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# Appeal Decision

Inquiry opened on 9 March 2010

**by John L Gray DipArch MSc Registered Architect**

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

**Decision date: 23 December 2010**

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**Appeal Ref: APP/B3438/A/09/2114625**

**Caverswall Castle, Blythe Bridge Road, Caverswall, Staffs, ST11 9EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robin Macdonald against the decision of Staffordshire Moorlands District Council.
  - The application, ref. 09/00667/FUL, dated 3 June 2009, was refused by notice dated 10 September 2009.
  - The development proposed is the change of use to residential with guest accommodation, wedding events and functions and formation of car park.
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**Decision: I dismiss the appeal.**

## **Dates of inquiry and site visit**

1. The inquiry was originally opened on 9 March 2010 by my colleague, Paul Griffiths. With the agreement of the main parties to the inquiry, he adjourned it without hearing any evidence, because the time allocated for it appeared wholly inadequate and there would be a substantial delay until a resumption date acceptable to all. I resumed the inquiry on 9 November 2010, effectively opening it anew. It sat on 9-12 and 23 November. I made an accompanied site inspection on 22 November.

## **History of the proposed use**

2. Put simply, what is proposed in the application subject of this appeal has been being undertaken for around four years, culminating in 2010 (by the end of the year) in a number of events at Caverswall Castle somewhat greater than the upper limit set out in the section 106 obligation. There is thus the opportunity to assess the consequences of the proposal from actual experience.

## **Main Issues**

3. I find it simplest to consider the appeal in terms of five main issues:
  - whether the proposal would be inappropriate development in the green belt;
  - the effect of the proposed use on the special architectural and historic interest of Caverswall Castle, which is a grade I listed building;
  - the effect of the proposed car park on the setting of the listed building and on the green belt within which it would sit;
  - the effect on the living conditions of neighbouring residents, predominantly from noise and disturbance; and
  - whether, if the proposal would be inappropriate development in the green belt, there are very special circumstances that outweigh the harm caused by reason of inappropriateness and any other harm.

## Reasons

### ***Would the proposal be inappropriate development in the green belt?***

4. PPG2 (Planning Policy Guidance Note 2: Green Belts) expresses a general presumption against inappropriate development within green belts. It also says that the re-use of buildings should not prejudice the openness of green belts, their most important attribute, since the buildings are already there. That is so in this case. Strictly speaking, the proposal is for a change of use, not a re-use – but I think it is clear that the terms are effectively synonymous. At the same time, the formation of a 42-space car park to serve the proposed use could be considered inappropriate development in the green belt. One of the provisos in the guidance on the re-use of buildings is that strict control should be exercised over associated uses, such as car parking, which could conflict with the openness of the green belt and the purposes of including land within it. I take that to be a question of principle, not detail.
5. I disagree with the argument that, because the proposed change of use would not be inappropriate, the car park cannot be inappropriate because it is incidental to (or part and parcel of) that change of use. Instead, I judge either that the proposed car park should in itself be considered inappropriate or that a change of use which requires the formation of a car park of this size should be considered inappropriate. On that basis, the proposed development, or at least part of it, is by definition harmful to the green belt – in which case very special circumstances must be shown if it is to be permitted.
6. Saved Policy N2 of the Staffordshire Moorlands Local Plan largely follows the guidance in PPG2. In defining what would not be inappropriate development, it includes “the conversion of rural buildings of permanent and substantial construction to suitable alternative uses in accordance with Policy B21”. Policy B21 permits the conversion of rural buildings subject to criteria.
7. Criterion A) is satisfied because there would be no significant extension, alteration or rebuilding; criterion B), on materials, thus does not apply. Criterion C) refers to isolated buildings; Caverswall Castle may be in the green belt but it is in no way isolated, being effectively part of the village. In other words, it is part of a group of buildings, in which case activities outside the building, which must include the car parking proposed here, should not detract from the appearance of the area. Criterion D) seeks uses compatible with the scale of the building, which raises the question of whether the size of the car parking requirement is appropriate in terms of the character and appearance of the building. Criterion E) raises traffic, access, parking and environmental considerations, which are clearly at issue in the evidence adduced at the inquiry. Accordingly, it is clearly arguable that the proposal is inappropriate development in the green belt on the basis of Local Plan Policy.
8. That said, Policy B21 does not seem to have been framed with this sort of building in mind. Neither the policy nor the supporting text gives any specific definitions but the clear inference from both, and indeed from what PPG2 says on the matter, is that the policy is intended to address altogether smaller buildings in the green belt (not to say less imposing ones than this grade I listed building, to which a raft of other policy and guidance also applies).
9. Either way, Local Plan policy does not diminish my conclusion in relation to the guidance in PPG2. I shall proceed on the basis that what is proposed is, in whole or in part, inappropriate development in the green belt. I have borne in mind what was said about previously-granted permission for the fishing lakes

in the green belt to the west of the Castle grounds. That permission included a 53-space car park, which may have been considered part and parcel of a proposal judged not to be inappropriate development in the green belt. I have come to my conclusion, however, by considering this proposal on its merits in the context of the guidance in PPG2 and also Local Plan policy.

