

DPV Consult

Castleoak Care Developments Ltd

Land to the rear of Burston Garden Centre

St Albans

AL2 2DS

Planning Appeal Statement of Case

21 July 2021

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1. Introduction

- 1.1. This Appeal Statement is submitted on behalf of Castleoak Care Developments Ltd (Castleoak) (the “Appellant”) in respect of the planning appeal against the refusal of planning application reference 5/20/3022 by St Albans City Council on the 26 May 2021.

The Planning Application

- 1.2. The full planning application was registered on the 15 December 2020. The agreed description of development is:

“Demolition of all existing buildings, structures and hardstanding and redevelopment of the site to provide a new retirement community comprising 80 assisted living apartments with community facilities and 44 bungalows together with associated access, bridleway extension, landscaping, amenity space, car parking and associated and ancillary works”

- 1.3. A full list of plans and documents against which the application was determined is set out in **Appendix A.**

The Refusal

- 1.4. Members of the Council’s Planning Referrals Committee determined to refuse the application on 24 May 2021 for the following 3 reasons:

“1. The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, together with the size of the assisted living building would be harmful to the character of the wider area. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994.

2. The development would cause less than substantial harm to the grade II* listed Burston Manor and the grade II listed outbuildings. The urbanisation of the application site would sever the last tangible link between the Manor groups and its historic landscape setting. This would cause harm to its significance. The creation of the houses along the southern boundary of the Manor group, with the 3 storey blocks visible beyond together with the amount and scale of built form, would result in the complete reduction in Burston Manor's visual prominence in the surrounding land from the south and east. This would result in the complete

loss of the perception that the Grade II* listed Manor house is a historic and important house, set in a wider agricultural setting. The formality of the proposed landscaping would completely erode the designed juxtaposition between the gardens around the Manor Group and the farmland around the site. The development would result in 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 all but lost. The proposed screening in itself would be a harmful addition as this further blocks the long range views from and to the Manor group, in particular those between the Manor group and How Wood and Birch Wood. The proposed screening would fully visually contain the designated heritage assets and substantially reduce the appreciable link between the Manor group and the land which it is associated with. Overall the proposals would result in less than substantial harm to the significance of the grade II* and grade II listed buildings forming the Burston Manor group which is not outweighed by public benefits, including the provision of additional dwellings. In accordance with the Framework and the statutory obligation imposed, great weight is given to this harm. As a result, the development would conflict with Local Plan Policy 86 and the NPPF 2019.

3. In the absence of a legal agreement to secure contributions towards; Community facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services, Highway projects, affordable housing, occupancy limitation, first marketing limitation the development fails to adequately mitigate its effect upon local services and infrastructure and secure the identified 'very special circumstances'. As such the development fails to comply with Policies 1 and I43B of the Local Plan and the NPPF 2019."

- 1.5. Those issues where there is understood to be no disagreement between the Appellant and the Council are set out in the draft Statement of Common Ground which is to be agreed with the Council at the earliest opportunity. The main issues addressed within this Statement therefore relate to the 3 grounds of refusal set out on the Council's decision notice.

The Appellant

- 1.6. Castleoak, who will develop the scheme, is a specialist development and construction team working exclusively in the care and retirement living sector. Since 1996, Castleoak has delivered over 200 care homes and 2,000 assisted living and retirement homes.
- 1.7. The need to provide an adequate supply of specialist accommodation for older people is becoming increasingly important given our ageing population and this has only been brought into sharper focus by the current Covid-19 pandemic.

- 1.8. The Appellant's view is that retirement housing and extra care/retirement community developments provide the ideal compromise between traditional housing and a care home for looking after the very elderly. Traditional housing is not preferable for the lonely and/or isolated elderly with little or no community support and protection. Care homes have been adversely affected (although have very unfairly been portrayed by the press, given they cater for the frailest 3 percent of elderly people in the country).
- 1.9. Retirement communities allow residents to self-isolate effectively within their own homes, but crucially they can also have trained on-site care and support if required. This not only means they will be looked after effectively, but also that debilitating damage caused by loneliness and social isolation is mitigated.

Background to the proposal

- 1.10. This appeal makes substantive changes to the previous scheme, refused on the 20 March 2019 under LPA ref. LPA ref. 5/2018/1324/LSM and the subsequent appeal dismissal on the 9 January 2020 (PINS ref. APP/B1930/W/19/3235642). A copy of the appeal decision is attached at **Appendix B**.
- 1.11. This appeal scheme proposes a significant reduction in both the quantum and density of development, including the removal of the previously proposed 64-bed care home, to provide a less formal development with a more open, spacious and landscaped setting which increases the opportunity for natural habitats and preserves the visual prominence of Burston Manor. In addition, the appeal proposal creates greater separation between the proposed development and Burston Manor, reaffirming its visual prominence, frames key long range views to and from the Manor Group including those to How Wood and Birch Wood and re-establishes long lost historic links between Burston Manor and its previous agricultural setting through the reintegration of the historic cart route and the introduction of an interpretation board in the developments' village green explaining the history of Burston Manor. Lastly, it is noted that in addition to the development providing much needed homes and freeing up existing housing, the appeal proposals commit to the provision of a substantial affordable housing contribution and to encouraging the occupation of the units by those already living locally. These commitments will deliver very significant additional public benefits over and above the existing public benefits that remain part of the appeal proposals.
- 1.12. It will be demonstrated in evidence that combined with the very significant reduction in harms and substantial additional benefits the appeal proposals will deliver, over and above the previous scheme, the very special circumstances now exist to offset harm to both the Green Belt and other harm including to Burston Manor a Grade II* listed building.
- 1.13. It will also be evidenced in this appeal that the Council's ability to meet its general, affordable and specialist older persons housing need has significantly worsened since the previous appeal.

