



Appeal Decision

Hearing Held on 23 November 2017

Site visit made on 23 November 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 9 January 2018

Appeal Ref: APP/X0415/W/17/3179939

Owl Meadow, Hog Lane, Ashley Green HP5 3PY

- 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 & Mrs John and Liz Nassari against the decision of Chiltern District Council.
 - The application Ref CH/2016/2416/FA, dated 23 December 2016, was refused by notice dated 21 February 2017.
 - The development proposed is conversion and extension of existing barn to provide single accessible dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An alternative drawing was submitted with the appeal that suggested different window sizes and positions to seek to overcome the Council's reason for refusal relating to the character and appearance of the area. The Council raised no objections to considering this revised scheme as part of the appeal, so I have taken this into account in coming to my decision.
3. The use of the existing building and surrounding land was discussed at the hearing and it was suggested that it is used as part of the garden of Owl Meadow and that this may have become lawful through the passage of time. However, it is not for me, under a section 78 appeal, to determine whether or not that use has become lawful. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Town and Country Planning Act 1990 regardless of the outcome of the appeal.
4. The Council's decision notice includes a reason for refusal relating to highway safety at the vehicle access point due to the visibility splays. However, further information was submitted following that decision and the Council accepted that the visibility splays proposed were sufficient subject to an appropriate condition should I allow the appeal.
5. I drew the parties attention to *Smith v The Secretary of State for Communities and Local Government* [2017] EWHC 2562 (Admin) prior to the hearing and *John Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466 was brought to my attention during the hearing. I have taken these into account in coming to my decision.

Main Issues

6. In light of the above, the main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the existing building and surrounding area;
- Whether there are other considerations weighing in favour of the proposal; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

7. The proposal would extend and convert the former piggery building adjacent to Owl Meadow along with the adjacent silo into residential use. The extensions would result in two of the four walls of the building being removed and the building extending outwards on those sides. In doing so, it would be necessary to remove and replace the roof with a taller roof. Openings would be created in the remaining two walls in different locations to the existing openings in order to provide windows and doors into the building, including access to the silo that would be converted into a bathroom, even in the revised scheme. New floors would need to be created throughout, and the silo would be removed and replaced to enable new footings to be created.
8. Although the existing building is of permanent and substantial construction, it is clear that very great alterations would take place to the building in order to provide the amount of accommodation proposed, with little of the original building remaining following the works. Given those changes, I consider that so little of the original building would be retained that the resulting building would, effectively, be a new building. As the last lawful use of the building was for agricultural purposes, it cannot be considered previously developed land as defined by the National Planning Policy Framework (the Framework).
9. Policy GB2 of the Chiltern District Local Plan (LP) confirms that most development in the Green Belt is inappropriate and that there is a presumption against such development. This reflects the Framework that confirms new buildings should be considered inappropriate within the Green Belt. Both of those policies provide a number of exceptions. These include extensions that do not result in disproportionate additions over and above the size of the original building, although Policy GB2 of the LP limits this to dwellings, and the re-use of buildings that are of permanent and substantial construction, subject to detailed criteria in Policy GB11 of the LP. Rebuilding, providing the new building is in the same use and not materially larger than that it replaces is also an exception, although limited to dwellings in Policy GB2 of the LP. In addition, the Framework includes an exception relating to the redevelopment of

previously developed sites that would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

10. As I have concluded that the proposed development would comprise a new building, I do not consider it is necessary to consider the proposal against policies relating to the extension or re-use of buildings within the Green Belt as set out in Policies GB2 and GB11 of the LP, or the Framework. As the replacement building would be in a new use, it cannot comply with the exception relating to replacement buildings. The site does not comprise previously developed land, so it cannot benefit from the provision within the Framework in relation to the redevelopment of previously developed sites.
11. Consequently, I conclude that the proposed development would comprise inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt. It would result in encroachment into the countryside, one of the five purposes of the Green Belt. As a result, the proposed development would conflict with Policies GB2 and GB11 of the LP as well as the Framework.

Openness

12. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, openness is one of the essential characteristics of Green Belts.
13. Whilst there is some disagreement as to the increase in size of the building, the floor space would be over 40% larger than the existing building and the ridge height of the roof would be increased. This would result in a significant increase in the size of the building that would affect the openness of the Green Belt in this location.
14. To the rear of the dwelling it is proposed to construct a substantial amount of decking to provide accessible outside amenity space, along with a substantial driveway to the front of the dwelling. In addition, there would be a variety of domestic paraphernalia associated with the use of the dwelling. I note that the amount of decking could be reduced or the deck deleted by condition should I consider that necessary. Nevertheless, the extent of the decking and driveway, in addition to that domestic paraphernalia, would further contribute to the harm to the openness of the Green Belt.
15. The building is located within a small opening surrounded by mature trees and hedges. As a result the building, along with the decking, driveway and other domestic paraphernalia, would not be readily visible from outside the site, particularly when leaves are on the trees, except through the existing access. In addition, the proposed extensions would be to the rear of the building and to the side furthest from the existing access and the driveway and decking would be at ground level. No changes are proposed to the means of enclosure of the property. As a result, the visual impact of the proposed development would be modest.
16. The openness of the Green Belt, however, has a spatial as well as a visual aspect and I conclude that the extent of the combined extensions, decking, driveway and domestic paraphernalia would reduce the openness of the Green