***The effect on the special architectural and historic interest of the Castle***

10. No alterations are proposed to the fabric of the listed building as part of the application. Nor should any need for significant alteration flow from a grant of planning permission. Some minor proposals might emerge – for example, shutters to the window and skylights serving the basement – but I see no reason why appropriate solutions should not be found. In principle, the building would remain a single dwelling for the majority of the time and the use for events would not undermine its special architectural and historic interest.
11. There remains, though, the potential for specific damage to the fabric, or for harmful wear and tear, when single residential occupation is compared with the more intensive use involved in wedding events and functions.
12. Clearly, if rooms on the basement, ground and first floors are to be used by up to 100 people at an event, and there could be up to 80 events annually, there is potential for harm to what, by and large, are impressive historic interiors. It could come from placing glasses or crockery on vulnerable surfaces, from impact with such as panelling, doors and door frames or furniture, from unforeseeable accidents, or simply from general wear and tear. The risk assessment prepared by Halahan Associates for the appellant identifies that there is “a high risk of damage to the historic fabric of a building during these events because the people concerned are not always aware of the fragility or vulnerability of their surroundings”.
13. Based on my inspection and the evidence produced by Ms Morris, I am content that the maximum numbers of people set out in the planning obligation would afford a reasonable degree of protection to the historic fabric – certainly one that would not be substantially lessened by any significantly greater limitation. It is more difficult, however, to conclude on what the maximum number of events should be for that purpose.
14. If the maximum numbers of people are assumed to be reasonable, then the potential for specific damage becomes to some extent limited; and the impact from the frequency of events will tend, therefore, to be more from general wear and tear. It then comes down to whether the qualities of the fabric, fittings and fixtures can be retained and whether a need for more regular maintenance or minor repair or decoration might be thought likely to harm the special architectural and historic interest of the interiors. I do not necessarily see undue difficulty with that. Firstly, it is in the appellant’s best interests to maintain his property to a high standard; not to do so would surely reduce the attractiveness of the building for the very events he is seeking to promote. Secondly, the planning obligation makes provision for the production of a Conservation Management Plan and an Operational Plan and for both to be reviewed and updated at least quinquennially in consultation with the Council. There would therefore be the opportunity for the Council to satisfy itself that wear and tear and damage were being appropriately dealt with.
15. The Council referred to other grade I listed buildings which are used for similar sorts of events, pointing out that, at Bolsover Castle and Hardwick Hall in particular, there is very limited access to the most sensitive and vulnerable

- parts of the buildings. That may be so – but it does not influence the generality of my conclusions above on Caverswall Castle, reached on the basis of the evidence to the inquiry and my site inspection.
16. The Council also made various references to the value of the property as a single dwelling, to the apparent lack of efforts to market it as such and to the absence of any evidence to show that the proposed commercial use was the only one that would enable the listed building to be properly maintained. Indeed, that is the subject of the first reason for refusal of the application. I shall consider this matter in more detail below, in relation to very special circumstances. It becomes tangential to this issue, however, when my conclusion is that the proposed use need not necessarily cause unacceptable harm to the building.
  17. It may also be noted here that the frequency or regularity of events bears also on residential amenity, again a matter which I consider separately below.
  18. On this particular issue, however, my conclusion is that the proposed use need have no harmful impact on the special architectural and historic interest of the listed building and thus does not conflict with the policy and guidance in PPS5 (Planning Policy Statement 5: Planning for the Historic Environment). More particularly, given the evidence to the inquiry, I consider that it is Policy HE9.4 in PPS5 against which these proposals should be judged. I do not see how the potential for harm could be deemed to be substantial, thus bringing into play the questions of public benefit, other viable uses or charitable or public ownership set out in Policy HE9.2.

***The effect on the setting of the listed building and on the green belt***

19. The proposed car park is substantial, accommodating 42 cars and occupying an area in the region of 700sqm (excluding the access to it). The site is within the grounds of the Castle, making it part of the curtilage of the listed building – though it may be open to argument whether it forms part of the residential curtilage, which might be defined as lying within the moat. It is adjacent to the southern boundary of the grounds, beyond which is agricultural land. The site is reasonably well screened by existing trees, at least when they are in leaf, on its south and west sides and also a little to the north. It has existing buildings, one of which is a fully glazed swimming pool enclosure, on its east side. Even so, when I visited the site, the area was readily seen as an integral part of the main aspect from the south-facing windows of the Castle, and from the forecourt. It is also clearly visible from the drive from West Lodge, the Castle being a little to its north and the car park area a little to its south.
20. There are a number of proprietary systems, generally mesh-based, which can be used to surface car parking areas so as to give appropriate load-bearing capacity, avoid mud or rutting and yet give a soft and green appearance by allowing grass to grow through. Experience tells me that they can be visually very effective when lightly used. Whether such a surface would be appropriate for the aisles of a car park in regular use must be open to question. For example, the Duoblock system, one of those in Appendix D to the Transport Statement Update, may be used for overspill car parking, which I suspect may involve less use than the car park proposed here. On the other hand, another specified use is for service roads, which first thoughts suggest might be likely to involve heavier impact than an overspill car park. While I harbour doubts, I would not wish to discount these systems without further investigation – so it may be that a car park surface could be formed which had a reasonably soft appearance and was not unduly intrusive in the setting of the listed building.