The current position on both general needs and affordable housing is most appropriately set out in the recent appeal decision at Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath (APP/B1930/W/20/3265925 and 3265926) which falls within the administrative boundaries of both St Albans DC and Welwyn Hatfield. The decision to allow the appeal for up to 100 dwellings on this Green Belt site reflects St Albans bleak position in meeting its housing need and confirms that the shortfall is considerable and significant. The greater the shortfall then the greater the weight must be attributed to allowing proposals which seek to address this shortfall. A copy of the decision is at **Appendix C**.

Report Structure

- 1.14. This statement outlines the core premise upon which the Appellant's case will be made at the Inquiry, demonstrating the justification for the grant of planning permission for the appeal scheme. Submitted alongside this statement is a draught Statement of Common Ground.
- 1.15. The remainder of this Planning Statement comprises the following sections:
 - Section 2 – Site and Surroundings
 - Section 3 – Planning History
 - Section 4 – The Appeal Proposals
 - Section 5 – Planning Policy
 - Section 6 – Planning Issues
 - Section 7 – Summary and Conclusions
- 1.16. The Appellant exercises the right to expand upon any, and all matters contained within this Statement, make additions deemed to be relevant and appropriate to the list of documents set out within the planning application, and respond to any and all potential matters to be presented by St. Albans District Council.
- 1.17. In preparing the evidence the Appellant will seek to agree a schedule of core documents with the Council to be referred to in evidence. These documents will be placed in an 'examination library' for the benefit of the Inquiry to include (but not necessarily limited to):
 - Appeal documents such as statements of case, appeal questionnaire etc.
 - Planning application plans and documents, committee report and decision notice
 - Planning policy and guidance notes
 - Third party representations to both the application and appeal
 - Other material documents as relevant including research papers related to specialist old persons accommodation, relevant appeal decisions

2. Site and Surroundings

Site Location

- 2.1. The site is located south of the A405 North Orbital Road some 3.6 km south of St Albans city centre and some 8 km north of Watford town centre.

Site Characteristics

- 2.2. The site, which is 5.8 ha in size, falls within the eastern part of the wider Burston Garden Centre formerly used as a commercial rose production site (being previously developed land). This part of the main site represents some 20% of the combined land holding. The site consists of 12 built structures and part structures, (the majority being clad and roofed with asbestos bound cement sheets), polytunnels and water tanks as well as extensive hard surfaced setting out areas, irrigation and drainage systems, HGV loading bays and scrap areas.
- 2.3. The combined footprint of the 12 structures equates to 7,215 sqm. The sheds, polytunnels and glass houses have maximum heights ranging from circa. 8.8m to 9.8m. The largest buildings are located adjacent to both the western (sheds and glass houses) and southern boundaries (polytunnels) of Burston Manor.
- 2.4. Overall large buildings and extensive areas of hard standing dominate the western and southern part of the site. There is a pocket of degraded rough grassland occupying the northeastern part of the site.
- 2.5. The site is generally flat.
- 2.6. The site is heavily enclosed on the east and southern flank with mature woodland limiting any onward visibility beyond this. The western flank boundary abuts the Burston nurseries outside of the site and comprises glasshouses and planting beds. To the north is the Burston Manor House, Granary and moat. The majority of the site's northern boundary is formed with mature trees. Together with mature tree planting and established boundaries forming the private gardens of the Manor House, much of the Manor House is completely screened from the site albeit in the winter months glimpsed views are possible from parts of the curtilage of the Manor House across the site towards How Wood.
- 2.7. To the east of the Manor House curtilage a further belt of mature tree planting (outside of the site) screens views in this direction from the northern reaches of the site. A two-metre boundary fence runs the entire length of the eastern boundary separating the site from a public bridleway. To the south, temporary heras fencing separates the site from Birchwood. The site seamlessly flows into the wider nursery complex with glass houses and outbuildings on the site's western edge.

- 2.8. When viewed from the east the site can also be glimpsed through woodland from properties at Walnut Close and Spruce Way sited east of How Wood. These properties form part of a large residential suburb generally consisting 2-storey detached and semi-detached houses constructed in the latter part of the 20 Century and are in themselves of no particular architectural or historic merit.
- 2.9. The site is currently accessed through the storage and distribution area of Burston Garden Centre which is located between Burston Nurseries and the western boundary of Burston Manor and is used for ongoing nursery activities, including deliveries and external storage, single storey post-war buildings and glasshouses. Much of the site here is bounded by fencing with some palisade style security fencing present. The interface between the site and the A405 road presently comprises an access for the nursery and garden centre, and a separate access for the Manor House and other nearby buildings. Further security fencing provides some enclosure around additional car parking for the retail nursery which sits to the immediate north of the Burston Manor House grounds.
- 2.10. Access into the site is from the A405 North Orbital Road and is shared with the main garden centre site.

Surrounding Area

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

Accessibility

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

Visual Receptors

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

Site Designations

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

3. Planning History

- 3.1. Apart from the recently dismissed appeal (PINS ref. APP/B1930/W/19/3235642) there is no directly relevant planning history relating to the subject site itself.