Belt in this location. As a result, it would be contrary to Policy GB2 of the LP and the Framework that seek to protect the openness of the Green Belt.

Character and appearance

17. Hog Lane is a rural lane through the countryside, with a number of buildings spread out along the road of a variety of styles and appearance. Most of these are of a traditional design that reflect the rural area, and a number of former farm buildings have been converted to residential use whilst retaining their rural character. There is a mix of materials used in the construction of these buildings, including brick and timber weatherboarding.
18. The existing barn at Owl Meadow is a utilitarian brick building with low eaves and ridge that reflects its original use as a piggery discretely located surrounded by mature trees and hedgerows. Although the essential shape of the building would remain, the appearance of the alterations proposed to the building would result in a significantly altered external appearance.
19. The additional windows proposed include substantial new glazing in a different location to the existing windows and doors. Much of the new glazing proposed would be full height windows and doors. The revised drawing submitted with the appeal reduces the amount and size of glazing. Nevertheless, the amount of glazing proposed would result in a significantly more domestic appearance to the building that would considerably alter its character.
20. The driveway would be constructed of materials that reflect this rural area. Nevertheless its extent, along with the decking and other domestic paraphernalia, would further contribute to the domestic character and appearance of the proposed development.
21. In addition, the walls and roof would be clad in charred cedar. This would reflect the weatherboarding on a number of surrounding buildings and, although different from the existing brick, would not appear out of place in this rural area. However, that would not materially reduce the domestic appearance arising from the extent of glazing proposed and the decking, driveway and other domestic paraphernalia that contrasts with the more rural appearance of the existing building and the character and appearance of the surrounding area.
22. For these reasons, I conclude that the proposed development would harm the character and appearance of the existing building and surrounding area. As such, it would be contrary to Policy CS20 of the Core Strategy (CS) and Policy GC1 of the LP that require a high standard of design that relates well to the characteristics of the site and reflects and respects the character of the surrounding area.

Other considerations

23. A number of other matters have been drawn to my attention, including relating to the personal circumstances of the appellant. I confirmed at the hearing that I would not be referring in detail to this information in my decision. Suffice to say that the requirements of the appellants include access throughout the dwelling for multiple wheelchair users. This includes considerations relating to the height of windows and storage, and the width of openings and passageways. Owl Meadow is occupied by close family members and was also

designed to meet the needs of multiple wheelchair users, such that this location would enable a degree of mutual care.

24. The dwelling would be custom built, designed to meet the present and future needs of the appellants and their family, and would be the minimum size necessary to meet those needs. The appellants' evidence at the hearing was that the proposed dwelling would meet their requirements in a convenient location and may reduce their potential burden in terms of needing care in the future. They have been searching for a suitable property for some time in the surrounding area, but homes to meet their requirements are unusual. Consequently, whilst I am sympathetic to the benefits of the mutual support available in this location, it has not been demonstrated that such close proximity is essential, and this affects the weight I am able to attach to this factor.
25. Local and national policies support people to remain in their own homes and be cared for there for their whole lifetime. Planning Practice Guidance promotes access and inclusion, including accessibility and wheelchair housing standards. The proposed development would exceed the Nationally Described Space Standard, which acknowledges that the minimum size is not adequate for wheelchair housing as additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households. The dwelling would have an energy efficient construction and has been designed to provide an energy efficient home. These matters would result in this dwelling contributing to the choice of high quality housing in the vicinity.

