

Appeal Reference:

APP/A1910/W/24/3345435

LPA Reference 21/04508

Land west of Leighton Buzzard Road,

Hemel Hempstead

Proof of Evidence

Chris Berry BA(Hons), Dip TP, MRTPI, FRSA

For the Combined Objectors Group

September 2024

INTRODUCTION

1. My name is Chris Berry. I am a Member of the Royal Town Planning Institute, hold a Bachelor of Arts with Honours degree in Geography from the University of London and a post-graduate Diploma in Town and Country Planning from the University of Newcastle-upon-Tyne.
2. I have practised in both the public and private sectors for over 45 years and been employed by a wide range of organisations including local government, development corporations, planning consultancies and development agencies. Latterly I have acted as interim Chief Planning Officer and Assistant Director for a number of London and Hertfordshire Boroughs and am presently employed as Planning Manager for CPRE Hertfordshire – the countryside charity.
3. CPRE Hertfordshire acts to protect countryside in Hertfordshire and is active in supporting local organisations and communities to protect open spaces and rural activity from inappropriate development and environmental degradation. I am giving evidence at this inquiry on behalf of the Combined Objectors' Group (COG), which comprises The Friends of Halsey Fields, CPRE Hertfordshire, The Gade Valley Communities Coalition, Piccotts End Residents Group and Protecting the Gade Valley and Surrounding Green Belt Land Group.

BACKGROUND TO THE APPEAL

4. The proposed development is for 390 dwellings, a residential care home for up to 70 beds and associated infrastructure with access from Leighton Buzzard Road. The planning application was submitted to Dacorum Borough Council in 2021 and refused permission by Planning Committee on 15th December 2023 for nine planning reasons.
5. The relevant development plan is the Dacorum Borough Core Strategy (2013) (CD5.2) and a Draft Dacorum Local Plan (Latest version CD5.13) is presently in preparation and has been subject to public consultation. Revisions have been made as a result of this public consultation and the present Local Development Scheme envisages adoption of the Dacorum Local Plan in February 2026.

GREEN BELT

Policy

7. It is agreed by the Appellant that the proposed development is inappropriate development in the Green Belt, as described in paragraph 152 of the National Planning Policy Framework (NPPF)(CD10.2) as revised in December 2023. This states that “inappropriate development should not be approved except in very special circumstances”. The Appellant contends that “very special circumstances” (VSC) exist to clearly outweigh the potential harm to the Green Belt which may result from the proposed development.
8. The presumption in favour of sustainable development is set out in paragraph 11 of the NPPF. For decision-makers, this means that:

“where there are no relevant development plan policies, or where the policies for determining the application are out-of-date, granting permission, unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- (ii) any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework, taken as a whole.”*

Footnote 7 of the NPPF identifies clearly that land designated as Green Belt is an area of particular importance which provides the “clear reason for refusing the development proposed” as noted in (i) above.

Purposes

9. The Government’s commitment to protecting Green Belt land is elaborated in Chapter 13 of the NPPF. The five purposes of the Green Belt are set out in paragraph 143, as follows:
 - (a) to check the unrestricted sprawl of large built-up areas;*
 - (b) to prevent neighbouring towns from 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.*
10. I consider the first, third, and fifth of these purposes are directly relevant to the determination of this appeal. Historically, Green Belt has been a key component of the planning system in Hertfordshire and in terms of the first Green Belt purpose, its primary function has been to control the outward sprawl of London as the London

Metropolitan Green Belt. In the 1970s, the Green Belt was extended as part of the Hertfordshire County Structure Plan to cover approximately 40% of the land area of the County to continue to provide this protection.

