

Appeal Decision

Site visit made on 18 July 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2017

Appeal Ref: APP/L3625/C/16/3157470

**Land adjacent to Coral Bazaar,
Chequers Lane, Walton on the Hill, Surrey KT20 7SU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Simon Cripps (T C Cleaning Contractor) against an enforcement notice issued by Reigate and Banstead Borough Council.
 - The enforcement notice, reference HG/005857 was issued on 21 July 2016.
 - The breach of planning control as alleged in the notice is the change of use of the land from land forming part of the historic landscape due to be landscaped and restored in accordance with Conditions 3, 4 and 10 of Planning Permission 12/00432/S73, to a vehicle parking area.
 - The requirement of the notice is to cease the use of the land for the parking of vehicles.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on grounds (a), (f) and (g), as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

1. The appeal succeeds to a limited degree on ground (g) only, in that the compliance period is extended. Otherwise the appeal is dismissed and the notice is upheld as corrected and varied. See formal decision below.

Matters of clarification

2. The Council has confirmed that the reference in the enforcement notice to conditions 3, 4 and 10 of Planning Permission 12/00432/S73 is an error and that it should have referred to conditions 8 and 9 of the same permission. This is acknowledged on behalf of the appellant in both section 4 of the Appeal Statement and in the final comments dated January 2017. I have, therefore, corrected the notice accordingly. I do not consider that this will cause any injustice and will not prejudice either the **appellant's or the Council's case**. A breach of condition notice, E01/816, (BCN) was issued on the same day as the Enforcement Notice (see below). This refers to the breach of conditions 8 and 9 referred to above. The notice replaced an earlier BCN, E01/804.

Background information

3. The flat, irregular-shaped, 0.004 ha appeal land is located on a prominent corner site at the junction of Queens Close and Chequers Lane. It lies within the Walton on the Hill Conservation Area (WHCA); within the Metropolitan Green Belt (MGB) and in an Area of Great Landscape Value (AGLV). Walton Manor House (WMH), a Grade II* listed building is located to the north west and there is a Scheduled Monument, The Mound, Walton Place (SMTM), to the north, which lies closer to Chequers Lane. WMH is set within the Walton Manor Historic Garden (WMHG), a local designation which includes the appeal site. However, the latter has been separated from the grounds of the listed building (and the Scheduled Monument) for many years. The appellant owns the appeal site and the adjacent Queens Close residential development.

4. The appeal site has been levelled and it has a hardstanding surface of chippings and an open timber post and rail fence to the road. Some small trees have been planted along the roadside boundary. A close-boarded fence separates the appeal site from the Queens Close residential development. The site is currently being used for car parking purposes (as it has been previously) by staff of TC Facilities Management (the appellant company), whose offices are located close by, at Nos 74 to 76 Walton Street. During my visit to the site the total number of cars parked on the appeal land varied from 12 to 15. There are various planning permissions (temporary) dating back to 2007 for the use of the land as a car park for use by the staff of the appellant company (see below). The Council refers to part of the appeal land being formerly the site of a moat to the Mound or Motte. The accuracy of the location of the moat is disputed on behalf of the appellant and is referred to in the 2014 Report by The Historic Environment Consultancy (*The Archaeological Evaluation*).

5. The appeal site has a detailed planning history and enforcement background. This is set out in full **in the Council's statement and** also referred to in detail in the statement submitted on behalf of the appellant. During the course of my site visit I was able to inspect the exterior of the listed building and its grounds; the site and surroundings of the Mound or Motte; parts of the historic woodland; the WMH historic garden and the Queens Close housing site. I also walked through most parts of the conservation area and visited the premises of the appellant company. There, I noted the limited parking to the forecourt and to the rear of the premises.

6. The most relevant points of the planning history include various decisions relating to the temporary use of the site for parking (referred to above); the development of the residential scheme known as Queens Close (09/00139/F – the 'initial' permission) for the erection of 6 x 2 bed flats and provision of 10 parking spaces and a section 73 application (12/00432/S73 – the 'implemented' permission) to vary the 'initial' permission. This S73 application was for a variation of condition 2 of the 'initial' permission; various specification changes and an amendment to a boundary wall. On the basis of the BCN this permission cannot be said to have been fully implemented.

7. Prior to the issue of this enforcement notice an appeal against a refusal of planning permission (PP) for use of the land for staff parking on a permanent basis was refused (APP/L3625/A/14/2220300 – 23 March 2015). Since that appeal the material circumstances have changed considerably and these differences now form a significant part of the appellant **company's case**.