Conclusion

26. I have found that the proposed extension and conversion of the barn at Owl Meadow would be inappropriate development that harms the openness of the Green Belt and it would harm the character and appearance of the existing building and surrounding area. The proposed development would meet the specific needs of the appellants and their family and be energy efficient such that this provision, especially given the lack of suitable specialist housing in the locality, would contribute to choice in the district. Those matters carry considerable weight in the planning process. However, that needs to be balanced with the substantial harm to the Green Belt by reason of inappropriateness, and the significant harm to the character and appearance of the area. The Framework confirms that the fundamental aim of Green Belt policy includes keeping land permanently open and the purposes of the Green Belt include safeguarding the countryside from encroachment.
27. Taking those factors into account, I conclude that the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policies GB2 and GB11 of the LP and the Framework that seek to protect the Green Belt from inappropriate development.
28. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|-----------------|-----------|
| Philippa Jarvis | PJPC Ltd |
| John Nassari | Appellant |
| Liz Nassari | Appellant |
| Andri White | |

FOR THE LOCAL PLANNING AUTHORITY:

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| Jo Richards MSc | Chiltern District Council |
| Ian Severn | Planning Officer, Chiltern District Council |

DOCUMENTS SUBMITTED AT THE HEARING:

- Document 1: *John Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466
- Document 2: Department for Communities and Local Government Technical Housing Standards – nationally described space standard



Appeal Decision

Site visit made on 4 December 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 9th January 2018

Appeal Ref: APP/X0415/W/17/3180275

1 Shrimpton Close, Knotty Green, Bucks HP9 2AZ

- 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 and Mrs A Varcoe against the decision of Chiltern District Council.
 - The application Ref CH/2017/0450/FA, dated 10 March 2017, was refused by notice dated 5 May 2017.
 - The development proposed is subdivision of plot and erection of new detached dwelling, served by new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is located on the corner of Shrimpton Close and Mynchen Road. These roads form part of a larger estate characterised by chalet style dwellings. Although many properties within the estate have been extended and updated, and walls, fences and hedgerows abut parts of the highway, I observed that the area has a largely uniform appearance of dwellings in an open and spacious setting. Although enclosed by a tall hedgerow, the appeal site on this prominent corner makes an important contribution to this character.
4. Policy GC1 of the Adopted Chiltern District Local Plan 1997 including Adopted Alterations 2001 (ACDLP) requires development to be of a high standard of design and acknowledges that design includes both the appearance of the development and its relationship to its surroundings. Amongst other matters, this policy states that development should be in accordance with the siting of any existing adjoining buildings and if fronting a road, the scale and alignment of the road in which they are to be located. Policy H3 of the ACDLP and Policy CS20 of the Core Strategy for Chiltern District (CS) have similar aims requiring development proposals to be compatible with the character of the surrounding area and those features which contribute to local distinctiveness.
5. The new dwelling would be of a design that would respect the established character and appearance of the area, and its siting and design in relation to Shrimpton Close would respect these matters also.

6. However, the new dwelling would be set forward of nearby development on Mynchen Road, and its side elevation facing this road would be at odds with the front facing dwellings nearby. Whilst the mature landscaping is shown to be retained, and would go some way to soften the visual impact of the dwelling, I consider that the tall gable feature would be a prominent, dominant feature in the street scene. The proposal would result in an incongruous feature on this largely open corner site which would significantly reduce the spacious qualities of the area and have a harmful effect upon its character and appearance.
7. The appellants have drawn my attention to the Council's Chiltern Townscape Character Assessment (TCA). Within this document the appeal site is identified as being within Area 3 Mynchen Road Residential Area where medium and small-scale development could potentially be accommodated. The area was assessed as having moderate sensitivity, with no special qualities desirable to safeguard. Whilst noting these matters paragraph 13.4.15 of the document makes it clear that although the principle of development is acceptable, this is subject to appropriate siting, design and mitigation.
8. In this case I have found that the siting of the new dwelling and its appearance from Mynchen Road would be harmful to the character and appearance of the area. Both the policies of the development plan referred to above and the National Planning Policy Framework (the Framework) place importance on good design and the need to take account of the different roles and character of different areas. The appeal proposal, for the reasons given, would fail to achieve this. The reference to the area having no special qualities in the TCA does not lead me to conclude differently.
9. I therefore conclude that the proposal would be harmful to the established character and appearance of this attractive area, which would be in conflict with the aims of ACDLP Policies GC1 and H3, CS Policy CS20, and the design and character core planning principles of the Framework.

Conclusion

10. For the above reasons, and regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR



Appeal Decisions

Site visit made on 27 November 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 21st December 2017

Appeal Ref: APP/X0415/W/17/3181798

9 Berkeley Avenue, Chesham, HP5 2RN

- 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 and Mrs Turner against the decision of Chiltern District Council.
 - The application Ref CH/2017/0480/FA, dated 15 March 2017, was refused by notice dated 24 July 2017.
 - The development proposed on the appeal form is described as "Erection of a new dwelling on land at 9 Berkeley Avenue with pedestrian access".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling with pedestrian access at 9 Berkeley Avenue, Chesham, HP5 2RN in accordance with the terms of the application, Ref CH/2017/0480/FA, dated 15 March 2017, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Turner against Chiltern District Council. This application is the subject of a separate Decision.