Other applications

- 3.2. Planning permission was granted in July 2015 for the provision of highway works to provide improvement and introduction of new signal controls at the Garden Centre access onto the A405 (LPA ref: 5/2014/3049).
- 3.3. The officer's report prepared in connection with this application indicated that the proposals were made in order to ensure that the access arrangements are suitable for heavy vehicle usage and in order to improve pedestrian and road user safety.
- 3.4. The planning permission for the highway works has not been implemented to date; we understand that this is for reasons of economic viability. Access for the appeal proposals would incorporate this access.
- 3.5. The adjoining garden centre has an extensive planning history relating to the horticultural use. The most recent application relates to an extension to the existing garden centre to create a larger kitchen and restaurant, which was approved in May 2010 (LPA ref: 5/2010/0581). Amendments were later approved in May 2011 under a revised planning permission (LPA ref: 5/2010/2317). This permission has since been implemented.

4. The Appeal Proposals

- 4.1. A detailed description and associated benefits of the proposals will be given at the Inquiry.
- 4.2. In summary the proposals are described under the following headings.

Buildings to be demolished

- 4.3. The proposed development would entail the demolition of all 12 existing structures, totalling some 7,215 sqm plus hardstanding on the application site as described in Section 2.

Design

Amount

- 4.4. The quantum of proposed development is summarised as follows:
- 80 assisted living apartments
 - 44 assisted living bungalows/cottages
 - A dedicated central building providing care and communal facilities including reception area, guest suite, lounge, restaurant, café/bar, library, gym, treatment/therapy room and cinema
 - On-site care and support provided by a Care Quality Commission (CQC) registered provider
 - Associated support facilities including staff offices, storage, laundry, kitchen, electric scooter/buggy storage, car parking and plant areas
 - Total additional floor space of circa. 15,807sqm.
- 4.5. The proposed assisted living apartments will provide secure, self-contained accommodation with on-site care and support available so that residents can maintain their independence and live longer in their own homes. On-site community facilities and activities will also be provided to enhance the social, health and psychological wellbeing of residents and reduce feelings of isolation.

Access, circulation, parking and servicing

- 4.6. Access, circulation, parking and servicing is covered in detail within the supporting Transport Assessment.
- 4.7. In broad terms the existing site access junction of the Burston Garden Centre and the A405 North Orbital Road is to be replaced with a new signalised junction arrangement in accordance with the scheme permitted in 2015.

- 4.8. New internal access roads will serve the development site in a mix of shared surface and traditional road design. This increases the separation between Burston Manor and the existing nursery buildings, with additional planting.
- 4.9. A new pedestrian route is proposed across the site from the main access road to the existing public bridleway (to also be extended) with secondary pedestrian links to be provided off the bridleway.
- 4.10. A total of 140 car parking spaces to be provided for resident, staff and visitor use and broken down as follows:
- 96 spaces for the assisted living apartments
 - 44 spaces for the assisted living bungalows
- 4.11. 54 cycle spaces are to be provided for resident, staff and visitor use. 15 dedicated mobility buggy spaces are to be provided for residents.
- 4.12. A car club and minibus service are to be provided on site to ensure all residents have access to local facilities and services, regardless of their mobility.
- 4.13. The central assisted living building, which incorporates the community facilities would typically be serviced by smaller delivery vehicles such as vans or 7.5T lorries with up to one large delivery lorry arriving per day. Refuse collection would be undertaken typically 2-3 times per week with a single vehicle servicing the whole of the Site.
- 4.14. Refuse/recycling bins for the assisted living buildings is to be provided in a number of locations. Refuse is to be collected directly from each apartment and taken to the proposed central bin storage area.

General arrangement

- 4.15. In response to the previous appeal dismissal, the architectural approach is landscape-led with open, green spaces to provide separation to adjacent properties, resident activity space and improved natural habitat. The retirement community buildings are therefore arranged around a series of distinctive open green spaces.
- 4.16. The assisted living apartments are proposed at 2.5 storeys. The assisted living bungalows will be 1.5-storey in height.
- 4.17. The intention is to deliver an exemplar retirement community making use of high-quality materials in an open setting. The accommodation is to be generously proportioned and will provide aspirational housing choices for older people. Each of the units will exceed current

spatial guidance including Housing our Ageing Population: Panel for Innovation (HAPPI) recommendations for assisted living unit design and layout.

Changes to the appeal scheme

- 4.18. In response to the issues raised by the previous appeal Inspector (**Appendix B**), the Appellant has worked closely with their advisory team in preparing the appeal proposals which address the reasons for dismissal.
- 4.19. The principal changes, to be fully set out in evidence, are:
- Reduction in the quantum, scale and mass of development including the removal of the previously proposed 64-bedroom, 3,518 sqm, 2-storey care home which was located on the northeast portion of the site, to the benefit of the setting of Burston Manor
 - Overall reduction in built form equates to a decrease of almost 20% of the overall floor area proposed previously, down from 19,449 sqm to 15,807 sqm
 - Significant reduction in the density of development, utilising the space created by the removal of the care home to increase the separation between proposed bungalows alongside increased natural landscape and openness across the development and greater separation from the curtilage of Burston Manor
 - A more dispersed and informal arrangement of accommodation throughout the site including the re-orientation of bungalows towards the northern boundary
 - Increased visual permeability of the scheme, with more open views throughout the site and from the northeast and southeast towards the village green
 - Softening the built form along the eastern boundary of the site and along the boundary with Burston Manor to facilitate a more sensitive edge with How Wood also with the emphasis on introducing more informal tree planting of native species to complement Burston Manor rather than the previously screened approach
 - The removal of the close boarded fence adjacent to the boundary with How Wood to open the bridleway with the introduction of new woodland planting and the introduction of a low-level estate post and rail fence (subject to discussions with rights of way)
 - The provision for enhanced pedestrian routes both through and around the perimeter of the site, including access to Burston Garden Centre and improved connectivity to the local shops and facilities in How Wood, whilst at the same time respecting the principles of “defensible space”
- 4.20. The design changes have enabled a more informal arrangement of the remaining units with a greater focus on landscaping, green space and protecting the setting of Burston Manor a Grade II* listed building. More generally, the redesign has focused on addressing the reasons why the previous scheme was refused by the Council and subsequently dismissed at appeal.