8. The appeal site was included within the red-line application site for the Queens Close development. The PP for this, granted on 8 February 2010, was subject to 14 conditions. Two of these were discharged in March 2011 and March 2012 relating to landscaping details and archaeological works respectively (09/00139/DET03 and 09/00139/DET10). These, like others, are relevant to this appeal and the '**Landscape Proposals**' and '**Archaeological Evaluation**' are submitted as forming part of the **appellant's case**. **At paragraph 3.6 of the appellant's statement it is indicated that permission 09/00139/F, the 'initial' permission, was not implemented.**

9. The BCN (E01/816) relates to breaches of conditions of the 2012 section 73 permission (12/00432/S73). The conditions are Nos 8 and 9, which are referred to in this enforcement notice as corrected. Condition 8 relates to hard and soft landscaping requirements and condition 9 refers to the development not being occupied until the moat had been restored under approval 09/00139/DET03. This referred to delineation of the considered position of the moat by grass mounding, as opposed to its full restoration as a moat. **The 'ponds' between the Motte and the road have clearly dried up but the depressions in the land are still noticeable.**

10. In addition to the 2007 permission for car parking on the site (until 25/6/10), another temporary permission (12/00565/F) was granted for use of the appeal site for car parking from 18 May 2012 until 18 November 2013. In February 2014 the application for permanent planning permission for use of the site for parking was made. This was refused and the appeal referred to above was dismissed. A further application (16/0227/F) was made for a permanent use of the site for car parking but this was declined by the Council under section 70C of the Act on the basis that this appeal enforcement notice had been issued. The details of that application are submitted as part of the **appellant's case in this appeal and I have taken these into account** along with all of the other submissions.

The Appeal on ground (a)

Introduction

11. I am empowered to deal with this appeal on the basis of the notice as issued and the grounds pleaded. The main planning issues are, in essence, the same as for the previous appeal and relate to the effect of the car parking use on the MGB; the need for parking; its effect on the heritage assets relating to, or close to, **the site (see 'Main Issues' below)** and whether or not the use can be justified in the MGB on the basis of the development plan, the National Planning Policy Framework (NPPF) and all of the other material considerations.

12. I have taken into account all of the submissions made on behalf of the appellant, the Council and others. I have noted what have been referred to, on behalf of the appellant, as the **'fundamental considerations which are material to the determination of this appeal which were not before the previous Inspector'**. At paragraph 4.3 of the appellant's case these **'key issues'** are listed as being, firstly, the **'planning status of the Appeal site and in particular how it is used in the light of applications 12/000432/S73 and 09/00139 DET03** and, secondly, as **'The parking needs of the Appellant's company in the light of a recent parking survey, limited parking spaces on their office site and the limited public transport services available'**.

13. I have also particularly noted the view put forward on behalf of the appellant that **the scenario on which the previous Inspector based her conclusions 'is not realistic as a result of the failings of the council to effectively control the use and form of the site'**. I have also taken into account all of the other references to the issues that were not before the previous Inspector. I have considered this appeal on its merits and, as indicated above, on the detailed submissions of the parties and interested persons. But, before considering the main issues under ground (a), I deal below with the **appellant's** points relating to the planning status of the site.

The planning status of the site

14. From the detailed planning history it is evident that the Queen's Close housing site (part A) and the site the subject of this enforcement notice (part B) are inextricably linked. The two main planning permissions (09/00139/F and 12/00432/S73) related to both parts of the site and were both included within the **'red-line'** applications. Both parts A and B of the site were also the subject of the various permissions and to the discharging of conditions for the two permissions.

15. Between 21/12/2007 and 25/6/10 (through permissions 07/02204/RET and 07/02204/DET03) the lawful use of part B of the site was for temporary car parking use. After 25/6/10 the use of part B for car parking was unauthorised and this situation remained until 18/5/12. On that date permission was again granted (12/00565/F) for the use of the part B site for car parking for a further temporary period. This was until 18/11/13 when the car parking use in relation to that permission

ceased and thus any continued parking use would have again been unauthorised. The part B land would then revert to its permitted use/status in accordance with the PP.