Procedural matters

3. The development description on the application form does not correspond with the decision notice or appeal forms and also does not accurately describe the proposed development. I have as a consequence used the description shown on the appeal form and am satisfied that this has not prejudiced the interests of any party.
4. The Council and appellant state that the plans were amended during the formal application. For the avoidance of doubt and in view of the fact that there does not appear to be any dispute between the Council and appellant on this matter, I have proceeded on the basis that the plans under consideration in this appeal are Drawing Nos GA.01 Rev G, GA.02 Rev J, GA.03 Rev I and GA.04 Rev J and am satisfied that this has not prejudiced the interests of any party.
5. The appellant has drawn my attention to 3 previous appeals¹ for residential development at the site. However, because these are not directly comparable to the current proposal in terms of design, scale, form, access, parking and siting, I have given them limited weight in my assessment. In any event, I must consider the appeal scheme on its own merits.

¹ APP/X0415/A/08/2087026 dated 20 April 2009, APP/X0415/A/12/2173291/NWF dated 10 September 2012 and APP/X0415/W/15/3140559 dated 27 April 2016

6. The Council has referred to a Waste Management Planning Advice Note prepared for Chiltern District Council and Wycombe District Council. Although helpful to prospective applicants, it has not been adopted as a supplementary planning document and I am not aware of it being subject to public consultation. I have accordingly given it limited weight in my assessment.
7. Although the Council has referred to Policy TR15 of the Local Plan² in its appeal statement, this was not included in the reason for refusal. However, this policy is not in any event applicable to the proposal as it relates to the design of new car-parks and parking areas in developments, which are not proposed in the current scheme.

Main issue

8. The Council has raised no concerns regarding: (a) the design, form and scale of the dwelling; (b) its impact upon the living conditions of neighbouring occupiers; and (c) the lack of off-road parking facilities and the resultant impact upon the local highway network. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issue is living conditions for future occupiers of the dwelling, with specific regard to:
 - its proximity to the bin collection point
 - its proximity to on-street parking
 - privacy
 - whether it would be accessible, particularly to those with disabilities and meet 'Lifetime Homes' standards.

Reasons

Appeal site context

9. The appeal site is laid to grass and forms the south-eastern half of the rear garden to No 9 Berkeley Avenue, a mature bungalow that has been extended into its roof space. Berkeley Avenue is characterised by grass verges, street trees and mature 2-storey detached and semi-detached houses, chalet bungalows and bungalows. A large proportion of dwellings on the street have off-road parking within their curtilage.

Living conditions for future occupiers

10. The Council states that on-road parking would not be conveniently located for future occupiers as it would be too far away from the proposed dwelling. However, even if the dwelling was nearer the road, there is no guarantee that its occupants would benefit from close proximity to their parked vehicles due to it being a public highway with unrestricted parking. In any event, based on the evidence before me and my observations on-site, I do not consider the highway to be so congested with parked cars that future occupiers would have to regularly travel long distances to find a space. I am as a consequence satisfied that any vehicles parked on the road would be in reasonable proximity to the proposed dwelling and not harm the living conditions of future occupiers.
11. The Council states that the bin collection point would be at least 40 metres from its storage area and that the development would as a consequence fail to accord with

² Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011

the guidance contained in the Council's Waste Management Planning Advice Note and the Manual for Streets³, which both make reference to a 25 metre standard. However, given the broadly level nature of the site and that household waste would only have to be carried to the collection point once a week, I would not consider the additional 15 metres to be so inconvenient to future occupiers as to harm their living conditions.

12. Further concerns are raised by the Council that No 4 Dorney End ('No 4') would compromise the privacy of future occupants of the dwelling, by reason of overlooking from its rear elevation. However, No 4 does not directly face the rear elevation and garden of the proposed dwelling, and any views from it are primarily towards its own garden. Furthermore, the proposed dwelling would have no roof lights or dormer windows to its south-west (side) or south-east (rear) elevations that would otherwise be easier to see into from the rear elevation of No 4. I am as consequence satisfied that future occupants of the dwelling would benefit from a satisfactory level of privacy.
13. The Council also states that despite the dormer window to No 9b Berkeley Avenue being connected to a non-habitable room, that it would create a perception of overlooking that would be harmful to the living conditions of future occupiers. However, in view of this window being faced with obscure glass, I am satisfied that such a perception would be unlikely, but even if this did occur, that it would not be sufficient to warrant refusal.
14. The Council states that the proposal would not comply with Policy CS20 of the Core Strategy as it has not been designed in accordance with 'Lifetime Homes' principles. However, this policy merely states that the Council will 'encourage' new dwellings to be designed to this standard and hence it is not a mandatory requirement. Furthermore, the proposed development would be accessed via a broadly level gradient from the highway and all its living accommodation, save for one bedroom and an ensuite bathroom or store room, would be at ground floor level. In view this, I have concluded that the scheme would be user friendly and highly accessibility to those with disabilities.
15. In view of the above, I have concluded that the development would function well as a residential dwelling and not be harmful to the living conditions of future occupiers. The proposal would as a consequence comply with Policies GC1 and GC3 of the Local Plan and Policy CS20 of the Core Strategy⁴, which cumulatively seek, amongst other things, to ensure good standards of amenity and accessibility for future occupiers of new development.
16. The Council states that the development would result in environmental harm as a consequence of its poor functionality for future occupiers and therefore fail to comply with the Framework's⁵ definition of sustainable development. However, for the reasons identified above, I am satisfied that the development would result in a good standard of amenity for future occupants and integrate well into its built environment and therefore comply with Paragraphs 17 (bullet point 4) and 61 of the Framework.