11. The form of the Hertfordshire Green Belt and its primary purpose reflects the influence of Greater London along the main route corridors leading northwards from the capital. This relates to the first of the five purposes of the Green Belt and for Hemel Hempstead, this primary function of preventing urban sprawl is exercised along the A41, the West Coast main line railway and other radial routes where pressure for development continues to be significant, including this site.
12. Part of this primary purpose is to maintain the integrity of local settlements, including those adjacent to major built-up areas such as Hemel Hempstead. In this respect it has performed the function of maintaining the identity, cohesion and rural character of several villages and hamlets which include in this case, Piccotts End, Water End and Great Gaddesden.
13. The third purpose, to safeguard the countryside from encroachment, is the most significant concern in this case, particularly when set in the context of challenging the permanence of the Green Belt and the clear and obvious loss of openness which would result from the construction of 390 houses, a care home and associated development. The proposed development would encroach severely into an area of open countryside which forms the northern boundary of the Hemel Hempstead built-up area, clearly obvious from Leighton Buzzard Road.
14. It is our view that the quality of the Green Belt is a relevant issue in this case, and likely to become more so in the light of recent Government stated intentions to review Green Belt criteria, and the introduction of the term 'grey belt' as denoting land previously designated which may be released. The Appellant accepts that the Green Belt Review Stage 1 report by consultants SKM(CD5.28) and subsequent studies by Arup (CD5.29) and Aecom (CD5.30) identify Parcels HH-A1 and HH-A5 as having "strongly contributed towards Green Belt purposes".
15. The fact that the appeal site forms only a portion of the parcels identified does not in my view reduce to any extent the significance of its contribution to Green Belt purposes. Since the inception of modern development in Hemel Hempstead, this site has provided an intrinsic element of the "green wedge" from the edge of the built-up area to Gadebridge Park as part of the Hemel Hempstead Open Space Strategy incorporated in saved Policy 116 of the Dacorum Borough Local Plan (CD5.1).

16. The relevance of the “green wedge” as part of the setting of Hemel Hempstead today is even greater than previously. In my view that protrusion of open green space contributes significantly to the attractive approach to the town from the rural area to the north, providing highly valued open and informal recreation space and we support fully the Council’s commitment to retaining this crucial local resource.
17. The significance of the Green Belt in this location is considerably increased by its proximity to homes and residents, both those adjacent to the site in Gadebridge and to Hemel Hempstead as a whole. The usage of the footpaths on the site, especially Footpath 13, and the highly valued area of Halsey Fields mean that the openness of the Green Belt in this location performs several functions in terms of encouraging recreation, supporting biodiversity and emphasising the rural character, as noted in the factual proofs provided by the local residents who highlight their use and value.
18. There is no doubt that development of the site would result in a considerable loss of Green Belt openness, contrary to the fundamental aim set out in the NPPF (paragraph 142). No amount of screening or planting could compensate for the introduction of 390 dwellings and a care home into this rural setting which would completely change the character of the area.
19. The case of *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council* [2020] UKSC 3 (CD7.18) has clarified the definition of openness by identifying it as a matter of planning judgement. Openness was ruled not necessarily to be a statement about the visual qualities of the land but rather a counter-point to urban sprawl, defined as an absence of “urbanising development”, which definition applies clearly to this appeal site.
20. In relation to the fifth purpose of the Green Belt, the NPPF states that brownfield and previously developed land should be used prior to development on Green Belt (Paragraph 147). Dacorum Borough Council’s Brownfield Register, last updated in 2021, identifies 79.12 hectares of brownfield land appropriate for development, sufficient to accommodate 2,945 dwelling units. Notwithstanding the possibility of the implementation of consents since 2021, the Council’s Brownfield Register indicates the potential contribution of previously developed land in Dacorum.
21. The emerging Local Plan provides the opportunity for greater use of previously developed land within the built-up area of Hemel Hempstead and other settlements in the Borough. The Government indicates in the Written Ministerial Statement (Building the Homes We Need, July 30 2024) (CD10.3) that it intends the reuse of previously developed land to be the primary land resource for development in the

future. Greater use of such land should reduce the need for the open countryside to be used for development, such as in this case.