16. In the meantime, the planning permissions for housing on the part A land had taken their course. The housing was built, various conditions discharged and the 6 dwellings were occupied. In both permissions the part B land was shown as being landscaped and the Council firstly discharged condition 03 (relating to required landscape details) of the 'initial' application in May 2010 (09/00139/DET03) and later discharged condition 10. The latter condition referred to the Archaeological historic garden to the **'front of the site'**. Drawing TSC/CB/102A indicated that the part B site **was to be an 'Area open to predominantly open soft landscape'**. It was clear from the start, therefore, that the part A land would accommodate the new housing and the part B land would be the subject of a soft landscaping scheme to tie in with the WMHG and the Motte site. It was on this basis that the applications were made and it is assumed that it was the initial intention of the applicant to carry out the works in accordance with the PP. The need and desire for the parking use of the site clearly **overtook the appellant's initial intentions for the use of the appeal land.**

17. For whatever reasons, the 'initial' permission was not implemented and a further application had to be made (12/00432/S73). Conditions 8 and 9 of this permission also referred to hard and soft landscaping for the part B land and the landscaping details were revised (Revision A, January 2011) to include the demarcation of what was, at that time, considered to be the position of the former moat. The submitted information showed long and short grassed areas for the part B land, with the suggested line of the moat **and the words 'mound outline to be demarcated by a mound 500mm high grassed and seeded'**. The drawing also indicated that the precise location of the moat had been determined from historic data. This information was provided as part of the application.

18. It is now argued, on behalf of the appellant, that the landscape submissions were **'not fit for purpose'** and that the Council was at fault in discharging the relevant landscaping condition on the basis of the submitted information. However, I find this contention to be somewhat disingenuous. The housing applications had always been made on the basis that the part B land would be soft landscaped and kept open, not used as a car park or, for that matter, as land associated with the housing on the part A land. In my view, in such a situation, the onus would have been on the appellant to provide further information if there had been any doubt about what the Council required in terms of landscaping the part B land.

19. Having seen the submitted landscaping submission, I accept that, in relation to the part B land, more detail could have been provided. However, I consider that what was provided and what was granted permission under 12/00432/DET03 was sufficient to indicate that the part B land would be left open and soft-landscaped. I consider that, in granting the permission on the basis of the submitted landscape details, the Council could have had a legitimate expectation that what was proposed on the part B land was soft landscaping with a grassed mound which, at that time, was considered to represent the line of the moat. There would have been no expectation that the area would, in the long term, be hard-surfaced and used unlawfully for car parking.

20. If the information relating to the moat had subsequently changed, then I consider that it would have been incumbent upon the appellant to liaise with the Council with regard to an amended soft landscaping scheme for the part B land. In my view, in granting permission (and discharging the landscaping condition) on the basis of what had been submitted at the time, the Council did not act unreasonably. I do not accept the contention, therefore, that the Council has **'failed to effectively control the use and**

form of the site'. When the lawful temporary parking uses ceased, the part B land should have reverted to what had been granted PP on the land. In my view, it was the appellant **company which 'failed'**, in not complying with the conditional PP for the authorised use and form of the site.

21. The Council has granted various conditional permissions which have not been fully complied with by the appellant. The permissions have clearly been consistent with the **Council's** requirement that the part B land should remain as an open and soft landscaped area. In relation to the current status of the appeal site, I consider it remains subject to the planning permission granted which allowed housing on the part A site, whilst keeping the part B site as open and landscaped.

22. As to the question of whether or not the part B land could be incidental to the enjoyment of the dwelling houses on the part A land, I do not accept the view put forward on behalf of the appellant. Apart from the PP being quite specific about the two parts of the land, each new house now has its own distinct residential curtilage and the part A land either comprise one residential planning unit or six separate residential planning units. The two parts of the land (A and B) have been functionally and physically separated for some time and the residential curtilages on the part A land have been established. None of the new houses can benefit from any permitted development rights on the appeal land, in terms of any built form or use which would be incidental to the enjoyment of the dwelling house(s). Planning permission would be required for any use of the appeal site for residential purposes whether linked to the Queens Close development or not. The fact that both sites are in the ownership of the appellant does not alter this situation.

23. Furthermore, it is unlikely that the Council would have granted planning permission for a housing scheme which included built development on, or residential use of, the part B land. My conclusion on the status of the appeal site, therefore, is that, as a matter of fact and degree, it does not form part of the planning unit(s) of the part A residential land. The houses have their own separate planning unit(s) and the appeal land was never meant to be a part of the residential site. I consider that that the parts A and B land are now separate planning units. This does not alter the situation regarding the 2012 PP and the BCN issued in relation to conditions 8 and 9 of that permission.

24. With regard to the change in circumstances regarding the parking needs (the survey; the various representations from third parties; the situation regarding the very poor public transport provision etc), I deal with those matters below. At this stage I turn to the planning merits of whether or not permission should be granted for the use of the appeal site for a permanent car parking use. Despite my findings on the status of the site, I have considered this afresh on the basis of all of the material considerations for this appeal. As indicated above, I have particularly taken into account the matters which were not before the previous Inspector.