³ Paragraph 6.8.9 of the Manual for Streets, Department for Communities and Local Government and Department for Transport, 2007

⁴ Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

⁵ National Planning Policy Framework, Communities and Local Government, March 2012

Other matters

17. I note the Council's concern in respect of potential precedent, but each proposal must be considered on its own merits. In any case, I have concluded that the scheme complies with the relevant development plan policies.
18. Representations have been made that the development would harm the living conditions of neighbouring occupiers at No 4 by reason of it being visually overbearing. However, I am satisfied that this would not be the case as it would be of a similar height to the adjacent property at No 9b Berkeley Avenue and be set approximately 2.4 metres inside the boundary with No 4, which would as a consequence minimise its visual impact.
19. Representations have been made that the development would harm the living conditions of neighbouring occupiers at No 9b Berkeley Avenue by reason of loss of light and a reduction in sunlight received by its solar panels. Whilst I acknowledge that the development would interrupt some direct sunlight to No 9b late in the day because of its position to the west of this dwelling, I am satisfied that this loss would be minimal and not cause sufficient harm to warrant refusal.
20. Further representations have been made that the development would compromise the privacy of neighbouring occupiers at No 4, Nos 9b and 11 Berkeley Avenue and Nos 3 to 9 Berkeley Close. However, I am satisfied that because of the intervening distances involved and the orientation of the proposed dwelling's first floor bedroom window, that the development would not result in any significant overlooking of the above properties or their rear gardens.
21. Representations have also been made that the development has no off-road parking spaces, which would result in additional on-road parking to the detriment of highway safety. However, the Council and Local Highway Authority did not raise any concerns in respect of this and I see no reason to take a different view given the good highway visibility I observed at my site inspection.
22. Concerns have been raised by third parties about the lack of access to the site by emergency vehicles. However, I am satisfied that there would be adequate pedestrian access for paramedics, who could if necessary transfer patients to an ambulance on the highway by wheelchair or stretcher. In terms of access by fire engines, the scheme would be required to comply with the Building Regulations, which is a separate regulatory process. However, given the site's close proximity to the road and the lack of any objections from the Local Fire Authority, I am satisfied that suitable access to the site could be achieved by the fire service in the event of an emergency.
23. Representations have also been made that the location of the dwelling's new patio area would erode the peace and quiet enjoyed by neighbouring occupiers in their rear gardens. However, I am satisfied that the level of noise generated by future occupants would be consistent with the surrounding residential area and that any significant disturbance could be suitably controlled under other legislation.

Conditions

24. The Council has suggested conditions which I have considered in the light of the Framework and National Planning Practice Guidance. I have made some small amendments to clarify certain details and ensure the development is acceptable. A condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. Given the need to successfully integrate the development into the local environment and ensure a satisfactory surface that minimises noise, a condition relating to external materials

and surface materials is necessary. A condition has also been proposed to ensure that the boundary treatment shown on the approved plans is installed prior to occupation to protect the living conditions of future and neighbouring occupiers.

25. Furthermore, given the development's close proximity to other dwellings, I consider there to be adequate justification to remove permitted development rights for all extensions, alterations, roof extensions and roof alterations to the dwelling. A condition has also been imposed for details of ground floor levels to minimise its visual impact upon the surrounding area and protect the living conditions of neighbouring occupiers. However, in view of the plot being screened from the public realm, I do not consider it necessary for a condition to be imposed for a bin storage enclosure.

Conclusion

26. I have concluded that the proposal accords with the development plan and would provide adequate living conditions for its future occupiers. In view of this and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:- Drawing nos. GA.01 Rev G, GA.02 Rev J, GA.03 Rev I and GA.04 Rev J.
- 3) No development shall take place until samples of all external facing materials and surface materials for the pedestrian access have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved levels.
- 5) The dwelling hereby permitted shall not be occupied until the boundary treatment shown on approved drawing no. GA.02 Rev J has been installed.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external alterations, extensions, roof extensions, roof windows or roof lights (aside from that shown on the approved plans) shall be installed or constructed on any part of the dwelling hereby approved without the specific grant of planning permission.