21. More importantly, though, parked vehicles would be easily seen and their visual impact would be at odds with the character and appearance of the Castle, which is essentially that of a substantial manor house. The appellant says that vehicles may park there anyway, though I doubt that they would do so more than intermittently if the Castle was in use as a dwelling plus some level of commercial guest accommodation. If parking on the forecourt proved limited, there seem to me to be possibilities for parking a small number of vehicles less obtrusively than on the land proposed for the car park. It is primarily this aspect of the proposal which leads me to the conclusion that the car park would be harmful to the setting of the listed building and thus in conflict with Policy HE10.1 of PPS5.
22. Landscaping, particularly in the form of a hedge, could screen the car park from the drive. But a hedge could not screen vehicles in views from the Castle or its forecourt, unless it were so tall as itself to intrude into the traditional views. Shrub and tree planting might be undertaken to look more natural but would still give the impression of cutting off part of the grounds from view, especially important when this was evidently the principal prospect from the Castle. Thus, the setting of the listed building would still be harmed even if parked vehicles were obscured.
23. Broadly the same considerations apply in assessing the impact of the proposed car park on the openness of the green belt. Using one of the illustrative proprietary surfacing systems would allow openness to be broadly maintained. Parking vehicles on it would not; that would introduce an urban or commercial aspect that would not sit happily in the context of the green belt. There is mitigation, however, in the fact that, especially with new landscaping, vehicles would hardly be seen from any public vantage point. On the other hand, a significant amount of the activity would take place during the hours of darkness. The style of lighting proposed for the car park and access would be fairly inconspicuous but the headlights of cars would not be. And that would mean harm to the openness of the green belt in a way that the same activities during daylight might not. Overall, therefore, I conclude that locating the car park as proposed would conflict with what is sought by PPG2 and Local Plan Policy N7.
24. To sum up, my conclusion on this issue is that the harm from the proposed car park to the openness of the green belt and the setting of the listed building would be significant. Also, in so far as the setting of the listed building would be harmed, so too would the proposal fail to preserve or enhance the character and appearance of the Caverswall Conservation Area.

### ***Residential amenity***

25. The original buildings and grounds of Caverswall Castle have long been subdivided. The Moat House, an easterly extension of the Castle, inside the moat, is nowadays a separate dwelling in separate ownership. To its north and north-east, outside the moat, the Keys and the Coach House are also separate dwellings. So too are East Lodge and West Lodge. At West Lodge, the original gateway is part of the Lodge's curtilage and a new entrance to the Castle grounds has been formed on its west side. The eastern access is shared by the Castle, East Lodge, the Coach House, the Keys and the Moat House. The occupiers of all of the other dwellings have complained, for one reason or another, about noise and disturbance from the Castle, from wedding events in particular, seriously impairing the quality of the living conditions which they consider they can reasonably expect to enjoy.

26. Occupiers of the Moat House, being attached to Caverswall Castle, are the most likely to suffer noise and disturbance. There are ground and first floor windows looking over the Castle forecourt, so any activities there could too easily have a harmful impact. From the complaints received and from Mr Hurst's evidence for the Council, the party wall clearly allows the passage of sound from the Castle, in particular of music from the basement. I understand that this can be heard in the first floor as well as on the ground floor and that, on occasion, the tune or song has been identifiable. The kitchen has one window almost directly opposite and very close to the Moat House's door. The rear access and the bin enclosure are immediately alongside that. Noise and smells from inside and outside the kitchen can thus easily reach the interior of the Moat House, all the more so as the kitchen does not have mechanical ventilation/extraction and there will be regular occasions when a window or door (or both) will be open.
27. If there were any doubt about noise affecting the occupiers of the Moat House, then the number of complaints made by and on behalf of the appellant about activities at the Moat House provides ample confirmation. (I deal below with the effect of noise and disturbance on the Castle from the use of the Moat House and whether that affects the ability to use it for residential purposes.)
28. East Lodge is on the shared drive to the Castle and the other residential properties. The front door opens directly on to the drive and two windows on each of the ground and first floors look directly over it. Thus, any movement of people from a wedding in either of the village churches to a reception in the Castle cannot avoid causing noise and disturbance well over and above what might be expected from the dwellings using the shared access. So too must commercial vehicles and people connected with servicing an event. The terms of the licence severely restrict those able to use that access route but the need to employ people to enforce the restriction clearly itself causes a nuisance.
29. In addition, two west-facing windows look down East Lodge's garden to the access from the car park area to the Castle, no more than 17m away (scaled from the application plans). Any noise from people leaving an event late in the evening, seemingly inevitable when alcohol has been available for some considerable time, can only cause disturbance. Vehicles or people servicing an event must also pass that way if not using the eastern access. The Lodge is a listed building; its windows have leaded single glazing which both significantly eases the passage of noise and might be difficult to change without harming the building's character (even if that were thought an adequate solution).
30. The location of the Keys means it is not susceptible to noise and disturbance from passing traffic or people. It is, however, not so far distant from the Castle roof (just over 30m, scaled from the application plans), the kitchen (about 30m) or the terrace (about 40m) that the noise resulting from an event would be unlikely to cause disturbance. The roof is open and there is no means of attenuating noise from it, though the occasions and hours of its use could reasonably be limited. The kitchen is likely often to have its door and/or window open and there is also the possibility of noise from discarding waste to the bins. The latter could be controlled by condition but the former would require the installation of ventilation/extraction equipment which might or might not be found appropriate in listed building terms. The terrace is contained by stone walls which seem more likely to accentuate than attenuate the noise from people using it; it is accessed from the basement, where the larger events would take place and where it offers ready respite when internal conditions become too hot or claustrophobic. It is also, at present, the smoking area; while that is intended to be relocated immediately south of the