The Main planning issues

25. The main issues in this appeal are as follows:

- whether the car parking use is inappropriate development in the MGB for the purposes of the NPPF and development plan policy, with particular reference to its effect on the openness of the MGB;
- the effect on the identified heritage assets; the WHCA, the AGLV, WMH, the SMTM and the WMHG,
- if the proposal does represent inappropriate development, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations (specifically including the parking needs/issues for the company

staff; the ever-worsening car parking situation in the village and the lack of public transport), so as to amount to the very special circumstances necessary to justify the development within the Green Belt.

26. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990).

27. The development plan comprises the Reigate and Banstead Borough Core Strategy (CS) and the saved policies of the Reigate and Banstead Local Plan (SLP). Policy CS3 (Green Belt) of the CS is relevant as is Policy Co1 (Setting and Maintenance of the Green Belt) of the SLP which pre-dates the NPPF. Other relevant SLP policies are Pc8 (Heritage Sites); Pc9 (Buildings of Special Architectural or Historic Interest); Pc11 (Historic Gardens); Pc12 (Retention of Character) and Pc13 (Control of Development).

28. Because the land lies within the WHCA and the site is close to a listed building (and a Scheduled Ancient Monument), I have paid special attention and had special regard to the requirements of sections 72 and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA). The above policies are up-to-date with the NPPF which is a major material consideration. In reaching my conclusions I have had regard to the NPPF and in particular to **the introduction and section 'Achieving sustainable development'** and sections 1 (Building a strong economy) and 12 (Conserving and enhancing the historic environment). I have also had regard to relevant sections of Planning Practice Guidance (PPG).

Whether the use constitutes inappropriate development in the Green Belt

29. Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

30. The proposed use of the site is not one of the exceptions set out in paragraph 89 of the NPPF but paragraph 90 indicates that certain other forms of development are also **'not inappropriate'** provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These other forms of development include engineering operations and I agree with the previous Inspector that the surfacing of the part B land is such an operation. SLP policy Co1, at part (b), reiterates the above the requirements set out in the NPPF. Thus, if the development is **to be found to be 'not inappropriate'** it must both preserve the openness and not conflict with the purposes of including land within the Green Belt.

31. On the latter point I do not consider that there is any conflict with the purposes of including land within the Green Belt. However, I do not consider that the continued use of the surfaced area for car parking would preserve the openness of this part of the MGB. The previous Inspector found that **'the intention was that the appeal site would be left open and finished with soft landscaping'**. She went on to conclude that, as a consequence of what was proposed, **'there would be a permanent loss of openness which would be a retrograde step from the approved landscape scheme'**. I agree with her conclusions on this point.

32. It is argued on behalf of the appellant that the situation is quite different from that relating to the previous appeal. As indicated above, it is stressed that in that appeal the Inspector was not provided with the detailed submissions of this appeal. It is also

considered that, through the conditions attached to the planning permissions for the **site, the Council did not require the site to remain 'open'**. It is further argued that the part B land forms part of the existing planning unit of the adjoining residential development and that the use of the land for parking could be incidental to the enjoyment of the residential use.

33. I have already rejected the contention that the appeal land could lawfully be used as land incidental to the enjoyment of the adjacent dwelling house(s), (see above). But, even if the part B land were to be used for the parking by occupants of Queens Close, there would be a fundamental difference in the character of usage of the land. A total of around 15 cars, parked on a daily (Monday to Friday) basis, differs significantly from any likely additional or overspill residential parking. It is also difficult to envisage why the residents of Queens Close (just 6 dwellings) would require or use an additional 15 car parking spaces in addition to the 10 already provided. In any case any parking of vehicles on the land would, in my view, have a detrimental impact on the openness of this part of the MGB.

34. There is no definition of openness in the NPPF but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. The hardstanding comprises development, as is the use of the land for parking and such a use reinforces the perception of the loss of openness. Instead of being **'open'** landscape the site is currently perceived as a fenced off grouping of vehicles. The essential characteristics of Green Belt are their openness and their permanence and one of the purposes of the Green Belt is to keep land permanently open. I agree with the previous Inspector that the use of the part B land as a car park would result in a permanent and harmful loss of openness. It follows that I find any continued car parking use to be inappropriate development within the Green Belt.