End of schedule



Costs Decision

Site visit made on 27 November 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 02nd January 2018

Costs application in relation to Appeal Ref: APP/X0415/W/17/3181798 9 Berkeley Avenue, Chesham, HP5 2RN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Turner for a full award of costs against Chiltern District Council.
 - The appeal was against the refusal of planning permission for the erection of a new dwelling on land at 9 Berkeley Avenue with pedestrian access.
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Preliminary matter

1. The Council and appellant have confirmed that Councillor MacBean is the subject of a separate complaint under the Council's formal complaint process. This is a separate matter between the parties.

Decision

2. The application for an award of costs is refused.

Reasons

3. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The application for costs is based on the appellant's view that:- (a) Councillor MacBean behaved unreasonably in calling in the application and contributing to the Planning Committee debate given their friendship with a neighbouring objector; and (b) Council Members gave vague, generalised and inconsistent reasons for refusal, contrary to the recommendation of Council Officers.
5. The Planning Practice Guidance indicates that Councils will be at risk of an award of costs being made against them if they do not behave reasonably in relation to procedural matters at appeal¹. It also states that Councils will be at risk as a result of the way applications are processed if they fail to determine them within the time limits without giving the applicant a proper explanation for any delay². Although an application for costs may relate to events before the appeal, the Planning Practice Guidance states that costs unrelated to the appeal are not eligible for an award³.
6. Given that the appellant's grounds for a procedural award do not relate to the time taken to determine the application and are not based on the processing of the appeal, I have concluded that a full award of costs would not be justified on this

¹ Paragraph: 047 Reference ID: 16-047-20140306

² Paragraph: 048 Reference ID: 16-048-20140306

³ Paragraph: 032 Reference ID: 16-032-20140306

- basis. However, even if the Planning Practice Guidance did permit an award of costs to be based on procedural matters at a Planning Committee meeting, there is no evidence before me that Councillors are not allowed to call-in applications despite their friendship with neighbouring objectors. In view of this, and the number of objections made by third parties, I am satisfied that there were reasonable planning grounds upon which to call-in the application.
7. Furthermore, Councillor MacBean declared a personal interest in the application at the start of the Planning Committee meeting⁴. This declaration was not described as a prejudicial interest in the minutes and there is no evidence before me that Councillor MacBean was required to exclude herself from the meeting in accordance with the Council's constitution or code of conduct for Members. In view of this, I have no reason to conclude that the decision was not lawfully made in accordance with the relevant procedures for Planning Committee and rules governing Member conduct. In any event, the final decision was reached collectively by all Planning Committee Members and not just Councillor MacBean.
 8. The Planning Practice Guidance also indicates that Councils will be at risk of an award being made against them if, amongst other things, they fail to produce evidence to substantiate each reason for refusal and/or the reasons given are vague, generalised or inconsistent⁵.
 9. Although the appellant states that overlooking of the proposed dwelling from No 4 was not referred to in the previous appeal⁶, I am not of the view that this demonstrates inconsistency as that scheme was not directly comparable to the current proposal in terms of design, scale, form, access and parking. Furthermore, the amenity of future occupiers of the proposed chalet bungalow was not considered to be a main issue in the previous appeal (unlike the present case) and so the Inspector did not make any reference to it in their written assessment.
 10. The appellant states that the Council did not provide any evidence of harm in relation to distance between the bin storage and bin collection points and that there was no policy basis to support this. However, I am satisfied that the 25 metre standard sought by the Council in accordance with its Waste Management Planning Advice Note and the Manual for Streets⁷ was clear and justified. I am also satisfied that there was a sufficient policy basis for the Council to refuse the scheme on these grounds as Policies GC1 and GC3 of the Local Plan⁸ collectively refer, amongst other things, to the need to achieve good standards of amenity for future occupiers and that planning permission will be refused where these are impaired. Although it will be seen from the appeal decision that I disagree with the grounds upon which the Council refused the application, I am nonetheless satisfied that it was able to substantiate these in its reason for refusal.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Robert Fallon

INSPECTOR

⁴ Minutes of the Planning Committee meeting held on 20 July 2017, Chiltern District Council

⁵ Paragraph: 049 Reference ID: 16-049-20140306

⁶ APP/X0415/W/15/3140559 dated 27 April 2016

⁷ Paragraph 6.8.9 of the Manual for Streets, Department for Communities and Local Government and Department for Transport, 2007

⁸ Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011



Appeal Decision

Site visit made on 15 December 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 9th January 2018

Appeal Ref: APP/X0415/D/17/3185507

120 Bois Lane, Chesham Bois, Bucks, HP6 6DE

- 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 and Mrs L Williams against the decision of Chiltern District Council.
 - The application Ref CH/2017/0884/FA, dated 24 April 2017, was refused by notice dated 18 August 2017.
 - The development described on the application form is "Proposed two storey side extension and replacement windows. New timber cladding to front elevation, with replacement roof tiles to main house and garage following demolition of single storey side extension".
-

Decision

1. The appeal is dismissed.

Procedural matters

2. Although the Council has referred to Policy H18 of the Local Plan¹ in its first reason for refusal, I have concluded that this is not applicable as it relates to dormer windows and the proposal is for a 2-storey side extension.