conservatory, from where noise would not likely be a nuisance, it is difficult to see how the use of the terrace could be restricted so as not to cause any sort of disturbance.

31. The Coach House is less affected than these three dwellings, being away from the direct route to the Castle and furthest from it. Even so, I can see that noise might easily be heard outside, and perhaps inside, the dwelling.
32. West Lodge is unaffected by events at the Castle, because the buildings are some 200m apart. However, the limitations placed on the East Lodge access mean that vehicular traffic for an event, including that of suppliers before and after, must use the western access. There may not be very many vehicles the day before or after an event but the proposed 42-space car park gives a good indication of the amount of traffic that may be expected for an event itself. And cars leaving an event in darkness will, for 35m or more, have their headlights shining directly towards the south-facing façade of East Lodge, which contains living room and bedroom windows. I am in no doubt that vehicles leaving an event in darkness would cause unacceptable disturbance to the occupiers of East Lodge, from both their noise and their headlights. Nor do I believe that more substantial boundary treatment would alleviate matters; a wall might succeed as far as ground floor rooms are concerned (were that thought compatible with the character of the listed building) but would not reduce the impact on the first floor bedroom.

#### The expert noise evidence

33. It is difficult to draw clear-cut conclusions from the expert noise evidence adduced at the inquiry by the appellant and on behalf of Mr & Mrs Booth.
34. For Mr & Mrs Booth, the potential for noise is said to arise from the kitchen and the terrace, including amplified music escaping through the doorway to the latter. In addition, the evidence addresses noise transmission through the party wall between the Castle and the Moat House and also noise from the arrival and departure of guests, primarily affecting the Moat House and East Lodge. Measured noise levels outside the Keys varied between 51.5 and 60.8  $\text{dBL}_{\text{Amax}}$  (between 40.4 and 42.8  $\text{L}_{\text{Aeq}}$ ); outside East Lodge, the levels varied between 53.4 and 62.4  $\text{dBL}_{\text{Amax}}$  (between 39.0 and 46.5  $\text{L}_{\text{Aeq}}$ ). In the Moat House, measured noise levels were higher than normally acceptable for one-off events (those occurring once or twice a year, compared with the 60 proposed here) and substantially higher than the NR20 Noise Rating Curve advocated as the practical threshold of audibility.
35. The noise levels recorded in the appellant's evidence to the inquiry contain no measurement higher than 46  $\text{dBL}_{\text{Amax}}$  at the Keys and measurements varying between 41.7 and 68.4  $\text{dBL}_{\text{Amax}}$  at East Lodge. The highest measurement is when the diesel engine of the security guard's vehicle was running and I note also that the guard's radio was audible at the time the lowest level was recorded. The measurements presented in the Noise Assessment with the Supplementary Statement in Support of the Planning Application do not suggest anything materially different.
36. The World Health Organisation (WHO) guidelines for reasonable external noise levels at night are 45  $\text{dBL}_{\text{Aeq}}$ , with an  $\text{L}_{\text{Amax}}$  level of 60dB. The measured levels are thus acceptable on the face of things, save for one or two instances at East Lodge. I do not believe, however, that that should settle the matter. In my experience, the very nature of the human voice, not so much a constant noise as a continuous series of varying individual noises, of different pitches when

two or more people are involved, is highly likely to prove both more noticeable and more distracting, causing disturbance to those within earshot but not part of the event, than may be argued on the basis of a measurement of that noise. That is particularly so when people are talking loudly, singing or laughing, as is almost bound to be the case at a wedding reception.

37. Accordingly, I conclude that the occupiers of the Moat House, East Lodge and West Lodge must all suffer unacceptable noise and disturbance as a result of the events taking place at the Castle and proposed to continue to take place by way of the application subject of this appeal. I do not disregard the noise and disturbance suffered by the occupiers of the Keys and the Coach House – but that seems to me less critical to my conclusion on this issue.

