 The ASA for the application the subject of this appeal has been updated and addresses the Council's and Inspector's concerns relating to these three sites and this is addressed at 8.4.7 of the Committee Report, whereby the respective landowners have confirmed that the sites are not available.

6.5.23 This proposal is for a retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows, with associated roads and car parking. It is a large-scale development. As elements of this large development could be disaggregated, I consider that moderate weight should be attached to the lack of alternative sites for a scheme of this scale as a material consideration in this appeal.

Affordable housing and marketing commitment

6.5.24 The Appellants indicate that the proposals will make a significant contribution towards the Council's affordable housing land supply. The Council accepts that there is a substantial need for affordable housing within the District.

- 6.5.25 No affordable housing is proposed on the Appeal Site. The application indicates that a contribution of £750,000 would be offered towards the delivery of affordable housing within the District.
- 6.5.26 There is not a local plan policy requirement for affordable housing in this case and therefore this would be seen as a planning benefit beyond a policy requirement. However, this contribution would deliver less than 3 affordable units. Therefore, I consider that limited weight should be attached to this matter.
- 6.5.27 As part of the appellant's 'very special circumstances' case put forward at the application stage and within the Statement of Case is a proposal that residents of the District will have first refusal on 20% of the homes. This was considered by the Council and is referred 8.5.22 of the Committee Report (CD2.54). Given the location of the site towards the southwestern edge of the District, major settlements outside the District would fall within a 5-mile limitation proposed by the appellants, as well as the City of St. Albans. Therefore, such a limitation would not necessarily achieve the aim of meeting local need.
- 6.5.28 In the circumstances and I consider that only limited weight be given to this matter. At the time of writing my proof the appellant had supplied a draft S106 agreement and I note that the affordable housing contribution and local needs offer is not included within the draft.

Existing family housing stock

- 6.5.29 The previous Inspector considered that the benefits of the original scheme relating to general housing need, C2 housing need along with the associated release of under-occupied housing, were very significant which weighed substantially in favour of the development.

6.5.30 The provision of specialist homes for older people has the potential to assist in the release of family housing earlier than would otherwise be the case. Longevity inevitably affects housing need and supply, along with other demographic factors. I consider that downsizing does assist in the supply of larger family sized houses and the provision of specialist housing for older people can assist in freeing up more homes for other buyers. This scheme may encourage older people to downsize or to downsize earlier within their life cycle, which would make a contribution to overall housing needs, and it is appropriate to weigh this in the balance.

6.5.31 In conclusion on the contribution that the Appeal Proposals would make to the acknowledged shortfall in housing land supply, I consider that this would be a planning benefit that should be attributed substantial weight.

Health and Wellbeing

6.5.32 The health and wellbeing benefits of the proposed development are set out in the application and at the previous appeal. The Inspector considered these matters at paragraphs 80 and 81 of her decision letter and she considered that *"in particular the care village concept, with the provision of its own dedicated services and facilities, the care package, including offers for different care needs, would benefit older people residing at the site. Such benefits therefore attract substantial weight into the balance."*

6.5.33 I have taken account of the previous Inspector's view. It is also common ground that substantial weight should be attributed to the health and wellbeing benefits of the development. The facilities that would be provided on site would relieve pressure on other existing support facilities within the District. This care would be provided by the operator rather than the local authority, paid for by future occupiers of the

development. The resulting benefit for future occupiers from the care and support element brings the development into the C2 use class.

6.5.34 In the circumstances, I consider that substantial weight can be given to this material consideration in the planning balance.

Employment and economic benefits

6.5.35 There would be direct and indirect employment that would be generated by the proposed development.

6.5.36 This matter was considered by the previous Inspector, and the original scheme with the proposed care home would have generated around 90 full time equivalent jobs, plus employment during the construction of that development and reinvestment of the profit of the sale of the appeal site. The Inspector considered that this adds further weight to the case for the appeal. However, the Inspector noted that there are high levels of employment and low levels of unemployment, as backed up by official labour market statistics for the District and considered that the benefits were moderated by this.

6.5.37 I accept that there would be economic and employment benefits arising from the scheme. The appellant indicates that 20 full time and 45 part time jobs would be created by the proposed development²¹. There would be employment during construction and economic benefits following the occupation of the proposed development. However, the Council's employment objectives do not propose and are not dependent upon applications for development within the Green Belt. Moreover, there remains high levels of employment and low levels of unemployment within the district, which in my view moderates the benefits²².

²¹ Section 18 of the Application Form

²² CD 6.10 – NOMIS office labour market statistics 2020/2021

6.5.38 The removal of the care home from the current scheme would reduce the level of employment compared to the previous scheme. Nevertheless, there would be economic benefits arising from the scheme and this adds further weight to the case for the appeal.