The effects on the identified heritage assets

35. The previous Inspector concluded that there would be no harm and no conflict in policy in relation to some of the heritage assets. On behalf of the appellant it is therefore questioned why the Council has referred to these (the AGLV, WMH and SMTM) within the enforcement notice. However, **despite the previous Inspector's** conclusions on these matters the Council is still clearly of the view that the use of the appeal land for parking purposes, as opposed to remaining open as a landscaped area, would be harmful to all of the heritage assets. It is on this basis that I must consider **the Council's case and in doing so I have considered the impact of the use on each of the heritage assets on its merits.**

1. The Area of Great Landscape Value (AGLV)

36. Having seen the appeal site in its confined, though prominent, village context, I **do not share the Council's concern about the impact of the proposal on the wider** landscape of the AGLV. As indicated by the previous Inspector, the appeal site lies within the village boundaries; on the edge of the AGLV and makes little contribution to the quality of the wider extensive landscaped area. Instead it forms an open road setting at the end of the adjacent residential site, well within the confines of the village. I agree with the previous Inspector, therefore, that the proposal would have no appreciable effect on the landscape quality of the AGLV and that there is no conflict with policy Pc1 of the SLP.

2. Walton on the Hill Conservation Area (WHCA)

37. As indicated above, I was able to walk around most parts of the WHCA. I noted the distinction made by the previous Inspector between its southern and northern parts. The former comprises houses on larger plots, with well-landscaped gardens,

whereas the northern part comprises more compact and densely spaced houses. The main route through the village (the B2220) is made up of Chequers Lane and Walton Street, with the latter having typical village services, shops and businesses. As well as shops and a Public House **these include the appellant company's premises** on the northern side of Walton Street and a garage business on the opposite side of the road to the appeal site. There is a small, well-landscaped, public car park (limited to a 2 hour stay) at Meade Court in the central part of Walton Street. This is enclosed by a brick and flint wall which are typical materials found within the village.

38. The '*intimate, domestic and rural feel*' of the village, as referred to by the previous Inspector, is most noticeable as one walks through its centre from the north east to the south. The open area around the Mere Pond gives way to the tighter section of Walton Street with its shops; other services and the school on the southern side of the street. Beyond this and close to the junction with Ebbisham Lane, the church and open nature and landscaping of the green are readily noticeable. The tight nature of the main street has opened up by this stage and some of the larger properties, with their well-landscaped gardens and boundary treatments, are dominant within the streetscape.

39. The next phase of the main street, travelling in a south westerly direction, passes the entrance to WMH and the other properties within its former grounds which form the historic garden. The curved stretch of road between this entrance and the appeal site is bounded by a wall approximately 2m in height. This comprises exposed brickwork pillars/piers with a rendered finish between and a coping of sloping slates/tiles. This wall encloses the treed and grassed main soft-landscaped area of land around the Motte, which is positioned between the road and WMH.

40. There is a small railed gate opening through which the Motte land can be seen and the mature trees of this landscaped area are distinctly noticeable from the street along this section of the road. Nearer to the appeal site, opposite to the garage business, there is a narrow area of unsurfaced land between the back of the highway and the wall which is used for parking. At the end of the wall the appeal site is seen against a backdrop of the Queens Close housing and other mature trees within the Motte Area and the historic woodland beyond. When looking south from the appeal site, along Chequers Lane, the green boundary landscaping of the housing is evident along the roadside.

41. Having viewed the site, I consider that it appears as an exposed and obtrusive plot of land in this prominent corner position. It looks out of place and contrasts markedly with the verdant green landscaping between the entrance to WMH and the northern boundary of the site. The parked cars feature prominently, as noted by the previous Inspector, and provide a most unattractive foreground to the mature landscaping along the roadside to the north east. Although there is obviously significant frontage and street parking within the WHCA, the landscaped gardens and the generally open nature of this part of the village add most positively to the overall streetscene and to the character and appearance of the WHCA.

42. The appeal site, on the other hand, with its parked cars and basic timber fencing, forms a blunt, unattractive and visually harmful element within the streetscene. The fencing (particularly the close boarded fencing) reinforces the alien appearance of this prominent corner site within the WHCA. Rather than providing the initially intended continuation of roadside soft landscaping, it appears as an unplanned, afterthought of a space, which blights the streetscene instead of enhancing it. I do not find, therefore, that it either preserves or enhances the character or appearance of the WHCA and that it is conflicts with policies Pc12 and Pc13 of the SLP, as well as with

the NPPF policies (section 12) which seek to conserve and enhance the historic environment.