The premises licence

38. Caverswall Castle enjoys a premises licence issued under the Licensing Act 2003, following a meeting of the licensing authority on 27 June 2008. The licence is subject to comprehensive conditions. They include, amongst others:
- that noise or vibration will not be audible at the façade of any noise-sensitive premises (the Moat House, East Lodge, the Keys and the Coach House);
  - that fireworks and the like will cease at 22.00 hours;
  - that no live or recorded music will be played in the garden;
  - that indoor amplified music will not be played after midnight and that doors and windows will be kept shut while it is being played;
  - that all guests will use the entrance by West Lodge (save for cars carrying the bride and groom or disabled guests, which may use the shared access past East Lodge);
  - that all car parking will be within the grounds but outside the moat and that guests will be ushered to and from the parking area (the latter “in an orderly manner”);
  - that the Castle gates will be shut after all guests have arrived (“if it is reasonably possible to do so”); and
  - that activities within marquees will be treated as outside events.
39. I cannot see how some of these licence conditions can achieve what they appear to be intended to achieve – to avoid disruption to local residents.
40. That no noise should be heard at the façade of any of the noise-sensitive premises cannot possibly be achieved unless no guest is permitted on the roof, on the terrace or even in the forecourt – and they must pass across the forecourt to get to the front door of the Castle. That condition also seems to ignore the fact that the Castle and the Moat House are separated simply by a party wall – even if noise were inaudible at the façade, it would surely pass through the party wall.
41. It may be possible to keep windows shut but the door to the terrace is bound to be opened at regular intervals to let people pass through – and, without mechanical ventilation, guests will almost inevitably wish to get ‘a breath of fresh air’ in all but the coldest weather. Nor can the conditions deal with people outside on the roof or the terrace – if they are outside, then noise is bound to be audible at the façade of the noise-sensitive premises.
42. Also, whatever the orderly manner in which guests are ushered to and from the Castle, the movement is bound to be audible at the façade of both the Moat House and East Lodge. It would likely be a greater disturbance when guests are leaving an event after 22.00 hours than when they are arriving in the

afternoon or early evening – though the intermittent disturbance caused by arrivals, because they might be spread over a much longer period, could be just as annoying as that caused by departures at times when the occupiers of the Moat House and East Lodge might reasonably be expected to be asleep.

43. Lastly, the only location for a marquee is in the Castle forecourt. I was told at my site visit that a marquee is usually erected around the water feature and uses it as a centrepiece. I fail to see how noise from an event in a marquee could not be audible at the façade of the Moat House, which looks over that very forecourt.
44. It must be remembered that, in assessing the likely impact for the occupiers of all of these properties, the number of wedding events proposed is 60 annually. That is more than one event a week. It means, to all intents, an event every weekend, sometimes two, at times when the occupiers are likely to be at home and can reasonably expect to enjoy a measure of peace and quiet.

#### Conclusion on residential amenity

45. I realise that the premises licence strives through its conditions to minimise disturbance for neighbouring residents but I consider some of those conditions incapable of achieving their intention. They seek to deal with the operational side of events but I conclude that they fail to safeguard the quality of living conditions that the occupiers of the neighbouring dwellings can reasonably expect to enjoy.
46. Accordingly, I conclude that the proposal conflicts with Local Plan Policies B13 and H19. On B13, it is conflict with criterion (D), because I consider the proposed change of use to be, in effect, a noisy development the impact of which cannot be acceptably minimised through design or conditions. On H19, the site must be considered a residential area by virtue of the lawful uses of the various properties but the proposed use is not related to the residential character of the area and would have a harmful effect on the level of amenity which ought to be able to be enjoyed therein. The Rule 6 party also raised Local Plan Policy E9 on businesses run from residential properties; save for the question of not employing people other than residents, that policy does not seem to me to raise any matter not considered carefully above in relation to Policies B13 and H19.
47. I note what PPS4 (Planning Policy Statement 4: Planning for Sustainable Economic Growth) says at Policy EC4.2 about “taking account of and complementing the local planning authority’s Statement of Licensing Policy”. That is in the context of planning for consumer choice and promoting competitive town centres. Caverswall, on the other hand, is a small rural village. I accept that allowing this appeal could be seen as affording greater consumer choice but I see nothing in the Council’s Statement of Licensing Policy that could cause me to assess in any other way the consequences of noise generated by events both already being held and proposed to be held at Caverswall Castle.
48. Notwithstanding the encouragement in PPS4 that planning and licensing policy should complement each other, I consider that approach of the CPS (Crown Prosecution Service) raises concerns about relying on the conditions of the licence when considering residential amenity in planning policy terms. The CPS concluded in relation to complaints from neighbouring residents, including about “disorderly behaviour by guests”, that the Castle “had been operating within the terms of their premises licence, and it was the will of the members

of the public to ignore signs and measures ...". It seems to me that that conclusion could offer a defence to future complaints when the celebratory and sometimes high-spirited nature of wedding events will, in my judgement, more likely than not lead to the very sorts of noise and disturbance which I have concluded would have an unacceptable impact on neighbouring residents.