- 4.21. Fundamentally there has been a change in focus insofar as the proposals now serve to celebrate Burston Manor, by re-establishing long lost historical links with the site through the reinstatement of the lost cart route leading to the Manor, framing key views between the Manor Group, How Wood and Birch Wood, and enabling the public to enter the currently inaccessible site and be informed about the connection and history between the site and Burston Manor through interpretation boards located within the development.

Land use, operation and management

- 4.22. The scheme would be a Use Class C2 development (Residential Institution) given the proposed provision of a significant element of care on the Site as a core function/aim of the development.
- 4.23. The care product for the subject Site aims to provide an integrated approach to lifestyles, healthcare and support services that is responsive to the varied and changing needs of older people. An integral part of this concept is the immediate availability of care if required, however, it is intended to be subtle and kept in the background in order to maintain the residential feel of the development.

Age of residents

- 4.24. There will be a minimum qualifying age restriction of 65 years which must apply to at least one of the occupiers in each unit with the anticipated average age of residents being early 80's which is consistent with typical assisted living schemes.

Local occupancy

- 4.25. To promote local occupancy, the applicant has agreed to restrict the first sale of properties within the development to buyers who already live within a certain radius of the site (to be agreed) for a limited period (again to be agreed) before more general marketing can take place. This is subject to agreeing an appropriate mechanism of restriction with the LPA.

Communal facilities

- 4.26. The scheme will incorporate an extensive range of communal facilities which will be managed and operated as an integral part of the care concept to encourage social interaction.
- 4.27. Daily meals are offered to all residents and there will be a comprehensive events programme.
- 4.28. The floor area occupied by the communal facilities for the assisted living development will be generous.

On site care services

- 4.29. The development promotes independence and choice for residents, with the ability to live longer in their own home as their requirement for personal and medical care increases over time. Therefore, on-site care and support will be available to residents 24 hours a day from a Care Quality Commission (CQC) registered provider.
- 4.30. Before a sale is agreed, each resident will undergo a clinical assessment undertaken by a CQC registered care provider in order to understand their personal and clinical need and to agree a bespoke service package appropriate to their need. Each resident's specific needs are addressed flexibly and appropriately, and these are updated annually by the manager at the facility.

Minimum care provision

- 4.31. Once a need for personal care or support has been established, all residents will be required to enter into a contract, as a condition precedent to the purchase of a dwelling, for a minimum of 1.5 hours of personal care or support per week. This will be included within the overall service charge. As held in previous appeal decisions, given the financial implications of charges for care, it is not expected that the apartments would be attractive to occupiers other than those in genuine need of care and in any event, a personal care assessment will be undertaken to establish a care need prior to sale of units.
- 4.32. To enable residents to live longer in their own homes, the level of personal care and support provided to residents within the development can be increased (and subsequently decreased) according to their needs over time. In many instances this will reduce and/or delay the need for residents to move into a care home or take up acute hospital beds as high levels of care can be provided on-site. The provision of on-site care can also reduce dependency on local GP practices.

Standard of accommodation

- 4.33. All units will be designed specifically for use by the elderly, promoting ease of movement and independence in a high quality setting with on-site care and support available 24 hours per day. The accommodation will incorporate the following features:
- The apartment layouts to be care-ready, aimed at enabling residents to age in place and minimising the need to move to a care home or acute hospital bed
 - All kitchens are to be wheelchair accessible and capable of being adapted for wheelchair use, also noting they will all be fitted with an eye level oven and separate hob
 - Each apartment will be fitted with an accessible, walk in shower with no stepped access. Second bathrooms will have the ability to be fitted with either a bath or flush floor shower dependent on the residents' needs

- The bungalows follow the principles set out in the Lifetime Homes standards and are based on ensuring inclusivity, accessibility, adaptability, sustainability and good value. The units have been flexibly designed to enable a resident to live on the ground floor should they be unable to access the first floor for any period, enabling the upper floor to be either used by a family member or live-in carer
- The layouts allow for the future provision of stair lifts, through floor lifts and hoists if required
- Emergency call systems with assistive technology are provided to all units; and
- Level access is provided throughout

Mix of units

- 4.34. The proposal incorporates a mix of predominantly one- and two-bedrooms units, as well as a small proportion of three bedrooms units to offer flexibility for residents who wish to both downsize or maintain space for hobbies, family visits or live-in care.

Occupancy controls

- 4.35. Whilst initial sale of units will be undertaken by the operator, subsequent sales will typically be undertaken by the families of residents. This process can be undertaken independently or with the support of the operator, but in any event, onward sales will be restricted to those who meet the restrictions and requirements of residents wishing to move into the scheme – i.e. meet the minimum age and care requirements and enter into an agreement for a minimum of 1.5 hours per week care and support package. This is to ensure that the scheme continues to operate in accordance with planning conditions and Section 106 agreement.
- 4.36. The philosophy behind the proposals is justified with reference to relevant planning policy and the key planning issues set out in sections 5 and 6 respectively.