Local Support

6.5.39 I note that there is significant local support for the proposed development, which is reflected in the proposed allocation of these site for C2 development within the St. Stephen Neighbourhood Plan (SSNP).

6.5.40 The previous Inspector acknowledged that there were question marks around whether a Neighbourhood Plan can alter the boundaries of the Green Belt.

6.5.41 However, this matter adds little to the overall balancing exercise when assessing the Appeal Proposals against Green Belt policy because the site remains in the Green Belt and limited weight can be attached to the SSNP.

Site Access Improvements,

6.5.42 The proposed development would deliver improvements to the site access, that would benefit the existing garden centre. A safe access is necessary for the proposed development to be acceptable.

6.5.43 The previous Inspector found at paragraph 85 of her decision letter that access improvements that would be secured by condition would benefit the site and BGC and found that this adds some weight in favour of the proposal.

6.5.44 I consider that such improvements are necessary to address the highway impacts of the proposed development, but there would be benefits in the securing access improvements from the BGC and I consider that some weight can be attached to this as a planning benefit.

Balancing exercise and very special circumstances

- 6.5.45 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 confirms that if regard is to be had to the development plan the determination of applications for planning permission must be made in accordance with the plan unless material considerations indicated otherwise.
- 6.5.46 I consider that significant weight can be accorded to the contribution that the Appeal Proposal would make to the general housing supply given the lack of a 5-year supply in the District. This includes the resulting release on the market of family housing by many of the proposed future residents.
- 6.5.47 There is an identified need for specialist housing within the District, which forms part of the general housing need. I consider that significant weight can be given to the contribution that the proposed development would make to general housing need and also the delivery of specialist housing for older people. The benefits arising from the combination of general and specialist housing for older people, including the potential release of under-occupied housing to the market, should be attributed substantial weight as should the identified health and wellbeing benefits. I have identified other benefits and factors that add to the weight that I have identified.
- 6.5.48 The site lies within the countryside between the settlements of Chiswell Green and How Wood and within the Green Belt. The proposed development would therefore conflict with LP Policy 1 which seeks to restrict such built development within the Green Belt. The Framework requires substantial weight to be given to any harm to the Green Belt.

6.5.49 A high hurdle is placed before the Appeal Proposal by Green Belt policy. Whether very special circumstances exist is a matter of planning judgement having regard to all relevant considerations. However, very special circumstances cannot exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. It is the case that the other considerations have to clearly and not marginally outweigh the harm.

6.5.50 It is common ground that the Appeal Proposals would be inappropriate development in the Green Belt and therefore by definition would be harmful to the openness of the Green Belt, there would be a loss of openness and conflict with the Green Belt purposes. I have also identified that there would be other harm. These are:

- Harm to the character and appearance of the area in conflict with Local Plan Policies 69 and 70;
- and heritage harm, which includes less than substantial harm to the setting of a grade II* listed building.

6.5.51 I have considered the amendments that have been made to the previous scheme and relevant recent appeal decisions. Having regard to the principle of consistency I consider that the previous appeal decision on this site is an important material consideration. In my view the revised scheme is similar to the previous scheme in terms of key impacts and benefits, there have been changes to the scheme that have resulted in minor reduction in the benefits, such as the removal of the care home from the scheme, and there have been minor improvements that reduce the harm, such as additional spacing between buildings. However, in my view these amendments do not change the overall balance which falls entirely in line with the previous outcome on appeal.

6.5.52 The Council accepts that it cannot demonstrate a five-year supply of housing and footnote 8 of the Framework is engaged. However, I consider that the tilted balance does not apply in this case because Green Belt is a protected area identified by footnote 7 and the application of Green Belt policies in the Framework provide a clear reason for refusing the development proposed.

6.5.53 I conclude that the harm by reason of inappropriateness, and other identified harm, would not be clearly outweighed by other considerations and therefore these do not amount to very special circumstances required to justify the proposal.

7.0 CONCLUSIONS

7.1 I conclude that the benefits do not clearly outweigh the harm to the Green Belt and any other harm, including harm to designated heritage assets. The very special circumstances required to justify this development in the Green Belt do not exist. There are specific policies in the Framework that indicate that this development should be restricted. Overall, I consider that, from the available evidence, there are no material considerations which indicates that the Appeal Proposals should be determined other than in accordance with the development plan, and therefore that the appeal should be dismissed.

8.0 LIST OF APPENDICES

SG1 – Maps and photographs showing views of the Appeal Site.

SG2 Extract from the St. Albans Local Plan Proposals Map.