***Very special circumstances***

49. I have concluded above either that the proposed use is inappropriate development in the green belt, because of the size of car park required as part of it, or, alternatively, that the car park itself is inappropriate development even if the proposed change of use is not. The appellant does not accept that what is proposed is inappropriate development in the green belt but has considered, nevertheless, the very special circumstances that could be argued as overcoming the harm from inappropriate development, and any other harm. First and foremost is the need to secure a viable future for Caverswall Castle, which is a grade I listed building.
50. The Castle requires, without doubt, substantial and on-going expenditure on repairs to its fabric and in annual and cyclical costs. Annual running and maintenance costs are estimated by the appellant at around £85,000. Adding cyclical costs and repairs costs (with urgent, less urgent and desirable repair works spread over five years), the overall cost estimates come to around £190,000 in the first year, reducing to £137,000 in the fifth. After five years, the annual costs of around £85,000 would be added to by further emerging repair works to the fabric. (There can be no sensible estimate for future works, though I imagine that, having undertaken the presently identified works, the burden would be considerably lighter.) The appellant claims to have spent around £700,000 on the property since purchasing it, though the evidence suggested that this was largely with an eye on the commercial activities he wished to undertake. Certainly, very little seems to have been spent on fabric repairs, as may be inferred from a reading of the condition survey report prepared by Anthony Short & Partners in 2010.
51. The failure to undertake important repairs to the fabric of the building was criticised by the Council. And there may be merit in that criticism. Even so, it seems to be a benefit arising from this appeal that what needs to be done has now been identified by Anthony Short & Partners and can be placed in the context of the various reports by Mel Morris Conservation. One would have hoped that something akin to these reports would have been commissioned whatever – but it is the progress of the refused application to appeal that has prompted their emergence.
52. Whether these costs could be borne by use as a single dwelling is a moot point. In my experience, purchasers of properties such as this, where the purchase price and the repair and running costs are all relatively high, can often be found – though not necessarily quickly. The disadvantage of Caverswall Castle is that it is a semi-detached building, with the Moat House. Those interested in this style of property are more likely to look for one without that constraint – and there is evidence of such properties on the market in this general area.
53. It may, therefore, be optimistic to rely on the prospect of single residential use, though there is no evidence of any recent marketing campaign for the building to support the contention that a commercial use is needed to ensure its preservation. I understand, however, why such an exercise may not have been thought a pre-requisite for this proposal, given what might be inferred from when the appellant purchased the building.

54. It is also not immediately clear from what has already been undertaken that the proposed use can provide the financial support that is apparently necessary. The gross profits in the years to 31 January 2009 and 2010 are £134,000 and £349,400 respectively, both over 70% of turnover); however, the accounts record losses of £263,824 and £96,258 respectively before taxation. However, there is a close link between the business and the owner (the appellant); the accounts deploy set-up expenses for the business and the costs of the planning process culminating in this appeal; and the aim may be seen as to contribute to the costs of repairing and maintaining the building rather than providing for all of them. On that basis, it appears to me that the proposed use, as limited by the terms of the section 106 obligation, would be able to contribute satisfactorily towards the upkeep of the listed building.
55. Turning to a different matter, it is clear that the Moat House is used regularly as holiday accommodation. It is advertised on Hoseasons and other websites. Its lawful use is as a single dwelling and the Council has indicated that it is investigating whether there has been a breach of that lawful use. If there has, the Council will presumably take action or invite an application to remedy the position (which it would treat on its merits). That, however, is not before me. Miss Goldstraw, who owns the Moat House, said at the inquiry that she expected to be able to use it as her main dwelling within about two years, which could pre-empt any potential action against a present unauthorised use.
56. Whatever the actual position, I do not think it can be used as a compelling argument that the commercial use of the Moat House is a long-term deterrent to the use of the Castle as a single dwelling. Instead, I consider that the merits of a commercial use lie solely in the arguments about the cost of upkeep and the need to generate funds for that purpose. Indeed, setting aside other considerations, I find that the need to maintain this grade I listed building in a viable use and a satisfactory condition is capable of being a very special circumstance to justify inappropriate development in the green belt.
57. Other arguments are also raised – the generation of jobs, the opportunity for far wider public access to the building itself and the contribution to tourism generally. I give little weight to any of these. It is true that there would be a small number of jobs generated at the Castle itself. However, to the extent that wedding events would likely be held in the same general area if Caverswall Castle was not available, the jobs of those supplying goods and services for events would not be significantly prejudiced by dismissal of the appeal. It is also true that more people would be able to see and enjoy the Castle than if it remained a single dwelling – but I question the extent of that benefit when it may be argued that guests will be there for the social occasion rather than to appreciate the architectural and historic interest of the building, something they may or may not be interested in. Lastly, the contribution to tourism derives from the extent to which guests at an event would take the opportunity, or even have it, to stay in the area and visit other attractions, thus increasing overall tourism expenditure; I judge that a very slight benefit.