43. I acknowledge that the harm to the heritage asset would be less than substantial and thus, in accordance with paragraph 134 of the NPPF, the harm needs to be weighed against public benefits, including securing its optimal viable use. However, in this case, there is no direct public benefit since the parking use would be for the private benefit of the appellant company. I accept that the use of the site for private company parking would result in some benefit for public on-street parking elsewhere within the village. However, I do not consider that this is sufficient a public benefit to outweigh the harm caused to the heritage asset.

3. Walton Manor House (WMH)

44. During my site visit I was able to view the exterior of the WMH and its extensive grounds. The Mediaeval house, originally dating from the C14, has been much altered in the C17 and late C19 and now provides several dwellings/flats within its various wings. A new dwelling has also been built to the north west of the original house. This is known as 'Motte **Place**' which appears to include the site of the Motte and the landscaped area between the entrance drive to WMH and the appeal site.

45. Between the south-east facing wing of WMH and the appeal site, there is an extensive lawned and treed area of garden. Part of the landscaped Motte land also lies between the listed building and the appeal site. As a consequence there is no inter-visibility between the appeal site and any part of WMH. Although the site was once part of the WMH grounds this has not been the case for many years.

46. The appeal site is thus extremely well-screened from the WMH and its grounds. The chain-link fence to the northern boundary is complemented by mature trees and landscaping. The roadside fencing and the solid fencing between the Queens Court land and the appeal site cannot be seen from any part of the WMH or the Motte land. Overall there is no perception of any part of these two areas of land from within the appeal site and vice versa.

47. **Despite the Council's concerns I do not consider, therefore, that the setting of WMH is detrimentally affected by any use of the appeal site.** There would also be no material change to the setting of the listed building in the context of the rest of the village. Again, like the previous Inspector I find no conflict with policy Pc9 of the SLP and thus this weighs in favour of the proposal.

4. The Mound Walton Place (SMTM)

48. The SMTM has been identified as being a Motte, dating back to an early post conquest date. The large flat-topped mound is distinctly recognisable as an ancient earthwork but is largely hidden from view from the road by the roadside wall. There are recognisable ditches to the south and east, as well as hollow areas close to the wall which were presumably the former ponds, as shown on earlier maps. As indicated above, the mature trees which now surround the site are distinctly noticeable along this stretch of the road even though the SMTM itself cannot be readily seen. They are distinctly noticeable over the top of the boundary wall.

49. Having inspected this part of the historic site and its immediate surroundings, I do not consider that the appeal site physically affects the Mound itself. The chain-link fencing to its northern boundary and the dense landscaping effectively screen it from the Mound site. Overall, although the appeal site forms a sharp and abrupt end to the landscaped area surrounding the Motte, I do not consider that the setting of the Ancient Monument itself is unduly affected by the hard-landscaped part B land. I find

no conflict, therefore, with policy Pc8 of the SLP in relation to the SMTM. This again, **therefore weighs in favour of the appellant's case.**

5. Walton Manor Historic Garden (WMHG)

50. Despite being separated from the WMH land and the WMHG for many years, the appeal site is still included within this local designation. Having seen the current garden adjacent to the listed building and the Ancient Monument, it is still recognisable as a Victorian garden, including yew and rhododendrons, with earlier features including the Mound. Historically both the Queens Close site and the appeal site formed part of the WMH land. When viewed in this context the position of the site and its relationship to the landscaped site of the Mound and the WMHG is readily understandable.

51. The proposed landscaping of the part B land, as required by the PP and relevant conditions, would have restored the perceived continuation of this part of the WMHG in this part of the village. Irrespective of whether or not there was a moat (or ponds) on part of the site and whether the mounded moat feature position (as shown on the landscape drawings) accurately reflects this, the appeal site, if grassed and soft-landscaped, would have been seen to continue the line of the WMHG alongside the road in this part of the village. It would visually and physically link the landscaped garden and Motte land with the landscaped house gardens to the south.

52. Instead, the landscaping feature alongside the road is abruptly curtailed by the laying of the hardstanding and the car parking use. If allowed to continue this surface finish and land use would detract markedly from what had been an important corner part of the WMHG. It would not preserve the character or appearance of this heritage asset and would conflict with policy Pc11 of the SLP, as well as with the NPPF policies which seek to conserve and enhance the historic environment. I agree with the previous Inspector that the parking use would be harmful to this heritage asset and this weighs heavily against a continuation of parking on the land.