Grey belt

22. The Government has restated its commitment to the Green Belt in the proposed recent changes to the NPPF. The proposed changes to the NPPF, published in July 2024, together with the significant Written Ministerial Statement(WMS) by the Secretary of State for Housing, Communities and Local Government indicate a significant change in the direction of travel for national Government policy with regard to the future of the Green Belt.
23. Some of the most significant relevant potential provisions relate to the introduction of the term “grey belt” which is defined in the proposed amendments to the NPPF as “land in the green belt comprising of previously developed land and any other parcels and/or areas of green belt that make a limited contribution to the five green belt purposes, excluding areas or assets of particular importance”.
24. It is clear that the Government ‘s intention is to retain the Green Belt largely in its present form and the constant attempts to challenge Green Belt protections for residential developments lead to many local communities questioning the relevance of the planning system. It is possible to support a limited reassessment of Green Belt boundaries where conditions and circumstances have changed from the original designation.
25. The present site self-evidently cannot be considered as grey belt in any reasonable definition. The release of any Green Belt as grey belt should strengthen the protections afforded to the remaining designated protected land which is presumed to achieve Green Belt purposes better.
26. Notwithstanding the consultation status of the proposed changes to the NPPF, this site should be regarded as high performing Green Belt and this perception is supported by the factual proofs of Ms Ramsden, Mr Ridley and Ms Hamilton with regard to the value that the local community receives from access to the open countryside and the Halsey Field which includes the significance of the biodiversity of the site and neighbouring land. In any case, if the proposed changes to the NPPF and planning system are not implemented in the near future, the existing constraints of Green Belt policy and that relating to the setting of the Chilterns National Landscape should apply.

Very special circumstances

27. The Appellant argues that “very special circumstances” (VSC) exist where the benefits of the scheme would clearly outweigh the harm to the Green Belt. The VSC test is not solely a mechanistic weighting exercise, but rather clear and powerful reasons related to the conditions and circumstances of the site that warrant a departure from consistent planning policy in favour of respecting and retaining the Green Belt.
28. The Appellant notes in their Statement of Case (CD3.1) that “Hemel Hempstead has been defined as the primary location for additional residential development within the Borough” (paragraph 5.19) and that recent appeal decisions locally indicate the significance of the lack of housing land supply as providing very substantial weight to VSC in the planning balance. In my view, the specific conditions and circumstances of this site preclude the application of a Borough-wide housing land shortage as a VSC.
29. The judgement regarding the VSC to be demonstrated to clearly outweigh the harm caused by this inappropriate proposed development should relate to the very special circumstances and conditions of this site in the open countryside. The benefits that the Appellant proposes do not pass the test of VSC in this location when much of what is being promoted in an unremarkable scheme as illustrated in the Masterplan (CD1.54) would be expected of a large development in any location.

LANDSCAPE

General

29. A key characteristic of the designated open land affected by the proposal is the quality of the rural landscape in this area. We fully support the Council’s Reason for Refusal 10 related to landscape quality and the contents of the Council’s Advice Note on Landscape (CD6.14).
30. I note the Appellant’s Landscape and Visual Impact Assessment (CD1.27) and would comment that the rural landscape in this area is highly valued by local communities, both within Hemel Hempstead, where it provides readily accessible open space, and the local village communities. The site is crossed by several footpaths and public rights of way and their constant use demonstrates the significance of the landscape in this area as is shown by the local and wider community use identified by Ms Ramsden and Councillor Mitchell.