### ***Obligation and conditions***

58. The executed unilateral obligation provides, primarily, for:
- the preparation and implementation of Travel and Event Management Plans;
  - a limit on the number of events annually and the numbers attending;
  - the preparation, review and update of a Conservation Management Plan;
  - completion of the urgent and less urgent works and annual and cyclical tasks identified in the report by Anthony Short & Partners; and

- the preparation, implementation, review and update of an Operational Plan for events.
59. The Council expressed itself content with the construction of the draft obligation considered at the inquiry, save for the failure to refer appropriately to the mortgagee. That has been remedied in the executed document. The Council also had concerns about some of the provisions, the most obvious being what it considered the excessive number of events to be held. Some minor concerns have been responded to in the executed document. There has been no change to the number of events but I would not have expected that and have considered the appeal on the basis of the numbers proposed. While the number of events could have been controlled by planning condition, I am content that, without prejudice to my conclusions on the issues considered above, the obligation is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related to it in scale and kind. I shall take full account of it in coming to my overall conclusion below.
60. Suggested conditions, should the appeal be allowed, were available prior to the inquiry. I gave my thoughts on them during the inquiry and an amended list was provided, discussed on its final day. Again, I shall take full account of the suggested conditions, and the comments made on them, in coming to my overall conclusion below.

#### ***Other matters***

61. I have considered all other matters raised at the inquiry. One in particular deserves mention – the possibility of a burial ground, or consecrated ground, within the area proposed for the car park. There are two gravestones, apparently dating from the Castle's use as a nunnery, in the very south-west corner of the general area proposed for the car park. They could easily be protected by a condition on any planning permission. There is no indication, however, of any consecrated ground. There is a reference to a burial ground on one of the plans but it is plainly outside the land in the appellant's ownership, something I was able to confirm at my site inspection. Accordingly, I find nothing in these representations to influence my decision on the appeal.

#### ***Overall conclusion***

62. Firstly, I have concluded that the proposed development is inappropriate development in the green belt. Whether that applies to the change of use or only to the proposed car park is, in my judgement, immaterial – either way, it becomes necessary to consider whether there are very special circumstances that might outweigh the harm by reason of inappropriateness, and any other harm, and thus justify allowing the proposed development.
63. In addition to the harm by reason of inappropriateness, I have concluded that the proposed car park would harm the openness of the green belt and the setting of the listed building. One of the proprietary systems could very well provide a surface that would not detract unduly from the setting of the building – but parked vehicles would do so and I am not convinced that planting could be devised to screen those vehicles and itself be in keeping with the style and character of landscaping within the grounds. That conclusion does not apply precisely to the openness of the green belt. There are very few places outside the Castle grounds from which the car park or parked vehicles would be seen, so the effect on openness might be argued to be very modest. On the other hand, vehicle headlights would be evident in the hours of darkness, even if the

- lighting of the car park and access drive were muted. In that context, the effect on openness would be significant.
64. It is perhaps possible that the benefit from maintaining the grade I listed building in a viable use and securing its future could outweigh the harm to openness and by reason of inappropriateness. However, for that to be so, it would have to be clear from detailed surfacing, lighting and landscaping proposals that there would be no significant harm either to openness or to the setting of the listed building.
65. If it were simply the car park that was considered inappropriate development in the green belt, exactly the same arguments would apply. The car park would be a necessary adjunct to putting the listed building to a viable use which would secure the future of its fabric – and that could amount to a very special circumstance in favour of the proposal, subject always to an acceptable design for the car park itself.
66. Overriding all of these considerations, however, is the matter of residential amenity. I am in no doubt that the occupiers of the neighbouring dwellings – the Moat House, East Lodge, West Lodge, the Keys and the Coach House – would suffer unacceptable noise and disturbance of various sorts and that that in itself suffices to dismiss the appeal. I have not dwelt on the detail of some of the disturbances reported by the various owners, or the photographs provided by some; in my opinion, some of the more exceptional occurrences, beyond what I have considered above, could be expected to be controlled by way of the conditions on the premises licence or what I anticipate might have been included in the Event Management Plan provided for by the section 106 obligation. Instead, I have restricted myself to what I consider to be, irrespective of the terms of the premises licence, the inevitable consequences of the proposed use.
67. Thus, while I have taken careful account of policy and guidance in PPG2, PPS4, PPS5 and the corresponding Development Plan provisions, it is essentially the conflict with Local Plan Policies B13 and H19 which leads me to my decision.
68. No Structure Plan policies are referred to in the reasons for refusal. Five policies are referred to in the Statement of Common Ground but none raises any matter not considered above in relation to PPG2, PPS4, PPS5 and Local Plan Policies N2, N7, B13, B21 and H19. The Statement of Common Ground also says that RSS11 (the Regional Spatial Strategy for the West Midlands) contains no policies of direct relevance. The appellant argues that the economic development from tourism that would be fostered by the proposal is supported by policies in the Structure Plan and the RSS – but (and irrespective of the continuing actions by Cala Homes in relation to Regional Strategies) that attracts very little weight in the context of the main issues.
69. Lastly, I see nothing in the section 106 obligation that could outweigh my conclusions. Nor do the suggested conditions, with or without the points raised by the Council at the inquiry, enable the harm I have found to be appropriately mitigated. Accordingly, I conclude that the appeal should be dismissed.