5. Planning Policy

- 5.1. Reference may be made at the Inquiry to the following current planning policies and guidance.
- 5.2. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that, when making a determination under the Planning Acts, the determination shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant Local Development Plan against which the proposals will be considered comprises the saved St Albans Local Plan (1994).

Development Plan Policy

- 5.3. The statutory development plan is the St Albans Local Plan Review 1994, which was adopted some 27 years ago and in itself:

“... recognised the need to prepare Alterations or a full Review of the District Plan, looking to 2001 or beyond, as a matter of urgency” (Para. 4).

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

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

Other Material Considerations

National Planning Policy Framework (2019)

- 5.5. The Framework is a material consideration in planning decisions. It sets out the Government’s planning policies for England and how they will be applied in terms of securing sustainable

development. Sections of the Framework that are of particular relevance to the appeal proposals are:

- Section 1: Introduction (paras. 1 to 6)
- Section 2: Achieving sustainable development (paras. 7 to 14)
- Section 5: Delivering a sufficient supply of homes (paras. 59 to 79)
- Section 6: Building a strong competitive economy (paras. 80 to 84)
- Section 8: Promoting healthy and safe communities (paras. 91 to 101)
- Section 9: Considering development proposals (paras. 108 to 111)
- Section 11: Making efficient use of land (paras. 117 to 123)
- Section 12: Achieving well-designed places (paras. 124 to 132)
- Section 13: Protecting Green Belt land (paras. 133 to 147)
- Section 14: Meeting the challenge of climate change, flooding and coastal change (paras. 148 to 169)
- Section 15: Conserving and enhancing the natural environment (paras. 170 to 183)
- Section 16: Conserving and enhancing the historic environment (para. 184 to 202)

Planning Practice Guidance

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

Supplementary Planning Guidance

- 5.7. The following policy / guidance is also relevant:
- Design Advice Leaflet No. 1: Design and Layout of New Housing, November 1988
 - Revised Parking Policies and Standards, January 2002

Emerging Planning Policy

- 5.8. The Council were in the process of preparing a new Local Plan to cover the period 2020 to 2036, noting the St Albans City & District Local Plan Publication Draft was submitted to the Secretary of State for examination in March 2019. However, on recommendation of 2 inspectors appointed by the Secretary of State to examine the Plan the decision was taken at the Council's Cabinet meeting on the 19 November 2020 to withdraw the Plan.

- 5.9. Hearing sessions into the now withdrawn Plan were held between 21 and 23 January 2020. Over those three days there was discussion on legal compliance, the Duty to Cooperate (Dtc) the spatial strategy and matters relating to the Green Belt. The inspectors then wrote to the Council on the 27 January 2020 raising their serious concerns in terms of legal compliance and soundness.
- 5.10. This is the second time in the last 24 months inspectors appointed by the Secretary of State have effectively directed St Albans to withdraw a draft Local Plan.
- 5.11. A new Local Plan is underway but is at a very early stage. The NPPF, para. 48 states that weight can be given to given to emerging policies, save for the clarification in para. 49 which states (note: both a) and b) need to be satisfied):

“49. However in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to the emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”

- 5.12. No draft policies for the new Local Plan have been produced to date, therefore no weight can be attributed to it in decision making.

Neighbourhood Plan

- 5.13. The site falls within the St Stephen Neighbourhood Plan area, which was designated in 2014. If the emerging Local Plan had not been withdrawn the site would have been formally allocated for development as a retirement community within the emerging Neighbourhood Plan.
- 5.14. Evidence will be presented on behalf of the Appellant to demonstrate that the proposed development:
- Fully meets the planning policy aims and objectives established in the NPPF, and that it comprises a sustainable form of development that fully accords with principles of sustainable development
 - Has been brought forward in a manner which accords with the relevant guidance set out within the NPPG

- Has been brought forward in a manner which accords with the relevant “saved” policy tests of the adopted Local Plan

5.15. Overall, it will be demonstrated on behalf of the Appellant in evidence that the proposals are in accordance with the above policies, and that development represents sustainable development in a sustainable location.

6. Planning Issues

6.1. This Statement of Case sets out the case that will be presented on behalf of the Appellant and makes reference to documents that will be referred to in evidence.

The Appeal Submission

6.2. A full list of documents that accompanied the planning application on which the LPA based its decision is provided as part of the appeal documentation.

6.3. It is anticipated that expert witnesses covering the following matters will be called:

- Planning including the merits of the proposals and the “planning balance”
- The characteristics of and the need for the proposed development
- Heritage
- Design
- Landscape

6.4. The Appellant reserves the right to add to or amend information provided in this Statement of Case, having regard to any matters raised by the principal parties or by third parties in the course of the appeal, where these go beyond those matters addressed in the reasons for refusal.

6.5. Expert evidence will address the key issues identified in this Statement of Case.

The Appeal Proposals in Context

6.6. The ethos of the proposals remains unchanged from the original scheme although following the refusal of planning consent for that scheme by a single casting vote (LPA ref. 5/2018/1324/LSM) and the subsequent dismissal of the appeal by the Planning Inspector (PINS ref. APP/B1930/W/19/3235642 – **Appendix B**), the scale, mass and density of the scheme has been substantially reduced, including the unfortunate removal of the care home. The current proposals still consist of a retirement community, under Use Class C2, that will provide 124 assisted living units through a combination of apartments and bungalows along with community facilities and amenities that will promote engagement, community and independence supported by on-site care which will enable residents to live longer in their own home.

6.7. The design changes, as summarised in Section 4, have enabled a more informal arrangement of the remaining units with a greater focus on landscaping, open green space, increasing natural habitat and biodiversity and preserving and enhancing the setting of Burston Manor a Grade II* listed building. More specifically, the redesign has focused on addressing the reasons why the previous scheme was refused by the Council and subsequently dismissed at appeal.