31. I consider the harm arising from the proposed development to landscape and visual qualities is substantial and should be considered together with the harms already noted. We note that the Dacorum Core Strategy in Policy CS25: Landscape Character indicates that “development will help conserve and enhance Dacorum’s natural and historic landscape.” Policy CS26: Green Infrastructure seeks “the creation of better public access and links through green space” which would be fully compromised by the introduction of built development, however well landscaped.
32. The Council’s Countryside Place Strategy is an intrinsic element of the Dacorum Core Strategy (Section 26) which seeks to protect and enhance locally distinctive landscapes and notes the significance of the Chilterns National Landscape (formerly Chilterns AONB). Piccotts End is identified as a “hamlet” in Table 11: Characteristics of Small Villages and Hamlets (CD5.2), whose character I believe would be compromised by the proposed development.
33. Paragraph 180b) of the NPPF notes that planning decisions should “recognis(ing)e the intrinsic character and beauty of the countryside”. The proposed development will compromise the local landscape by the amount of building proposed, as indicated by the evidence of Ms Hamilton and Mr Ridley regarding the impact on biodiversity and wildlife which contribute significantly to the existing landscape quality.

Chilterns National Landscape

34. Paragraph 182 of the NPPF specifically notes that attention should be paid to the setting of a National Landscape (formerly Area of Outstanding Natural Beauty) in that “development within their setting should be sensitively located and designed to sensitively located and designed to avoid or minimise the adverse impacts on the designated areas”. The appeal site lies only a kilometre south of the southern boundary of the existing Chilterns National Landscape, served by a main road affording rapid access.
35. I note that the Dacorum Core Strategy identifies the Chilterns National Landscape (formerly SONB) as “one of the borough’s most important landscape assets” (Dacorum Core Strategy paragraph 16.3) as covered by Policy CS24 which seeks to implement the “policies and actions of the Chiltern’s Conservation Board’s Management Plan. A public consultation is imminent on the potential expansion of the Chilterns National Landscape area to include a greater area north of Hemel Hempstead.
36. This potential expansion indicates the inherent quality of the landscape in this location and adds to the significance of the Green Belt designation. Development

close to the Chilterns National Landscape will reduce the beneficial aspects of the continuous open countryside from its boundary to the built-up edge of Hemel Hempstead.

HERITAGE

37. The quality of the landscape is heightened by the heritage assets identified by Ms Ramsden and Councillor Mitchell which provide qualitative examples of how heritage contributes to the overall enjoyment of the area, both in itself and as a contributory factor to landscape and openness. The adjacent Conservation Area in Picotts End contains several historic buildings and locations and there is evidence of archaeological assets, both above and below ground, on and around the site of the proposed development of more than local interest.
38. This historical and archaeological context contributes considerably to the enjoyment of the place. The high quality heritage characterised by the Conservation Area of Piccotts End and the archaeological assets on and adjacent to the proposed site add significantly to the enjoyment of the area by local residents and visitors.

RECREATION

39. As noted previously, the usage of the footpaths, especially Footpath 13, and the highly valued area of the Halsey Field mean that the Green Belt in this location performs several functions in terms of encouraging recreation and leisure use. Chapter 8 of the NPPF seeks to promote healthy and safe communities and notes the significance of achieving “safe and accessible green infrastructure” (NPPF paragraph 96c.).

Public rights of way (PRoW)

40. The NPPF also requires “planning policies to protect and enhance public rights of way and access” (NPPF Paragraph 104). The presence of footpaths across and around the site (CD16.6 and CD16.7) is a major feature of the land proposed for development and they are used extensively by walkers and runners and provide valuable recreation resources for both local residents and from elsewhere in Hemel Hempstead.
41. Councillor Mitchell in her evidence notes the popularity of the circular walk which includes the River Gade valley, Piccotts End and Waters End. Footpath 13 is the major pedestrian route crossing the site which is particularly important in providing

access to the Halsey Field from Leighton Buzzard Road. Also noted are running routes that incorporate footpaths on the site (Footpaths 11 and 14) and in all cases the rural nature and character of the footpaths would be detrimentally affected by the proposed development.

42. The provision of footpaths and landscaping within and on the periphery of development cannot, in my view, make up for the loss of this valuable resources for residents and visitors. The footpaths on this site make a significant contribution to the value of the countryside in this area and provide further reasons for maintaining the Green Belt which accords with a primary purpose of CPRE, both in Hertfordshire and nationally, to promote access for all to the countryside.