*John L Gray*

Inspector

## **APPEARANCES**

### **FOR STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL**

|   |   |
|---|---|
| Rob Pattinson                                   | of Knights Solicitors LLP, instructed by Mark Trillo,<br>Executive Director with the Council  |
| He called                                       |   |
| Melvyn Forbes                                   | East Lodge, Caverswall Castle   |
| Phillip Bunn                                    | The Coach House, Caverswall Castle  |
| Ronald Jones                                    | Owner of West Lodge, Caverswall Castle  |
| Miss Marion Goldstraw                           | Owner of the Moat House, Caverswall Castle  |
| Mrs Rachel Duffin                               | Licensing Manager with the Council, speaking to the<br>evidence prepared by Michael Shipley, Licensing<br>Officer with the Council                  |
| Charles P Meynell BSc FRICS FAAV                | Fisher German LLP, Chartered Surveyors, Stafford  |
| Mark Dawson                                     | Technical Director, Wardell Armstrong LLP, speaking<br>to the evidence prepared by John Tildesley,<br>Environmental Health Manager with the Council |
| Benjamin Hurst BSc MRTPI                        | Senior Planning Enforcement Officer with the Council  |
| Christopher Drage BA(Hons) MA<br>IFA IHBC MRTPI | Conservation Manager with the Council   |
| Alan Taylor MA DipTP IHBC                       | Inspector of Historic Buildings, West Midlands Region,<br>English Heritage  |
| Mrs Gillian Bayliss MA MA IHBC<br>MRTPI         | Senior Conservation Officer with the Council  |
| Mrs Jane Curley BA(Hons)MRTPI                   | Principal Planning Officer with the Council   |

### **FOR THE APPELLANT**

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|--|--|
| Ian Dove QC                                      | instructed by Jonathan Phillips, Director, JWPC Ltd,<br>1 The Quadrangle, Banbury Road, Woodstock,<br>Oxon, OX20 1LH |
| He called  |  |
| Mrs Lindsay Ruthven BA(Hons)                     | Events Manager at Caverswall Castle  |
| Richard Vivian BEng(Hons) MIET<br>MIOA MAES      | Principal Consultant, Big Sky Acoustics, Market<br>Weston, Suffolk   |
| Richard J A Pearce MRICS                         | Nock Deighton, Shrewsbury  |
| Ms Mel Morris BA(Hons)<br>DipArchCons IHBC MRTPI | Mel Morris Conservation, Ipstones, Staffs  |
| Jonathan Phillips BA(Hons) DipTP<br>MA MRTPI     | JWPC Ltd   |

### **FOR MR & MRS BOOTH**

|  |  |
|--|--|
| Carl Copestake BA(Hons) DipUPI<br>MRTPI                          | Director of Planning, John Rose Associates |
| He called  |  |
| Piers Gough BSc(Hons) MSc MCIEH<br>MIOA                          | Formerly of Wardell Armstrong LLP          |
| John Booth<br>(Mr Copestake's own evidence was<br>taken as read) | The Keys, Caverswall Castle                |

### **INTERESTED PERSONS**

Mrs Edna Durose  
Mrs Teresa Jones

## **DOCUMENTS submitted to the inquiry**

- 1 Extracts from Hoseasons' and other websites advertising the Moat House for holiday lettings.
- 2 Extracts from the Licensing Act 2003.
- 3 Staffordshire Moorlands District Council's Statement of Licensing Policy 2008-2011.
- 4 Environment Manager's consultation response on previous application for change of use of Caverswall Castle, 07/01395/FUL.
- 5 JWPC letter dated 16 September 2010 with profit and loss account for the year ended 31 January 2010 and diary of events for 2009 and 2010.
- 6 Extract from guidance issued by DCMS under s.182 of the Licensing Act 2003.
- 7 Extracts from Staffordshire Moorlands Local Plan – Policies N2 and B21.
- 8 Extract from National Guidance to the Licensing Act 2003 – para. 2.33.
- 9 Bundle of extracts from: Directions under Section 5 of the Noise Act 1996; Approval under Section 6 of the Noise Act 1996; and Appeal Decision ref. APP/P4605/A/07/2039953.
- 10 Statement dated 11 November 2010 by Mrs Edna Durose.
- 11 Letter dated 24 October 2010 from Mr & Mrs J Hulme.
- 12 Letter dated 23 August 2010 from the Environment Agency.
- 13 Updated suggested conditions, submitted 22 November 2010.
- 14a Draft s.106 obligation, submitted at the opening of the inquiry.
- 14b Draft s.106 obligation, submitted 22 November 2010.
- 15 Letter from GOWM with schedule of Staffordshire Moorlands Local Plan Saved Policies.
- 16 Drawing no. 001f, showing the accurate 'red line' boundary (to be taken as one of the application plans, together with drawings nos. 512.01, 02, 06 and 16).
- 17 Roger Lethem v Secretary of State and Worcester City Council, [2002] EHC 1549 (Admin).
- 18 Outer House, Court of Session – Opinion of Lord Reed in Application under s.237 and s.239 of the Town and Country Planning (Scotland) Act 1997 by Mario di Ciacca against the Scottish Ministers.
- 19 R on the application of Blackwood v Birmingham Magistrates, Birmingham City Council and Mitchells and Butler Leisure Retail Ltd, [2006] EHC 1800 (Admin).
- 20 Copy of executed s.106 obligation, submitted on 29 November 2010, as required at the inquiry, together with covering email.