- 6.8. Fundamentally there has been a change in focus insofar as the proposals now serve to celebrate Burston Manor, by re-establishing long lost historical links with the site through the reinstatement of the lost cart route leading to the Manor, framing key views between the Manor Group, How Wood and Birch Wood, and enabling the public to enter the currently inaccessible site and be informed about the connection and history between the site and Burston Manor through interpretation boards located within the development.
- 6.9. It will be demonstrated in evidence that the revised proposals markedly reduce “harms” to both the Green Belt and the setting of Burston Manor and address the material concerns of the previous appeal inspector.
- 6.10. The “very special circumstances” and public benefits were comprehensively set out within the appeal proposals and with reference to the appeal decision were well understood by the Inspector.
- 6.11. She gave:
- **Very significant weight** to the contribution the development would make to meeting the needs for housing in the area for older people
 - **Substantial weight** to the contribution general housing needs
 - **Substantial weight** to the health and well-being the proposals will bring to both future residents of the scheme as well as relieving pressure on existing health services
 - **Very significant weight** to the release of under-occupied family housing
 - **Significant weight** to the employment opportunities the scheme will deliver
 - **Some weight** to the benefits of the site access improvements that the scheme will deliver
 - **Some weight** to the site being able to be delivered now.
- 6.12. The statements of public benefits have been updated as part of this current application, and will be fully set out in evidence, to reflect the change in circumstances associated with the passage of time since the previous Inquiry, in particular with regards to housing need, noting that greater weight should be applied given that the Council's housing land position has deteriorated significantly further since the previous appeal decision.
- 6.13. As part of the updated statements of benefits to be submitted in evidence the applicant has further committed to:
- Making a significant contribution towards the provision of affordable housing
 - Marketing a proportion of the homes to residents, or family members of residents, living locally
 - Increase biodiversity through additional landscaping and habitat creation

- 6.14. At the same time, the assessment of alternative sites has been revised to address concerns of approach raised by the previous appeal Inspector and in the interests of demonstrating that no new sites have since come forward. There are none.
- 6.15. On this basis there are substantial additional benefits over and above those previously proposed that must now be weighed in the planning benefits; namely:
- **Significant weight** to the fact that there are no suitable sequentially preferable alternative sites to accommodate the proposals
 - **Very significant weight** towards the provision of affordable housing
 - **Significant weight** to offering a proportion of the homes to residents, or family members of residents, living locally
- 6.16. The withdrawal of the draft replacement St Albans City and District Local Plan 2020-2036 by the Council at its Cabinet meeting on the 19 November 2020 due to fundamental legal and procedural flaws identified by the Government's planning inspectors appointed to examine the Plan also weighs substantially in favour of the application proposals. The current development plan here - the District Local Plan Review 1994 - is hopelessly out of date and in many respects is not consistent with national planning policy.
- 6.17. One of the key issues raised by the inspectors following the early conclusion of the Local Plan Examination was that discounting potential sites in the Green Belt of less than 500 units was not the right approach. Conversely, in line with these conclusions the development of the application site would be consistent with the approach of selecting smaller sites given:
- The proposals would provide a valuable contribution to the identification of some smaller sites that would not unacceptably spread the adverse impacts of development on Green Belt purposes
 - The extent of the resultant impacts associated with the proposals would be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites)
 - The site will deliver 124 supported care homes within the next 2 to 3 years without requiring additional infrastructure, would provide choice and flexibility in the housing market including the release of much needed family homes and secure affordable housing more immediately through the appellants' substantial contribution in line with a clearly identified need
 - Refusing planning permission on the application site effectively rules out an important potential source of housing that will undoubtedly have a lesser impact on the purposes of the Green Belt than the sites selected in the draft Plan without sufficient justification.
- 6.18. It will be demonstrated in evidence that the reduction in "harms" in relation to the previous appeal along with the introduction of additional and very significant benefits, when combined

with the policy vacuum at the District Level, that has arisen following the withdrawal of the replacement Local Plan and emergence of the Neighbourhood Plan, which means that the overall planning balance is now weighed decisively in favour of the application proposals.

Response to the Council's reasons for refusal

6.19. As noted above there were 3 reasons for refusal.

Reason for refusal 1: Green Belt conflict

6.20. The first reason for refusal states:

“1. The proposed development would comprise inappropriate development in the Green Belt which would cause in principle and actual harm to the openness of the Green Belt. The proposed development by reason of the quantum of development, together with the size of the assisted living building would be harmful to the character of the wider area. The case made for very special circumstances, together with the contribution towards the provision of housing is not considered to overcome this harm. As such the proposal is contrary to the NPPF 2019 and to Policies 1, 69 and 70 of the St Albans District Local Plan Review 1994”.

6.21. Firstly, it is accepted by the Appellant that, in accordance with Paragraph 145 of the NPPF, the proposed development would comprise inappropriate development in the Green Belt.

6.22. Evidence presented to the inquiry on behalf of the Appellant will consider the impact on the openness of the Green Belt by virtue of the proposed quantum of development which must be considered in the context of:

- The previously developed nature of the site and the built footprint of existing development
- That the site comprises a discreet parcel of land which is inaccessible to the public and predominantly contained from views from the outside of the site due to existing tree screening, woods and closed boarded fencing. Therefore, the site cannot be considered to contribute to the openness of the Green Belt locally. Overall, it will be demonstrated that any landscape and visual effects are limited to the appeal Site and local level receptors only which will reduce further over time as the proposed planting matures.