The parking needs of TC Facilities Management

53. I noted the limited parking facilities at the appellant company's premises and accept that the Council does not dispute the fact that there is inadequate provision of on-site parking for company staff. I have also seen and considered the results of the staff e-mail surveys (carried out by 61 members of staff on 28 November 2016). Amongst other things the information provided by the survey included matters relating to parking for their work; possible uses of alternative transport; where they live; existing public transport and the worsening of on-street parking within the village.

54. Having walked around the village it is clear that there is a significant issue regarding on-street parking and vehicle movements generally within the WHCA. This was most noticeable towards the centre of the village and along the Chequers Lane and Walton Street to the north-east of the appeal site. Some staff clearly indicated that they used on-street parking as opposed to the appeal land and others indicated the general difficulties of car parking within the village. I noted that the public car park limited parking to 2 hours as did some on-street areas towards the centre of the village. It is also evident that larger vehicles have difficulty in negotiating the tight streets through the centre of the village.

55. Overall, it is very clear that the lack of existing parking for staff; the lack of sufficient suitable on or off-street parking within the village generally; the very poor public transport provision and the geographical spread of where staff live, all result in a serious issue for the appellant company. As a material consideration I have afforded considerable weight to the issues around parking and especially as most of

the detailed information (the staff survey) relating to parking issues was not before the previous Inspector.

56. I have taken into account the letters of support for the continued use of the appeal land as a car park. I have noted the correspondence from the Headteacher of the School who is concerned that if the appellant is not allowed to continue the car parking use of the appeal site, it will increase the existing on-street parking and will escalate the issues caused for parents and others wishing to use the facilities of the village. I have also noted the support for the parking proposal of the Walton Village Forum; businesses within the village and the Tadworth and Walton Residents Association. The issues of staff parking; village parking generally and the supporting representations, therefore, all weigh heavily in favour of the continued use of the site for parking by the appellant company.

The balance of considerations

57. In accordance with paragraph 88 of the NPPF, I have given substantial weight to the harm caused by the proposal to the MGB. Because the proposed use would constitute inappropriate development it is harmful in principle. I have also concluded that the parking use would be harmful to the openness of the MGB.

58. The harm to the MGB is compounded by the harm caused to the character and appearance of the WHCA and to this part of the WMHG. Having paid special attention to the requirements of section 72 of the PLBCAA, I have concluded above that the continued use of the appeal site as a car park would not preserve the character or appearance of the conservation area and that it would be contrary to both local and national policies regarding the protection of such designated assets. The harm to the non-designated WMHG weighs further against the proposal to use the part B land for car parking purposes.

59. Weighing in favour of the proposals I have found that there is an undisputed parking need within the village for the employees of the appellant company. This has the support of the community generally. I have also acknowledged the still worsening on-street parking issues experienced by residents and visitors to the village. It is clear that some of the alternative means of travel (suggested by the previous Inspector) such as car sharing and the use of public transport are not, for various reasons, feasible alternatives for the staff of the company.

60. From the results of the survey information, I fully appreciate the needs of the appellant company and understand the frustrations surrounding the parking issues of all who support the use of the appeal site for parking. It is also clear that the inability to park on the appeal site will result in staff having to seek other on-street village locations. However, the harm which I have identified which would be caused to the MGB (in principle and to its openness) coupled with the harm to the WHCA and the WMHG, would, in my view far outweigh my favourable findings in respect of the need for parking; the effects on the WMH, the AGLV and the SMWM. The issues regarding the need for company parking linked to the difficulties of village parking generally do not tip the balance in favour of the parking use.

Whether very special circumstances exist to justify the development within the MGB

61. It is considered by the appellant that the overall circumstances put forward since the previous appeal was dismissed, linked to all of the other considerations, constitute the '**very special circumstances**' which justify this inappropriate development within the MGB. It is contended that the situation has '**moved on**' since the previous appeal and that the alternative options, suggested by the previous Inspector, have been investigated and ruled out as being neither feasible nor practicable.

62. It is indicated that the staff survey has shown that the simple availability of the current parking position is not a factor in their decision to use their private cars. It is stressed, therefore, that if the appeal site cannot be used for company parking the staff will continue to park somewhere else within the village and add to parking congestion on the local highways. This in turn is considered to be a negative factor in that it will have a detrimental effect on the character and appearance of the WHCA.

63. Other claimed detrimental effects on the WHCA, if the parking proposal is not allowed to proceed, would be the lack of the intended landscaping along the roadside and the lack of any proper management of the prominently located land. However this latter negative factor would be overcome by the soft-landscaped proposals required by the planning permission were to be carried out.