Other recreation (Halsey Fields)

43. Similar concerns to those expressed with regard to the footpaths also apply to the value of the Halsey Field Local Wildlife Site. Mr Ridley's factual evidence indicates the richness and value of Halsey Fields which lies adjacent to the proposed development site and would be jeopardised by the anticipated greater footfall caused by the proposed development which may lead to a loss of wildlife.
44. The Halsey Field is widely supported by the wider community, as noted by Mr Ridley in his evidence where he notes its fragility in ecological terms, the wealth of fauna and flora. The close involvement of the local community in its operation and maintenance makes a significant contribution to the mental and general well-being of local residents and visitors.
45. The proposed development will alter the rural character of the area and its impact on the lessening of recreation opportunities afforded by the Halsey Field should be taken into account in the planning balance.

DACORUM LOCAL PLAN

46. The status of the emerging Dacorum Local Plan (DLP) and continuing Government consideration of the significance of designated protected land, including Green Belt are directly relevant to this Inquiry. The recent Regulation 18 public consultation on the Emerging Strategy for Dacorum (CD5.14) received a record-breaking number of responses, overwhelmingly rejecting the allocation of Green Belt sites for housing.

47. This led the Council to delay the programme for publication of the DLP for further review. Similar situations have arisen with regard to the emerging Local Plans for Hertsmere Borough and Three Rivers District Councils in Hertfordshire where very considerable local community responses and opposition relating to Green Belt allocations have led to the need to review the respective Local Plans.
48. This site is not in the emerging DLP and existing provisions of the emerging DLP are also relevant in that significant land allocations are proposed for land to the north and east of Hemel in what is termed the Hemel Garden Communities. These are the subjects of joint proposals from Dacorum Borough Council and St Albans City and District Council.
49. It is reasonable to suggest that in the context of the joint working between neighbouring local planning authorities for the Hemel Garden Communities, including a joint task force, and other sites included in DLP proposed allocations, priority for consideration should be given to these proposals. Further, constraints on delivery including supply side considerations, labour availability, housing market operations and related issues are likely to apply, which would emphasise the importance of planned rather than speculative developments such as the subject of this inquiry.

HOUSING

50. Notwithstanding the agreed Statement of Common Ground (CD4.3), we would wish to comment on the level of proposed housing land supply both as it relates to the existing Core Strategy and emerging DLP. This is based on the Government's present "standard method" algorithm and takes account of a range of other factors relating to the delivery of housing in Dacorum over the last few years.
51. It is reasonable to suggest that the context for the delivery of housing has been unusual for the last five years at least. We recognise that the application of the factors relating to five year housing land supply provide a much reduced figure but we believe this relates to an existing situation which will change, assisted by the adoption of the DLP in February 2026 according to the Local Development Scheme.
52. We note the Housing Statement of Common Ground (CD4.3) with regard to the agreed supply of housing land for 1.37 years as at 1st April 2024 and that the Appellant and DBC agree that very substantial weight should be given in the planning balance to the shortfall in respect of five years housing land supply.

Notwithstanding that it is agreed that land supply evidence is not to be provided in this inquiry, I would comment that this shortfall may be temporary and will be rectified by the provision of the emerging Dacorum Local Plan which is providing for five years housing supply as required by the NPPF.

53. The Draft Local Plan is scheduled for Regulation 19 public consultation in November and it is our understanding that the Brough Council will move rapidly to the next stages of Local Plan preparation and adoption. The site is not included in the emerging Draft Local Plan which makes sufficient provision without the allocation of this site and this should lead to more caution with regard to the weighting of VSC in respect of the lack of housing land supply. will address the matter of out of date policies.

Affordable housing

54. The NPPF December 2023 defines affordable housing in the Glossary (Annex 2) as “Housing for sale or rent for those whose needs are not met by the market”. A proportion of 20% below market rates is quoted for both the rent and sale of housing as affordable.
55. CPRE Hertfordshire has looked into the relationship of average house prices and average household incomes in the County and we note the present inability of private market housing to address in any meaningful way the demand for housing by average earning households in both Dacorum Borough and Hertfordshire as a whole. Given that the definition of affordable housing has become effectively irrelevant with regard to house purchase by an average earning household in Hertfordshire, it may be inappropriate to promote affordable housing as providing justification for use of the Green Belt for this purpose.