6.23. Within this context evidence will show that the form of development will not be uncharacteristic and harmful to the character of the wider area.

6.24. The Appellant's evidence will then consider any other harm caused by the proposed development. It will be demonstrated through evidence that the proposals will not result in a substantial ribbon of development in this part of the Green Belt and will not contribute towards the merging of How Wood and Chiswell Green.

- 6.25. Furthermore, it will be demonstrated at the Inquiry that the appeal proposals will not conflict with the five Green belt purposes as set out at para. 134 of the NPPF.
- 6.26. Whilst the site lies outside of, but adjacent to, the settlement boundary as defined on the adopted policies map, this must be viewed in the context that the settlement policies are out-of-date as will be set out in the Appellant's evidence. In summary this is due to the historic nature of the Local Plan (1994) and as the Councils' inability to demonstrate a five year supply of deliverable housing sites. Therefore, only limited or no weight should be afforded to the settlement boundaries in accordance with paragraphs 11(d) and 213 of the NPPF.
- 6.27. Detailed evidence will be provided by the Appellant to demonstrate the 'Very special circumstances' (VSCs) that exist to justify the appeal being allowed. The VSC case is outlined in turn below.

i. Local need for high quality care accommodation and lack of alternative sites

- 6.28. The Appellant will submit evidence in respect of the latest position on the Council's older person housing need and supply. Furthermore, evidence presented will demonstrate that there are no other suitable and preferable alternative sites that the Council has identified that are capable of delivering a scheme equivalent to the appeal proposals. In such circumstances the lack of supply and lack of available alternative sites are matters that should be afforded substantial weight as part of the case that VSCs exist that outweigh the harm by virtue of inappropriate development in the Green Belt and any other identified harm.

ii. General housing needs

- 6.29. The proposals will make a contribution toward the Council's housing land supply, including the release of much needed family housing, which is significant given the LPA cannot demonstrate a five-year supply of deliverable homes. Even taking St Albans DC own supply position of 2.4 years at face value (baseline date of 1 March 2020), the position is a bleak one and the shortfall is considerable and significant.
- 6.30. It will be demonstrated that very substantial weight should be afforded to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

iii. Affordable housing needs

- 6.31. The proposals will make a significant contribution towards the Council's affordable housing land supply, which is significant noting that the Council's updated five-year land supply (with a baseline date of March 2020) indicates that the Council delivered just 31 units of affordable housing between April 2019 and March 2020. Since the period 2012/13, a total of 244 net affordable homes have been delivered at an average of 35 net dwellings per annum. This

equates to a shortfall in the region of 4,000 dwellings (94%) which, if to be addressed in the next 5 years, would require the delivery of 1,185 affordable dwellings per annum.

- 6.32. The persistent under delivery of affordable housing in St Albans presents a critical situation. Taking into account the extremely acute affordable housing position, it will be demonstrated that very substantial weight should be attributed to the delivery of affordable homes in favour of the proposals.

iv. Health and wellbeing benefits

- 6.33. It will be demonstrated through evidence that investment in the type of specialist care accommodation for the elderly of the type proposed in this appeal provides significant benefits to the health and well-being of older people.
- 6.34. As a scheme providing residents with care, it will be demonstrated that the proposals will generate considerable health care cost savings for the Local Authority and as such substantial weight should be afforded to this aspect of the proposals.

v. Release of under-occupied family housing

- 6.35. The proposals will contribute to the release of under-occupied family housing onto the housing market. With no Local Plan, options for the provision of family housing are strictly limited. Substantial weight should be attributed to the proposals in that they provide a viable and attractive alternative to older residents who would otherwise remain in large homes that no longer meet their needs and at the same time prevent those residents with young families from occupying them.

vi. Meeting a local need

- 6.36. It is proposed that SADC residents will have first refusal on 20% of the homes. Moreover, it will be demonstrated in evidence that the best location for care accommodation to benefit the people of St Albans is in St Albans. Empirical evidence shows that residents tend to stay in their local area, close to family and friends.
- 6.37. Accordingly, substantial weight should be afforded to this aspect of the proposals.

vii. Employment and economic benefits

- 6.38. It will be demonstrated through evidence that the proposals will create significant employment opportunities, offering a range of management, technical, administrative, care, nursing, catering and housekeeping positions.
- 6.39. Accordingly, some weight should be attached to the proposals in this respect.

viii. Highway improvements

- 6.40. The delivery of the proposed Appeal proposals will facilitate the implementation of the revised access arrangements to the wider Burston Garden Centre site as approved under application 5/14/3049, including signalised crossing of the North Orbital Ring Road for pedestrians.
- 6.41. Accordingly, some weight should be attached to the proposals in this respect.

ix. Site availability and achievability

- 6.42. The site is available immediately and can be delivered within a short timeframe. There are no alternative sites available to deliver a comparable scheme within the district.
- 6.43. Accordingly, some weight should be attached to the proposals in this respect.
- 6.44. It will be demonstrated in evidence that the reduction in “harms” to the previous appeal and the introduction of very significant additional benefits when combined with the policy vacuum at the District Level that has arisen following the withdrawal of the replacement Local Plan and emergence of the Neighbourhood Plan means that the overall planning balance is now weighed decisively in favour of the application proposals and planning permission should be granted.
- 6.45. Other benefits which also carry weight in favour of the proposals, including the contribution the site will make to biodiversity enhancements, will also be set out in evidence.

Reason for refusal 2: Heritage conflict

- 6.46. The second reason for refusal states:

***“2. The development would cause less than substantial harm to the grade II* listed Burston Manor and the grade II listed outbuildings. The urbanisation of the application site would sever the last tangible link between the Manor groups and its historic landscape setting. This would cause harm to its significance. The creation of the houses along the southern boundary of the Manor group, with the 3 storey blocks visible beyond together with the amount and scale of built form, would result in the complete reduction in Burston Manor’s visual prominence in the surrounding land from the south and east. This would result in the complete loss of the perception that the Grade II* listed Manor house is a historic and important house, set in a wider agricultural setting. The formality of the proposed landscaping would completely erode the designed juxtaposition between the gardens around the Manor Group and the farmland around the site. The development would result in 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 all but lost. The proposed screening in itself would be a harmful addition as this further blocks*”**

the long range views from and to the Manor group, in particular those between the Manor group and How Wood and Birch Wood. The proposed screening would fully visually contain the designated heritage assets and substantially reduce the appreciable link between the Manor group and the land which it is associated with. Overall the proposals would result in less than substantial harm to the significance of the grade II* and grade II listed buildings forming the Burston Manor group which is not outweighed by public benefits, including the provision of additional dwellings. In accordance with the Framework and the statutory obligation imposed, great weight is given to this harm. As a result, the development would conflict with Local Plan Policy 86 and the NPPF 2019”.

- 6.47. Evidence to be presented on behalf of the Appellant will demonstrate that the Grade II* listed Burston Manor will experience a minor degree of “less than substantial harm” to the significance of its setting as a result of the development – and considerably less within the context of the previous proposals as described above. The level of harm would only be at the very lower end of the range of “less than substantial harm”. Through evidence it will be demonstrated that this harm would be clearly and demonstrably outweighed by the benefits the scheme would deliver, as set out under the VSC section above.

Reason for refusal 3: Local services and infrastructure conflict

- 6.48. The third reason for refusal states:

“3. In the absence of a legal agreement to secure contributions towards; Community facilities, Travel Plan, bridleway improvements, footpath improvements, NHS Services, Highway projects, affordable housing, occupancy limitation, first marketing limitation the development fails to adequately mitigate its effect upon local services and infrastructure and secure the identified 'very special circumstances'. As such the development fails to comply with Policies 1 and I43B of the Local Plan and the NPPF 2019”.

- 6.49. It is the intention of the appellant to address reason for refusal 3 by way of a Section 106 agreement under the Town and Country Planning Act 1990 (as amended) with the LPA and other relevant parties. It is noted that during the previous appeal agreement was reached between the Appellant and the LPA in relation to S106 and planning conditions, therefore, the appellant remains hopeful that this reason for refusal can be set aside prior to the inquiry.

Additional Matters

- 6.50. The withdrawal of the draft replacement St Albans City and District Local Plan 2020-2036 by the Council at its Cabinet meeting on the 19 November 2020, as a result of the fundamental legal and procedural flaws identified by the Government’s planning inspectors appointed to examine the Plan, also weighs substantially in favour of the application proposals. The current

development plan, the District Local Plan Review 1994, was adopted 27 years ago, is hopelessly out of date and in many respects is not consistent with national planning policy.

6.51. One of the key issues raised by the inspectors following the early conclusion of the Local Plan Examination was that discounting potential sites in the Green Belt of less than 500 units was not the right approach. Conversely, in line with these conclusions it will be demonstrated in evidence that the development of the appeal site would be consistent with the approach of selecting smaller sites given:

- The proposals would provide a valuable contribution to the identification of some smaller sites that would not unacceptably spread the adverse impacts of development on Green Belt purposes
- The extent of the resultant impacts associated with the proposals would be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites)
- The site will deliver 124 homes with care within the next 2 to 3 years without requiring additional infrastructure, would provide choice and flexibility in the housing market and secure affordable housing more immediately in line with a clearly identified need
- Refusing planning permission on the application site effectively rules out an important potential source of housing that will undoubtedly have a lesser impact on the purposes of the Green Belt than the sites selected in the draft Plan without sufficient justification.

6.52. Furthermore, it will be demonstrated that the application site falls within a sustainable location and the proposals will be designed to the highest environmental standards.

6.53. There remains considerable local support for the proposals. In the appellant's experience it is unheard of for a Green Belt scheme to so strongly be supported by local groups. The previous appeal Inquiry heard from separate residents' associations who spoke strongly in support of the scheme and it is anticipated that similar support will be evidenced during this Inquiry.

Planning Balance and Very Special Circumstances / Public Benefits

6.54. It will be demonstrated that the reduction in "harms" to the previous appeal and the introduction of very significant additional benefits when combined with the policy vacuum at the District Level that has arisen following the withdrawal of the replacement Local Plan and emergence of the Neighbourhood Plan means that the overall planning balance is now weighed decisively in favour of the application proposals.

7. Summary and Considerations

- 7.1. For the reasons set out within this Statement of Case, and as will be set out further in the Appellant's evidence, the Inspector will be invited in due course to uphold the appeal and to grant planning permission for the scheme.

Appendices

- A. Schedule of 'Documents Submitted for Approval' and 'Plans and Documents Submitted in Support' of the application prepared by DPV Consult (updated 20 July 2021).**

- B. Appeal Decision: Land to the rear of Burston Garden Centre, North Orbital Road, Chiswell Green, St Albans, AL2 2DS (Appeal Ref: APP/B1930/W/19/3235642) (9 January 2020)**

- C. Appeal Decision: Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath
(Appeal A ref: APP/B1930/W/20/3265925 and Appeal B ref: 3265925 (June 2021))**