64. I have already concluded that the harm to the MGB and the WHCA outweigh the other material considerations. The above points do not change my conclusions. Whilst accepting that the notice only requires the cessation of any parking of vehicles on the land, the LPA has issued the BCN (E01/816) which clearly requires compliance with conditions 8 and 9 attached to PP 12/00432/S73.

65. I conclude that the harm to the Green Belt by reason of inappropriateness, and the other harm identified to its openness and to the heritage assets (the WHCA and the WMHG) is clearly not outweighed by the other considerations, so as to amount to the very special circumstances to justify inappropriate development in the Green Belt.

Conclusion on the ground (a) appeal

66. For the reasons given above I conclude that planning permission should not be granted for the change of use of the land from land forming part of the historic landscape (due to be landscaped and restored in accordance with Planning Permission 12/00432/S73), to a vehicle parking area. The appeal on ground (a) fails.

The appeal on ground (f)

67. Under this ground of appeal reference is again made to what is considered to be the lawful use of the site for ***'the parking of vehicles in an incidental manner to the approved residential scheme'***. It is contended that the Council is ***'seeking an opportunity to claw back a situation which should have been addressed when they granted consent for application 12/002432/73'***. I disagree with this contention and I have dealt with the matter above under the planning status of the site.

68. I do not accept that that the Council is attempting to claw back a situation of their own making. Rather, the Council is simply trying to ensure that the harmful parking use of the site ceases and that conditions 8 and 9 of the planning permission are complied with in relation to the approved landscaping of the site. The latter point of course relates to the requirements of the BCN and thus I do not consider that the enforcement notice needed to refer to the site being laid out in accordance with the approved landscaping scheme (09/00139/DET03).

69. I acknowledge that it is proposed that the parking use should be granted permission subject to an approved landscaping scheme and that interested persons support this approach. However, whilst more landscaping would help to soften the visual effects of car parking, with up to 15 cars on site it would still be perceived as being harmful to the openness of the Green Belt and to the heritage assets of the WHCA and the WMHG. The proposed landscaping scheme would not, in my view, be a sufficient ***'lesser step'*** to overcome the identified harm. It follows, therefore, that in order to overcome this identified harm, I find that the requirements of the notice are not excessive. No other lesser steps are put forward and the appeal also fails on ground (f).

The appeal on ground (g)

70. Under this ground it is considered that a 6 month compliance period would be necessary. This would allow more time for the company to work with its staff and the local community (and presumably to liaise with the Council) on possible alternative options which might avoid significant displacement of vehicles onto the local roads.

71. The Council stresses that the appeal land, in planning terms, is not connected to the business site and that, in any case, the land is not large and 3 months is an adequate period to cease parking on the site.

72. Given the planning history of the site and the length of time that the parking use has been carried on (both lawfully and unlawfully), a period of 3 months might initially seem reasonable and sufficient. However, taking into account the obvious issues with regard to parking; business deliveries; public transport and traffic movements generally through the village, it seems to me that the Council, businesses and the community generally ought to be communicating with each with a view to trying to resolve the issues.

73. In the overall circumstances, I consider it appropriate and reasonable, therefore, to extend the compliance period to the requested 6 months. The appeal succeeds to this limited degree on ground (g) and the notice will be varied accordingly.

Other Matters

74. In reaching my conclusions I have taken into account all of the other matters raised. I have particularly noted the detailed planning history; the Archaeological Evaluation; the landscaping scheme; the details of the latest application; the NPPF policies on building a strong competitive economy and supporting a prosperous rural economy; the ever worsening parking issues and all of the changes in circumstances since the previous appeal. I have taken into account all of the appendices submitted by the parties; the photographic evidence and the submitted plans.

75. However, none of these other matters carries sufficient weight to alter my conclusions on the three grounds of appeal and the main issues. Nor is any other matter of such significance so as to change my decision.

Formal Decision

76. I direct that the enforcement notice be corrected by deleting the words and numbers '**Conditions 3, 4 and 10**' in Schedule 2 (Alleged breach of planning control), on page 2, of the notice, and by substituting therefor the words, '**Conditions 8 and 9**'.

77. The appeal is allowed to a limited degree on ground (g). See variation below.

78. I direct that the enforcement notice be varied by deleting the word '**three**' in Schedule 4 (steps to be taken), on page 2 of the notice, and by substituting therefor the word, '**six**'.

79. Otherwise the appeal is dismissed, the enforcement notice is upheld, as corrected and varied and planning permission is refused on the application deemed to have been made under section 177(5) of the Act

Anthony J Wharton

Inspector