Main Issues

3. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are the effect of the proposed development on the:-
 - character and appearance of the host building and surrounding area
 - living conditions of neighbouring occupiers, with specific regard to No 118 Bois Lane ('No 118').

Reasons

4. The appeal site contains a mature 2-storey detached chalet bungalow set well back from the road behind the prevailing building line of neighbouring properties, which consist of a variety of architectural styles. Although it has been subject to some unsympathetic extensions and alterations, its original form is still legible and is characterised by its white roughcast render finish, red brick quoin-style detailing and front and rear dormer projections, which extend almost the full width of the property and have a strong horizontal emphasis.

¹ Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011

The main roof wraps around these dormer projections and extends from the ridgeline down to the eaves above ground floor level, which gives the property its chalet-bungalow character.

5. The site slopes down in an easterly direction and contains a significant number of Tree Preservation Order (TPO) protected trees². There is also a mature Laurel hedge approximately 6 metres in height to the dividing boundary between the appeal property and No 118 Bois Lane. This hedge extends from the highway at the front of the site to the rear elevation of the appeal property.

Character and appearance

6. The appellant states that the existing dwelling is not of high architectural merit or worthy of preservation in its current form and that the development would result in an overall improvement to the building, when considered cumulatively with the other proposed alterations, which include new windows, cladding, render and roof tiles. However, despite its undistinguished architectural design, I nonetheless consider it to be of a discreet scale and form that has a neutral impact upon the character and appearance of the area.
7. The proposed 2-storey extension would substantially project above the existing eaves and obliterate the continuous plane of the roof which extends from the main ridgeline down to the eaves on the eastern side of the dwelling. Furthermore, its strident 2-storey front projection, substantial flat roof and rectangular form would contrast unsympathetically with the existing front and rear dormer projections, which are of a more modest scale and set in from the roof verges, eaves and ridgeline of the dwelling (and which as a consequence reveal the existing roof plane that underpins the property's legibility as a 2-storey chalet-bungalow). The conflicting form and design of the extension would be compounded by the large patio-style doors, which would be out-of-proportion with the existing window openings to the front elevation. The development would as a consequence dominate the front and rear of the property and fail to integrate with its scale, form and design.
8. Whilst I recognise that the development would not be easily seen from the public highway because of existing landscaping and its setback, it would nonetheless be visible from directly outside the site, which would intensify the harmful impact described above. Furthermore, I cannot be certain that the existing landscaping which screens the site would be retained in perpetuity, which might further expose the scheme.
9. In view of the above, I have concluded that the development would be harmful to the character and appearance of the existing dwelling and surrounding area. The proposal would therefore conflict with Policies GC1, H13 and H15 of the Local Plan and Policy CS20 of the Core Strategy³, which collectively seek, amongst other things, to ensure that new extensions: - (a) are of a high standard of design; (b) respect the scale, proportions and detail of existing dwellings; and (c) do not harm the character and appearance of the street scene.
10. The development would also fail to comply with the provisions of the Council's Design Guide⁴, which states that extensions should link well with the existing

² Tree Preservation Order 1989 (No 11 of 1989), dated 10 February 1989, Drawing No CHB/44

³ Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

⁴ Residential Extensions and Householder Development, Supplementary Planning Document, September 2013

dwelling in terms of fenestration detail, roof style and pitch, and blend in with the street scene.

11. In view of the Framework⁵ being more up-to-date than the development plan, I have also given significant weight to Paragraph 64 of this document which states that permission should be refused for development of a poor design that fails to take the opportunities to improve the character and quality of an area.