SUITABLE ALTERNATIVE NATURAL GREENSPACE (SANG) AND STRATEGIC ACCESS MANAGEMENT AND MONITORING (SAMM)

56. COG supports DBC’s concerns with regard to the provision of SANG and the inadequacy of the management proposals (SAMM) relating to the implications of the proposed development for the Chiltern Beechwoods Special Area of Conservation and the setting of the Chilterns AONB. We are also aware that the DBC Cabinet

approved a Mitigation Strategy (CD13.6), as required by Natural England, relating to damage caused by public use of the Ashridge Hills and Commons area of the AONB on November 15th 2022.

57. Ms Hamilton's evidence addresses the matter of SANG and the Mitigation Strategy approved by DBC has not been subject to consultation and should be given only moderate weight at most. Such provision should be incorporated into a Development Plan document, following consultation, which would give it the appropriate weight for consideration in planning decisions.
58. The Appellant's proposal, in their Statement of Case, to secure SANG provision and SAMMs payments by land-use provision and section 106 payments, through a Grampian-style condition appears to comply with the Dacorum BC published Mitigation Strategy (November 2022). However, as the CCB points out this is no substitute for a plan-led comprehensive approach to the provision of SANG which addresses the reasons for the Mitigation Strategy.
59. In any case, Grampian style conditions are difficult to implement and the uncertainty surrounding existing SANG provisions in Dacorum, including the recent Rectory Farm appeal case quoted by the Appellant at Kings Langley attest to the complexities of the process. In my opinion, little weight should be attributed to these provisions until they are part of a wider strategy within a Local Plan and aligned with adopted Local Plan policy.

Environmental issues

60. Ms Hamilton's evidence identifies a comprehensive range of issues with regard to the impacts of the proposed development on the natural environment and wildlife. These should be taken into account in consideration of the weight to be applied to the harms caused by the proposed development. Similarly, the risks associated with flooding on and around the site and the potential damage to the River Gade, with its internationally recognised chalk stream habitats, adds to the potential harms caused and affects the planning balance.

Agricultural land

61. The Appellant's consultants report (CD1.2) identifies seven hectares of the site as comprising Grade 2 Best and Most Versatile land, which is 25% out of a total site area of approximately 26 hectares. The remainder of the site is classified as Grade 3b which is increasingly being recognised as productive agriculturally

62. A significant element of the enjoyment of the site is the maintenance of its use as agricultural land which contributes to the significance of the Green Belt, by virtue of its openness and the maintenance of rural character which will be altered by the proposed development.

SUMMARY AND CONCLUSION

63. In summary, I fully support the Borough Council in its rejection of the proposed development which is the subject of this appeal. In my view the benefits of the scheme do not clearly outweigh the harm (particularly the Green Belt and the setting of the National Landscape) and therefore very special circumstances are not demonstrated to permit this inappropriate development proposal.
64. The quantum of development proposed means that there would be very substantial harm caused to highly valued open countryside which is designated as Green Belt and lies within the immediate setting of the National Landscape. These designations seek specifically to prevent the type and magnitude of development proposed in this case.
65. I believe that the Green Belt designation provides the primary reason for maintenance of this site as open countryside. Its significance is heightened by its landscape quality and rural character, its value in relation to local heritage assets and the considerable use made of then site by local residents and visitors from further afield.
66. The anticipated changes to national planning policy and guidance maintain the significance of the Green Belt designation, and with the likelihood of a future review of criteria, the innate quality and value of this site to Hemel Hempstead and the surrounding communities should prevent its development. For the reasons set out in this proof, the Inspector is respectfully urged to dismiss this appeal.