Living conditions

12. The Council's Tree and Landscaping Officer has confirmed that because of the 1-metre gap between the extension and existing Laurel hedge, there should be no significant root damage to the latter. In view of this, I consider it unlikely that the existing Laurel hedge would be harmed by construction works, which would as a consequence enable it to fully screen the development from No 118.
13. However, despite the appellant stating that they intend to retain the Laurel hedge, I have concluded that there nonetheless remains a reasonable prospect that it could in the future be removed or reduced in height as:- (a) it might become dangerous, diseased or die; (b) I cannot be certain that it would not need to be reduced or removed for structural reasons at a later date given its close proximity to the extension and the neighbouring property at No 118; and (c) I cannot be certain that it would not be subject to a high hedge complaint by future occupiers of No 118, which might necessitate a reduction in its height. For these reasons, it would not be possible to safeguard the Laurel hedge in perpetuity or prevent it being reduced in height via planning condition as this would not comply with the test laid down in the Framework and Planning Practice Guidance relating to reasonableness. Such a condition would also fail this test as it would fetter the appellant's ability to determine which form of landscaping is appropriate in their own garden.
14. If the hedge were to be removed or significantly reduced in height, the substantial depth of its 2-storey side elevation would be clearly visible from the rear garden of No 118. Given that there is no certainty that a new hedge would be planted and grown to a similar height as that already existing to screen this, I have concluded that the development's substantial depth, 2-storey height and proximity to No 118 would harm the outlook from this property and appear visually intrusive and overbearing to its occupants.
15. Furthermore, the removal or reduction in height of the hedge would also have implications for the privacy of neighbouring occupiers at No 118. Although I am satisfied that overlooking from the side elevation windows could be restricted by a condition for obscure glazing and that there would be limited impact from the first floor rear elevation patio doors which would only allow the end of No 118's garden to be overlooked, I have concluded that the scheme would nonetheless result in a significant loss of privacy to the occupants of this property by reason of overlooking from the first floor front elevation patio doors, which would allow clear views towards the rear patio area of this property and its rear elevation windows. I would not consider it reasonable to impose a condition requiring obscure glazing to this opening as it would be the primary source of outlook from this bedroom. Although the appellant states that the existing dwelling would also result in a loss of privacy to No 118 if the hedge was removed, I would not consider this to be of the same magnitude as

⁵ National Planning Policy Framework, Communities and Local Government, March 2012

the extension openings would be considerably closer to the dividing boundary between both properties.

16. The appellant states that the inability to guarantee the perpetual existence of trees, hedges and other landscaping features is not a valid basis for objecting as no developments would ever be permitted if the trees and hedges that screen them were disregarded. However, if a development has been heavily justified on the basis of it being screened by existing or proposed landscaping, I consider it necessary to assess the likelihood of this being retained or reinstated if it were to be removed. In any event, I do not consider the screening of a development by landscaping to be a sound basis upon which to justify an otherwise harmful design as this could be repeated too easily and often for all forms of poor quality development.
17. I am however satisfied that due to:- (a) No 118 being to the south of the appeal dwelling; (b) the path of the sun; and (c) the intervening distance between the extension and rear patio area of No 118, that the development would not result in a significant loss of daylight or sunlight to this neighbouring property or its rear patio area.
18. In view of the above, I have concluded that there remains reasonable potential for the Laurel hedge to be removed or reduced in height in the future, and that the development would as a consequence be harmful to the living conditions of neighbouring occupiers at No 118 by reason of visual intrusion, loss of outlook and loss of privacy. The proposal would not therefore accord with Policies GC1, GC3, H13 and H14 of the Local Plan which collectively seek, amongst other things, to ensure that new development safeguards the amenities of residential occupiers.
19. For the same reasons, the development would also fail to comply with the provisions of the Council's Design Guide, which seeks to ensure that new extensions do not appear overbearing or intrusive to neighbours, or result in an unacceptable loss of privacy.

Other matters

20. I recognise that there have not been any objections to the scheme and that the materials would match those to be used in the alterations proposed to the rest of the dwelling. However, this does not justify the harm identified above.
21. I also note the appellant's frustrations regarding the manner in which the formal application was processed, but this has little bearing on the planning merits of the scheme before me and is a matter between the parties.

Planning balance

22. The appellant has drawn my attention to a number of other developments in support of the proposal, but these are not directly comparable in terms of scale, form, design and position in relation to neighbouring dwellings. I am also not aware of the particular circumstances where planning permission was granted for these and in any event, I must consider the appeal scheme on its own merits. The existence of these other developments does not justify the harm I have identified and nor do the private benefits to the appellant of providing additional living space at first floor level.

23. Whilst I am sympathetic to the appellant wishing to accommodate elderly relatives, I have concluded that there is insufficient evidence to demonstrate that their needs can only be met via the current scheme. I have as a consequence given these circumstances modest weight in my assessment and concluded that these would not outweigh the harm to the character and appearance of the host dwelling and surrounding area, and the living conditions of neighbouring occupiers at No 118.

Conclusion

24. I have found that the appeal proposal would be harmful to the character and appearance of the host dwelling and surrounding area, and the living conditions of neighbouring occupiers. All representations have been taken into account, but no matters, including the benefits of additional living accommodation and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR