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CHILTERN
District Council



Planning Committee (CDC)

Thursday, 22nd February, 2018 at 6.30 pm

Council Chamber, King George V House, King George V Road, Amersham

A G E N D A

- 1 Evacuation Procedures
- 2 Minutes
To sign the Minutes of the meeting held on 1 February 2018 previously circulated.
- 3 Apologies for Absence
- 4 Declarations of Interest
- 5 CH/2014/0018/FA - Windmill Farm, Windmill Hill, Coleshill, Amersham
- 6 Items for Noting
 - 6.1 Appeal Decisions
 - 6.2 Permission/Prior Approval Not Required
 - 6.3 Withdrawn Applications
 - 6.4 Information Regarding Planning Applications to be Determined
- 7 Report on Main List of Applications
Great Missenden

Recommendation: Defer-minded to approve subject to the prior completion of Legal Agreement. Decision delegated to Director of Services.

**Former Mushroom Farm, The Limes, Meadow Lane, South Heath,
Buckinghamshire, HP16 9SH**

Chesham Bois

CH/2017/1824/FA Ward: Chesham Bois And Weedon Hill Page No: 15

Recommendation: Conditional permission

Rowanlinden, 70 Long Park, Chesham Bois, Buckinghamshire, HP6 5LF

Chalfont St Peter

CH/2017/1890/FA WITHDRAWN Ward: Austenwood Page No: 25

Recommendation: Conditional permission

**Woodfield, 2 Claydon End, Chalfont St Peter, Buckinghamshire, SL9
8JX**

Penn

CH/2017/1958/FA Ward: Penn And Coleshill Page No: 31

Recommendation: Refuse permission

**Penn And Tylers Green Football Club, Elm Road, Penn,
Buckinghamshire, HP10 8LG**

Great Missenden

CH/2017/2224/FA Ward: Prestwood And Heath End Page No: 42

Recommendation: Conditional permission

1 Wrights Lane, Prestwood, Buckinghamshire, HP16 0LH

8 Reports on Alleged Breaches of Planning Control Applications

Chesham

2017/00121/AB Ward: St Marys and Waterside Page 2

Alleged Breach: Material change of use of land for the display and

storage of cars for sale.

112 Latimer Road, Chesham, Buckinghamshire, HP5 1QQ

9 Exclusion of the Public

That under Section 100(A)(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 6, Part I, of Schedule 12A of the Act.

10 Private Reports: (if any)

Date of next meeting – Thursday, 15 March 2018

Note: All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Planning Committee (CDC)

Councillors: D Phillips (Chairman)
M Titterington (Vice-Chairman)
J Burton
J Cook
J Gladwin
M Harrold
C Jones
P Jones
J MacBean
S Patel
N Rose
J Rush
C Wertheim

If you have any queries concerning public speaking at Planning Committee meetings, including registering your intention to speak, please ask for the Planning Committee Co-ordinator 01494 732950; planning@chiltern.gov.uk.

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CHILTERN DISTRICT COUNCIL

MINUTES of the Meeting of the **PLANNING COMMITTEE (CDC)** held on **1 FEBRUARY 2018**

PRESENT: Councillor D Phillips - Chairman
" M Titterington - Vice Chairman

Councillors: J Burton
M Harrold
C Jones
P Jones
J MacBean
N Rose
J Rush
C Wertheim

APOLOGIES FOR ABSENCE were received from Councillors J Cook, J Gladwin and S Patel

ALSO IN ATTENDANCE: Councillor G Harris

71 MINUTES

The Minutes of the meeting of the Committee held on 11 January 2018, copies of which had been previously circulated, were agreed by the Committee and signed by the Chairman as a correct record.

72 DECLARATIONS OF INTEREST

Councillor J Rush declared a personal interest in planning application CH/2017/2013/FA. Nature of interest – Councillor Rush was a Member of Chalfont St Peter Parish Council.

73 ITEMS FOR NOTING

RESOLVED -

That the reports be noted.

74 REPORT ON MAIN LIST OF APPLICATIONS

RESOLVED -

1. **That the planning applications be determined in the manner indicated below.**
2. **That the Director of Services be authorised to include in the decision notices such Planning Conditions and reasons for approval, or reasons for refusal as appropriate, bearing in mind the recommendations in the officer's report and the Committee discussion.**

APPLICATIONS

CH/2017/0998/FA Hunters Moon, Hill Farm Lane, Chalfont St Giles,
Buckinghamshire, HP8 4NT.

Speaking for the objectors, Mr John Aberson (Chiltern Society)

Speaking for the applicant, the agent Mr Rob Clarke

A summary of an email from Councillor J Gladwin was read out at the meeting which raised concern at the impact on the character of the Green Belt and queried whether the work was an "engineering operation" and hence whether it was, an exception to inappropriate development in the Green Belt.

It was reported at the meeting that the Officers recommended conditional permission with a condition relating to the removal of Permitted Development rights regarding fencing, the wording of that condition was read out at Committee as follows:

Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no fence, gate or any other form of boundary treatment falling within Class A of Part 2 of Schedule 2 to the said Order shall be erected or installed on the site within 10 metres of the centre of the carriageway at Hill Farm Lane for a distance of 50 metres in a south-west direction along Hill Farm Lane when measured from the northern-most boundary of the site.

Conditional Permission

CH/2017/1985/FA Seer Green Post Office, 36 Chalfont Road, Seer Green, Buckinghamshire, HP9 2YG.

Speaking for Seer Green Parish Council, Councillor Tim Norton

Speaking for the objectors, Ms Amanda Lillitou

Speaking for the applicant, Mr Michael Leslie

Permission Refused with the addition of reference to the NPPF and the loss of a valuable community facility.

CH/2017/2013/FA 28-32 Oval Way, Chalfont St Peter, Buckinghamshire, SL9 8QB

Speaking for the objectors, Mr Trevor Hatton

It was reported at the meeting by Officers that the Parish Council supported the recommendation to refuse permission and that an email had been sent to members by Mr Hatton. It was also reported by Officers that reference to apartments and age exclusive apartments on P19, paragraph 5 of the report (the words in brackets) should be deleted as it was incorrect and that reference to "comprise" in Condition 3 should read "compromise".

Permission Refused

CH/2017/2077/FA 138 Elizabeth Avenue, Little Chalfont, Amersham, Buckinghamshire, HP6 6RG

Conditional Permission

CH/2017/2160/FA 40 Long Park, Chesham Bois, Amersham, Buckinghamshire, HP6 5LA

Speaking for the objectors, Mr Richard Lea

Speaking as the applicant, Mr Asa Bridle

Conditional Permission

CH/2017/2185/FA Little Chalfont Village Hall, Cokes Lane, Little Chalfont,
Amersham, Buckinghamshire, HP7 9QB.

Withdrawn by the Applicant prior to the meeting.

The meeting ended at 8.51 pm



Former Mushroom Farm, The Limes, Meadow Lane, South Heath, Buckinghamshire, HP16 9SH



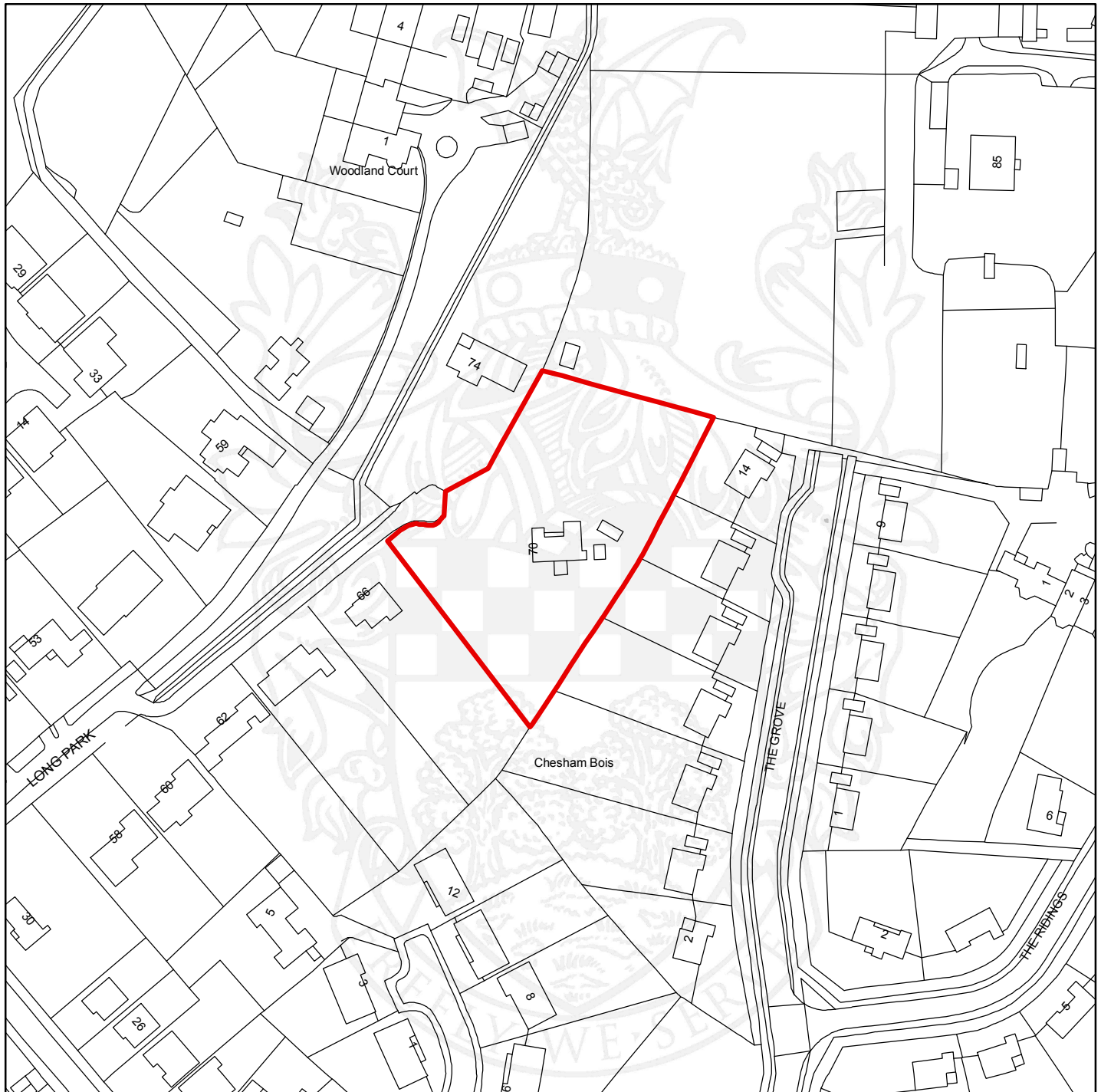
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Organisation	Chiltern District Council
Department	Planning & Environment
Comments	
Date	
SLA Number	100033578.2016



Rowanlinden, 70 Long Park, Chesham Bois, Buckinghamshire,
HP6 5LF



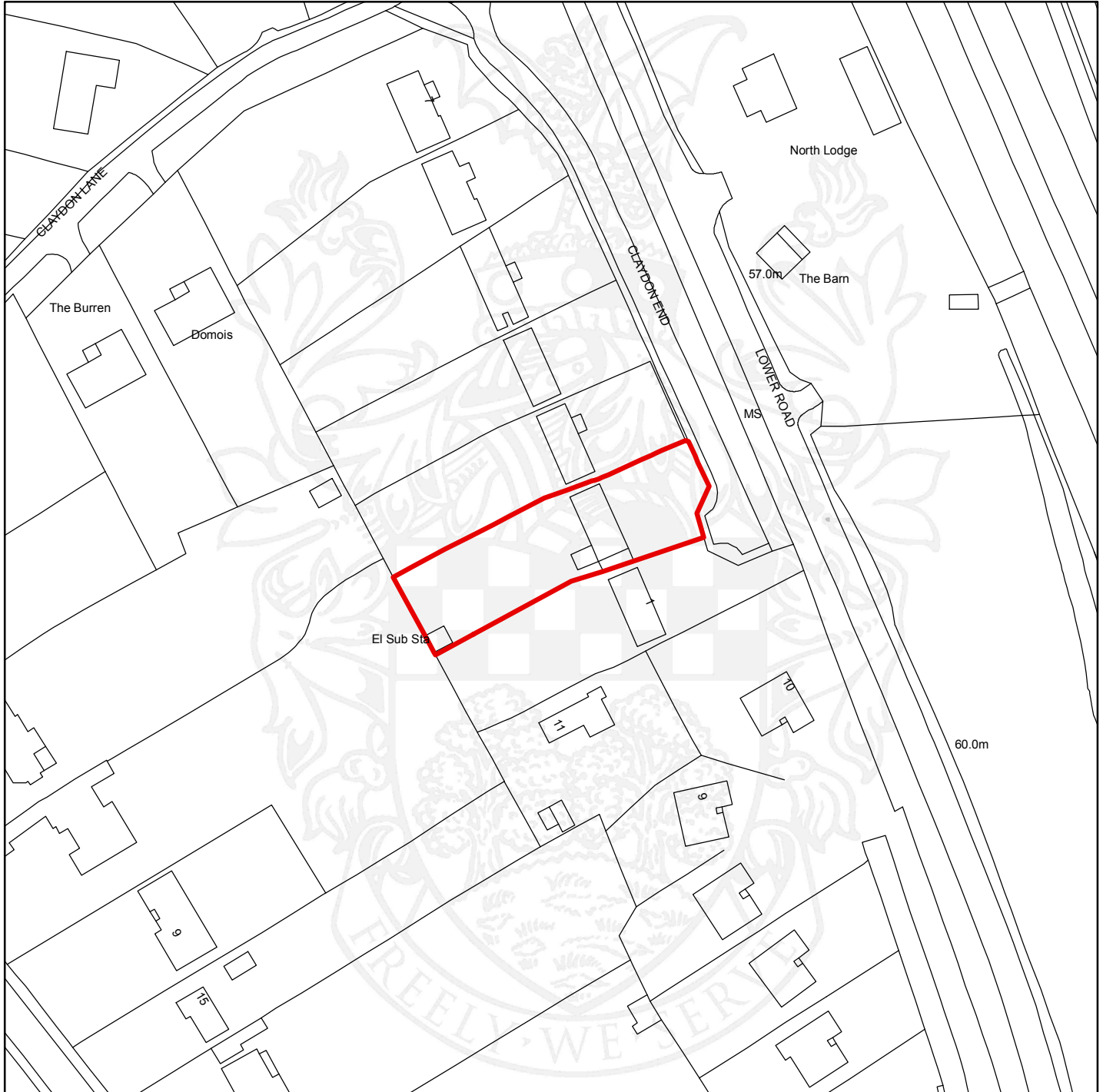
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Woodfield, 2 Claydon End, Chalfont St Peter, Buckinghamshire,
SL9 8JX



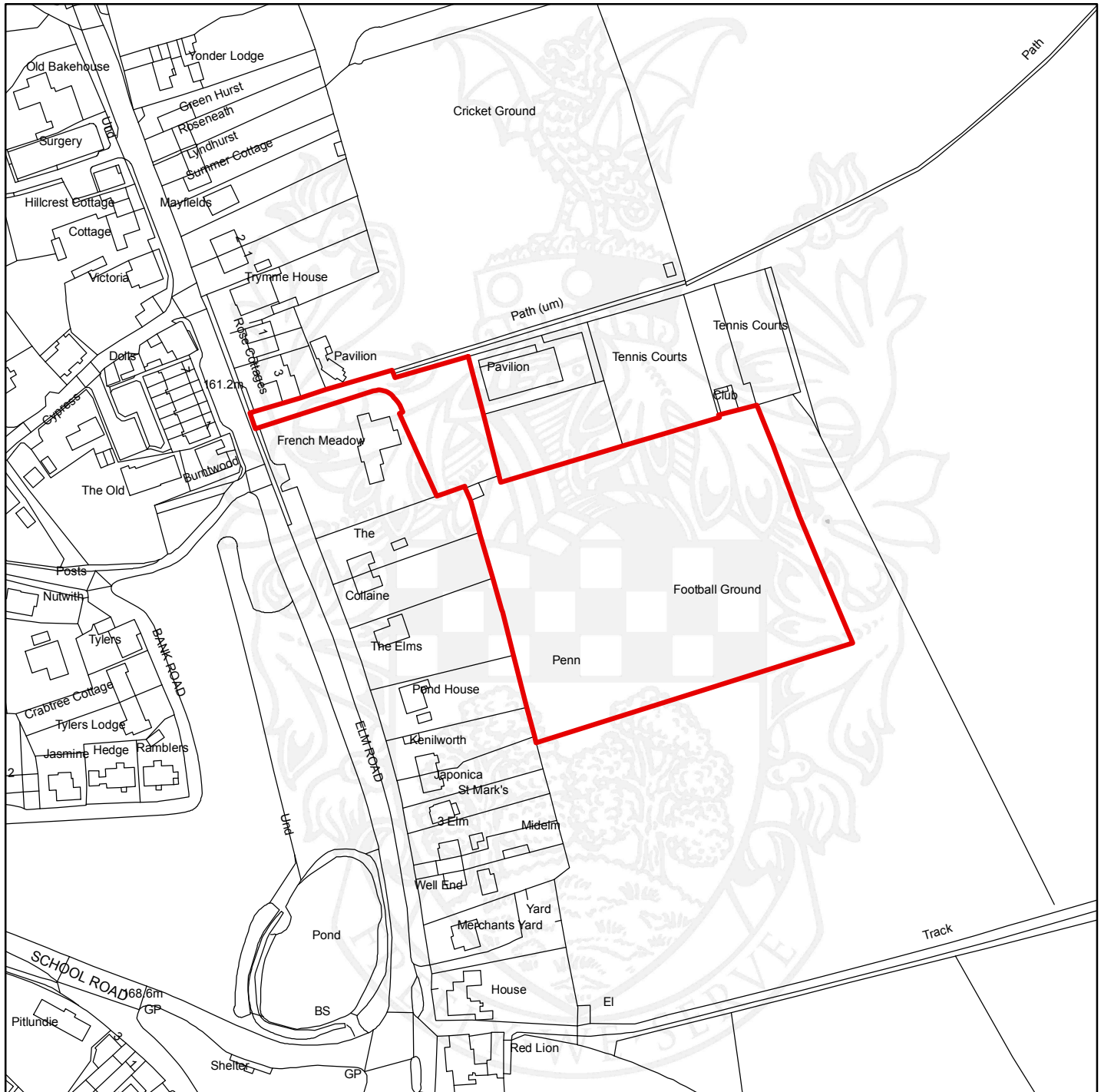
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Penn And Tylers Green Football Club, Elm Road, Penn, Buckinghamshire, HP10 8LG



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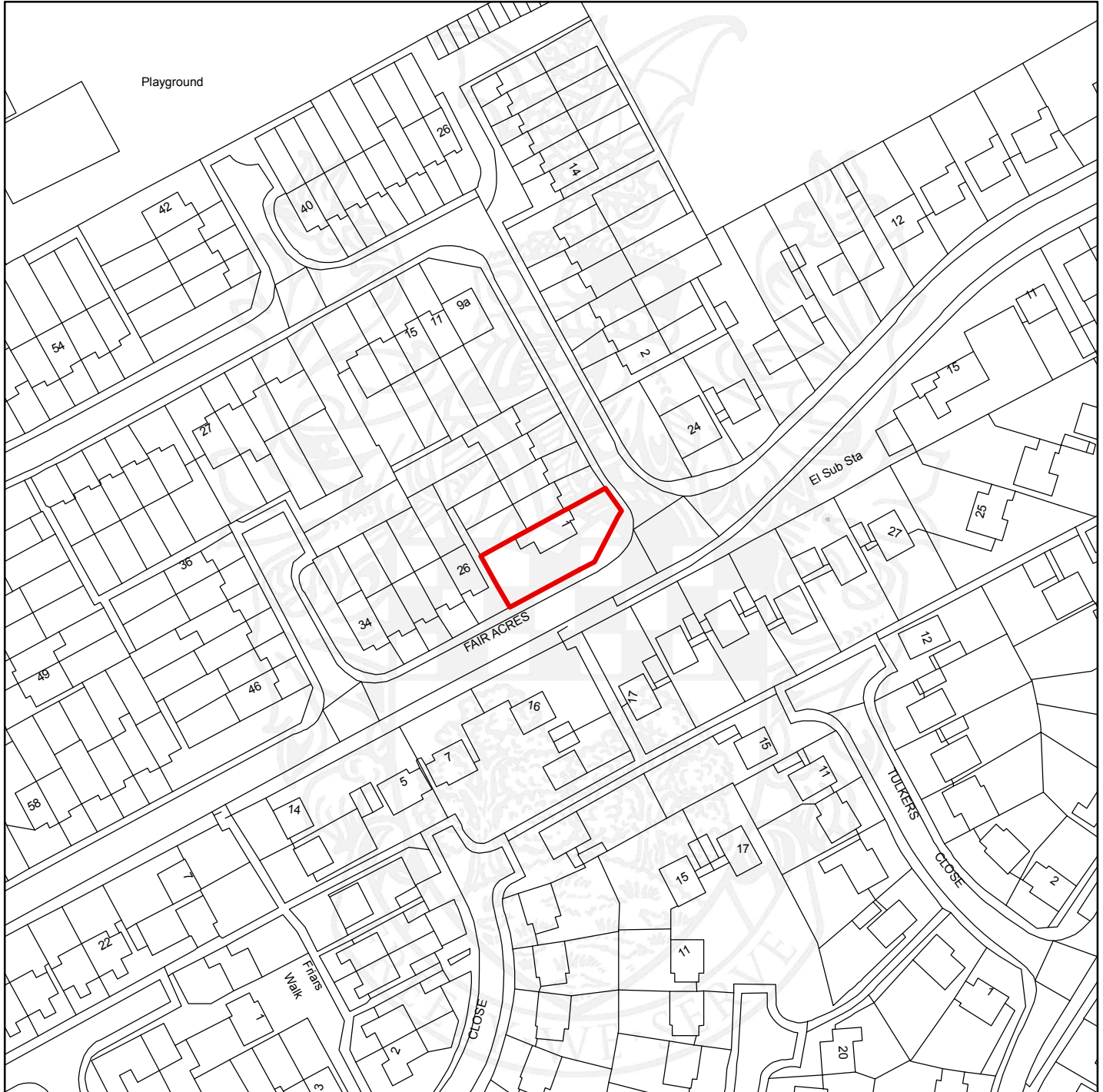
Organisation	Chiltern District Council
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Comments	
Date	
SLA Number	100033578.2016

CH/2017/2224/FA



CHILTERN
District Council

1 Wrights Lane, Prestwood, Buckinghamshire, HP16 0LH



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Organisation	Chiltern District Council
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Comments	
Date	
SLA Number	100033578.2016

PLANNING COMMITTEE – 22 February 2018

REPORT OF THE OFFICERS

Background papers, if any, will be specified at the end of each item.

AGENDA ITEM NO. 5

- 5 CH/2014/0018/FA (*Case Officer: Kirstie Elliot*)
Two storey side extension with basement level (part retrospective)
Windmill Farm, Windmill Hill, Coleshill, Amersham, Buckinghamshire, HP7 0LZ

Matter for consideration

- 5.1 This planning application was first reported to the Planning Committee on 3rd April 2014 with the recommendation to "*Defer to grant conditional permission subject to advertising the application as a departure from the Development Plan and following the completion of a Legal Agreement to cover the points set out in the report. Decision delegated to the Head of Sustainable Development*". The original Committee report is attached as **Appendix FP.1**
- 5.2 Negotiations then commenced between the applicant's solicitor and the Council's solicitor in respect of the Heads of Terms of the Legal Agreement. However by the summer of 2014 the Legal Agreement remained in dispute. As such, the application was referred back to the Planning Committee on 28th August 2014 with the recommendation that '*Members delegate the Head of Sustainable Development to refuse planning permission for the reasons set out below if the Legal Agreement has not been completed by 12th September 2014 in accordance with the original Heads of Terms. In the event of an appeal, the Head of Sustainable Development in consultation with the Head of Legal Services negotiate and enter into any Legal Agreement that is considered necessary to secure an appropriate form of development*'. This committee report is Attached as **Appendix FP.2**. The Legal Agreement was not completed by the 12th September 2014 and the application remains undetermined.
- 5.3 In August 2017 it was brought to the attention of the Council that building works had commenced at the property. A site visit confirmed that the two storey extension the subject of the undetermined planning application was being constructed to the east side of the dwelling, with the owner's understanding that the Heads of Terms of the Legal Agreement had been agreed in principle. As such, it is therefore necessary to refer the matter back to the Planning Committee to obtain delegated authority in order for the Legal Agreement to be completed and the planning permission to be granted following the completion of the legal agreement.

RECOMMENDATION

Members delegate to Director of Services, in consultation with the Head of Legal Services, to complete the Legal Agreement and to grant conditional planning permission.

(Background papers: None)

AGENDA ITEM No. 6

ITEMS FOR NOTING

6.1 APPEAL DECISIONS

CH/2016/2332/FA – Installation of four dormer windows and single roof light to front roof slope, Victoria House, Victoria Road, **Chesham**

Officer Recommendation: Refuse Permission

Appeal Decision: Appeal Dismissed (26.01.2018)

CH/2016/2334/FA – Installation of two dormer windows and single roof light to front roof slope, Victoria House, Victoria Road, **Chesham**

Officer Recommendation: Refuse Permission

Appeal Decision: Appeal Dismissed (26.01.2018)

CH/2016/2407/FA – Change of use of farm land for the stationing of 3 no. timber and canvas lodges for tourist accommodation, formation of track hardstanding and turning area, Hazeldene Farm, Asheridge Road, **Asheridge**

Officer Recommendation: Refuse Permission

Committee Decision: Refuse Permission

Appeal Decision: Appeal Dismissed (15.01.2018)

CH/2017/0402/FA – Proposed development of a stable building replacing existing field shelter, Land To The Rear Of Chiltern Road, **Ballinger**

Officer Recommendation: Conditional Permission

Committee Decision: Refuse Permission

Appeal Decision: Appeal Allowed (15.01.2018)

CH/2017/0838/FA - Demolition of existing single garage and erection of a pair of semi detached houses served by access from broombarn lane, The Green Man Public House, 2 High Street, **Prestwood**

Officer Recommendation: Conditional Permission

Committee Decision: Refuse Permission

Appeal Decision: Appeal Dismissed (17.01.2018)

CH/2017/0907/FA - Part single, part first floor and two storey front side rear extensions, replacement roof, Crawshays Cottage, Lee Clump Farm, Princes Lane, **Lee Common**

Officer Recommendation: Conditional Permission

Committee Decision: Refuse Permission

Appeal Decision: Appeal Dismissed (29.01.2018)

CH/2017/1063/FA - Erection of two semi-detached dwellings to the rear of Little Southlands, Little Southlands, Gold Hill North, **Chalfont St Peter**

Appeal Decision: Appeal Allowed (25.01.2018)

CH/2017/1362/FA - Single storey side/rear extension and front porch extension, 51 Chessfield Park, **Little Chalfont**

Officer Recommendation: Refuse Permission

Appeal Decision: Appeal Allowed (29.01.2018)

6.2 PERMISSION/PRIOR APPROVAL NOT REQUIRED

CH/2017/2006/FA - External alterations and conversion of existing games room into area for the parking of 3 vehicles, Chalfont Manor (Formally Chalfont Lodge), Nightingales Lane, **Little Chalfont**

6.3 WITHDRAWN APPLICATIONS

CH/2017/1813/EU – Application for Certificate of Lawfulness for an Existing Use relating to the use of Chiltern Equine Centre as a veterinary clinic (Use Sui Generis), Model Farm, Gorelands Lane, Chalfont St Giles

CH/2017/2185/FA - Demolition of existing buildings, erection of two-storey community centre, alteration to existing access, formation of new vehicular access and provision of cycle parking, car park, bin stores, boundary treatment and landscaping, Little Chalfont Village Hall, Cokes Lane, **Little Chalfont**

CH/2017/2277/FA - Two storey side rear extension, raised roof ridge height with velux windows to facilitate habitable accommodation in roofspace, first floor front bay windows, render finish to whole building (Amendment to Approval CH/2017/0328/FA), Westbrook, Village Road, **Little Missenden**

CH/2017/2328/FA - Single storey rear extension, additional rooflight to South West elevation, 181 Amersham Way, **Little Chalfont**

6.4 INFORMATION REGARDING PLANNING APPLICATIONS TO BE DETERMINED

Appended for your consideration are lists of applications submitted under the Town and Country Planning Act, 1990, and the Planning [Listed Buildings and Conservation Areas] Act, 1990, together with a recommendation from the Head of Planning Services. The forms, plans, supporting documents and letters of representation relating to each application are available for inspection on Public Access on the Councils Website.

Background papers for each of these planning applications, unless otherwise stated, are the application form and related letters, statements and drawings, notices, papers, consultations, and any written representations and comments received.

Reports may be updated at the meeting if appropriate, for example, where responses from consultees or further letters of representation are received.

AGENDA ITEM No. 7

REPORTS ON MAIN LIST OF APPLICATIONS

AGENDA ITEM No. 8

REPORTS ON ALLEGED BREACHES OF PLANNING CONTROL APPLICATIONS

AGENDA ITEM No. 9

EXCLUSION OF THE PUBLIC

That under Section 100(A)(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting of the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act

CH/2014/0018/FA

Case Officer: Emily Walsh
 Date Received: 06.01.2014
 Parish: Coleshill
 App Type: Full Application
 Proposal: Two storey side extension with basement level
 Location: Windmill Farm
 Windmill Hill
 Coleshill
 Amersham
 Buckinghamshire
 HP7 0LZ
 Applicant: Mr & Mrs G Nolan

Decide by Date: 03.03.2014
 Ward: Penn And Coleshill

SITE CONSTRAINTS

Article 4 Direction
 Adjacent to C Road
 Area Special Adv. Control
 Adjacent Listed Buildings
 Within Chilterns AONB
 Archaeological site
 Within Green Belt other than GB4 GB5

RELEVANT PLANNING HISTORY

CH/2007/0301/FA - One dormer window in the south and west elevations. Conditional permission. Not implemented.

CH/2010/1834/FA - Two storey side extension and construction of swimming pool. Refused permission on the grounds that the proposed two storey extension would have appeared overly prominent and intrusive within the landscape, eroding the open and rural character of the Green Belt and adversely affecting the high scenic quality of the locality. In addition, the proposed two storey extension would have had a detrimental impact upon the setting of the Grade II listed windmill. Dismissed at appeal. A copy of the Appeal decision is attached as *Appendix A*.

CH/2011/0371/SA - Application for a Certificate of Lawfulness for a proposed operation relating to the conversion of an outbuilding to residential accommodation. Certificate granted.

CH/2011/0395/FA - Construction of swimming pool. Conditional permission. Not implemented.

CH/2011/0479/FA - Two storey side extension. Application withdrawn.

CH/2011/1422/FA - Construction of vehicular access, laying of associated hardstanding and erection of gate. Conditional permission. Not implemented.

CH/2011/1584/FA - Part two storey, part single storey side/rear extension incorporating alterations to roof of existing two storey side projection and alterations to steps and hardstanding with associated alterations to ground levels. Conditional permission. Not implemented.

CH/2012/0018/FA - Two storey extension to western elevation and alterations to land levels. Refused permission. Dismissed at appeal. The Inspector determined that the proposal would have harmed the character and appearance of the application property and the setting of the listed windmill. A copy of the Appeal decision is attached as *Appendix B*.

CH/2012/0498/FA - Part two storey, part single storey side/rear extension incorporating alterations to roof of existing two storey side projection and alterations to steps and hardstanding with associated alterations to ground levels (amendment to planning permission CH/2011/1584/FA). Conditional permission. Not implemented.

CH/2012/1387/FA - Two storey extension to western elevation and alterations to land levels. Conditional permission. Not implemented.

CH/2012/1820/SA - Application for Certificate of Lawfulness for a proposed operation relating to the erection of a single storey extension to the south western elevation of an existing dwelling. Certificate granted.

CH/2012/1821/SA - Application for Certificate of Lawfulness for a proposed operation relating to the erection of a two storey extension to northern elevation of existing dwelling. Certificate refused.

CH/2012/1822/SA - Application for Certificate of Lawfulness for a proposed operation relating to the erection of a detached garage/storage building. Certificate granted.

CH/2014/0189/FA - Part two storey, part single storey side/rear extension to north west elevation and south west elevations, incorporating basement linked to existing underground chamber. Pending consideration.

CH/2014/0211/FA - Two storey south/rear extension, two storey west/side extension, incorporating link basement and 5 dormer windows. Pending consideration.

THE APPLICATION

The application proposes a two storey side extension with basement.

The extension would measure a maximum of 6.7 metres in width by 6.8 metres in depth, with a hipped roof with a maximum height of 7 metres. The extension incorporates a basement, measuring 5.3 metres in width by 6.1 metres in depth.

PARISH COUNCIL

The Parish Council does not wish to object to this application. Preservation of existing views of the windmill from Windmill Hill is key and the application, by stepping down the ridge height and slightly inseting the façade of the extension, would seem to achieve this. The exercise of the applicants' permitted development rights, on the other hand, would completely obscure the windmill. We should also like to reiterate a point we have made when commenting on earlier applications for this property. There is an existing approved application allowing the construction of a new entrance off Windmill Hill and into the property's garden. This permission was granted in order to allow builders' vehicles to park off the road while construction work is going on. We think that is entirely sensible in order to minimize inconvenience to other villagers but would wish you to ensure that this entrance and the associated track over the verge are indeed used simply for the temporary purpose described and the hedge and verge are restored to their previous condition after completion of the work. (Officer note: Planning permission reference CH/2011/1422/FA granted permission for a new vehicular access. The submitted Design and Access Statement stated that this access would be used by contractors during construction works on the permitted swimming pool, however it did not specify that this access would be blocked up after completion of the works. The Council did not consider it necessary to condition that the access be blocked up after the completion of the works, and therefore if the planning permission for the vehicular access is implemented there is no mechanism to ensure that the hedge and verge are restored to their previous condition after completion of the works)

REPRESENTATIONS

A Planning Statement, incorporating a heritage statement, has been submitted with this application.

Head of Health and Housing:

Our historical records indicate the presence of a historical mill within the vicinity of the application site. Therefore, a land quality informative should be included in any permission granted.

One letter of support received, stating the following:

- The application is sensitive to the visibility of the windmill, to the area of outstanding natural beauty and to the village community. We see no grounds for objecting to this application.

The applicant's agent has submitted written confirmation during the course of the application that the applicant would be willing to enter into a Legal Agreement (the content and need for a Legal Agreement is covered in detail in the report below).

CONSULTATIONS

District Historic Buildings Officer:

This application re-visits the impact of extensions to Windmill Farm on the significance of the Grade II listed windmill now in the grounds of Grove Mill. The windmill is significant for its architectural interest as a brick tower mill of 1856, with timber cap and sails recently refurbished, and for its historic interest in providing evidence of a past way of life, relating to past agricultural practice and to the livelihood and well-being of the historic rural hill-top settlement at Coleshill. The dwelling at Windmill Farm forms part of the setting and experience of the windmill, standing between it and the road, with public views down the current driveway revealing the north front of the house with the windmill standing tall beyond. This view is currently the best view of the windmill as seen from the village. There are further views of it from the road to the south east of the house, and these could well become more open if the access approved by CH/2011/1422/FA is implemented, but they are currently partially blocked by boundary structures, hedging and trees. From both viewpoints the house at Windmill Farm currently contributes positively to perception of the windmill as a functional period building of modest status. I have expressed the opinion that the house is likely to have been built at a similar or slightly earlier date to the windmill, and to have had a close relationship with it, particularly given the evidence provided in the past by the applicant and by local research that the two buildings were historically owned by the same family. Map evidence points to the same conclusion, as does the fact that the access to the mill used to be via the drive/narrow yard directly along the north elevation of the house. The house was built as a simple square-plan block of middling status with a lower service wing, and I hold that it still reads as a building of appropriately modest character. When proposals for extension were subject to appeal in 2011, regarding application CH/2010/1834/FA, the Inspector's dismissal came to similar conclusions with regard to the visual relationship and the status. The Inspector noted:

"Windmill Farm may not have had a functional relationship with the listed Windmill, but it does have a visual relationship with it. It appears to date from before the construction of the Windmill in 1856 and is visible in the main remaining public view of the Windmill down the narrow yard. The relatively modest nature of the house sits comfortably with the simple form of the Windmill and the building is an important element in the setting of the listed building. Not only would the proposal slightly obstruct part of the remaining view of the lower part of the Windmill, but the transformation of the house into a much grander building would detract from the visual relationship that exists, and would have a significant detrimental impact on the setting of the Windmill contrary to the objective of saved LP Policy LB2."

I note that LB2 remains relevant, and that the Inspector's comments would have been made in the light of Planning Policy Statement 5 and the associated Practice Guidance, the main principles of which are now incorporated into Section 12 of the NPPF and the very recent National Planning Practice Guidance. Further intervening guidance on setting has been provided by English Heritage in "The Setting of Heritage Assets", 2011. This document stresses the importance of interpreting

setting in terms of its contribution to the significance of the asset/listed building, and it is for this reason that I have stressed the visual relationship and compatibility of status as above.

Windmill Farm benefits from existing permissions (CH/2011/1584/FA and CH/2012/0498/FA), so far unimplemented, to raise the height of a single-storey western addition at the road end, and to add a single storey extension above a new basement to the far east end. The depth of the lower wing could also be increased towards the rear as long as the eaves of this wing are lowered below the deeper roof span. The applicants no longer wish to implement the increase in depth of the wing or the lowering of the eaves, but propose a two-storey east end addition on the same footprint as previously approved. This two-storey addition will be just over 6 metres wide, as opposed to the 9-metre width of the addition refused in 2010 and dismissed at appeal, and it will not be as tall. The eaves of the addition will drop down slightly below the eaves of the wing, and the roof will run into and behind the line of the wing roof, rather than appearing as a separate hipped pavilion. The wall line will also be set back slightly behind that of the wing. The addition will therefore appear somewhat less bulky, less dominant and more subordinate compared with the addition proposed in 2010. It will, however, add considerably to the existing mass at upper level, blocking slightly more of the view of the lower part of the windmill, and increasing the size of the house from modest to notably substantial. In views from the south the projection of the addition in front of the line of the wing will also give a grander impression of hipped pavilions flanking a central recess in manner akin to that of a small country house. In views of the windmill from the grounds of Grove Mill to the east, the main living accommodation of the house will appear closer to the windmill, and the extension will be more prominent than the narrower end of the existing wing or the roof of the lower addition previously approved. In my opinion the enlarged house will no longer appear so appropriate to the simple functionality and period style of the windmill, and. I therefore consider that the modifications made to the scheme since 2010 have not been fully adequate to neutralise the harm then identified, and that there would be outstanding harm to the setting and significance of the windmill as a building of humbler but more visible origin, particularly bearing in mind the permission given to extend at the west end also. I would therefore usually recommend refusal on grounds that the harm to the significance is not outweighed by any public benefit (as opposed to private benefit) as required by paragraph 134 of the NPPF.

The applicants suggest, however, that this case should be regarded in the light of very special circumstances. These circumstances relate to the possibility that the applicants could exercise permitted development rights to extend the entrance front of the main house to the north at full two-storey height, right across the access drive. Any such extension would cause infinitely more harm than that subject to application because it would completely block any view of the windmill at this point, separating and concealing it from the village, and because the enlarged new road elevation would suggest a dwelling of even greater status. In order to show intent, the applicants have excavated foundations for the northern addition. However, as part of the application the agent points to a similar case in which the applicants offered to forego permitted development rights if an alternative extension were approved. It would seem to be suggested that there is intention to make a similar offer here.

I have previously recommended that there should be no reason to accept harm such as that proposed on the mere basis that permitted development might be worse, while there is a possibility that that development might go ahead. If, however, there is a means of preventing such development as a quid pro quo, there could be public benefit in preventing greater harm to the setting and significance of the listed building, as long as the offer to forego rights is cemented in a legal agreement or formal undertaking that genuinely and thoroughly secures the benefit. In my opinion, conditions would not provide adequate means of achieving the public benefit, as they could be more open to challenge as an imposition by the local planning authority rather than a voluntary agreement offered by the applicant.

I note that no terms are offered for the means of foregoing the permitted development rights. I would suggest, subject to legal advice, that the legal agreement should include heads of terms such that:

- The purpose of the agreement is secure public benefit in terms of preventing greater harm to the setting and significance of the Grade II listed windmill at neighbouring Grove Mill, by preserving views of the windmill as seen down the driveway/yard from the village lane, and by preserving the character of Windmill Farm as a positive part of the setting of the windmill to no lesser extent than as permitted by any new permission.
- If the new planning permission is implemented the applicants and their successors in title forego any and all permitted development rights to extend the entrance front (north/north-east) of the existing building, whether to the main western block of the house, or the lower wing, or the garage/ancillary living accommodation to the east;
- If development rights to extend the entrance front of the house or ancillary building to the north/north-east are exercised before the planning permission is implemented, the permission shall become null and void;
- If the planning permission is implemented there will be no further alteration to the appearance of the extended entrance elevation, or to the appearance of any elevation of the permitted extension, other than as approved, without further planning permission;
- If this new planning permission is implemented, neither planning permission CH/2011/1584/FA nor its amended version CH/2012/0498/FA (including the south extension of the wing) shall be implemented and these permissions shall become null and void.

The terms for such an agreement should be agreed and the agreement formulated and signed before any permission is given.

District Head of Legal Services:

The Council could seek to secure the removal of permitted development (PD) rights and secure agreement not to implement the other two planning permissions through a legal agreement. The legal agreement will also have to set out that works were started (one a permitted development extension) but stopped and that the applicants agree not to implement those any further and in any event agree to the removal of PD rights henceforth (summarised).

POLICIES

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20 and CS22.

The Adopted Chiltern District Local Plan - 1997 (including The Adopted Alterations May 2001 and July 2004). Saved Policies: GC1, GC3, GB2, GB13, LSQ1, LB2, H14, H15, TR11 and TR16.

Delivery Development Plan Document for Chiltern District: Submission Document - February 2014: Policies DS1, DS2, DEN7 and DEN9.

Residential Extensions and Householder Development SPD adopted 10 September 2013.

ISSUES

1. The application site is located within the open Green Belt in Coleshill where, in accordance with Policy GB13 of the Adopted Chiltern District Local Plan, the extension of an existing dwelling can be considered acceptable where the extension is both subordinate to the size and scale of the original dwellinghouse and not intrusive within the landscape. The application site is also located within the Chilterns Area of Outstanding Natural Beauty where development should conserve and, where considered appropriate and practicable, enhance the special landscape character and high scenic quality of the area. In addition, the application site is also located in close proximity to a nearby Grade II listed windmill and, as such, the proposal should not adversely affect the setting of this listed building. Since the previous applications on this site, the Delivery Development Plan Document for Chiltern District (Submission Document) has been published and is going through its

consultation. As such, at this time, the document and carries limited weight. All other relevant Development Plan Policies should also be complied with.

2. The application property has an extensive planning history, however the application which is most relevant to the consideration of the current proposal is CH/2010/1834/FA which proposed a two storey side extension in the same location as the current proposal. This application was refused by the Local Planning Authority and subsequently dismissed at appeal. In dismissing the appeal the Inspector determined that the scale and design of the proposed extended wing were such that it was a disproportionate addition which would constitute inappropriate development in the Green Belt. With regard to the setting of the windmill, the Inspector stated that "the relatively modest nature of the house sits comfortably with the simple form of the Windmill and the building is an important element in the setting of the listed building". The Inspector concluded that the proposal would have significantly altered the scale of the dwelling, and "not only would the proposal slightly obstruct part of the remaining view of the lower part of the Windmill, but the transformation of the house into a much grander building would detract from the visual relationship that exists and would have a significant detrimental impact on the setting of the listed Windmill".

3. In comparison to the previous scheme, the maximum height of the proposed extension has been reduced by 1 metre, the width has been reduced by 2.7 metres and the depth has been reduced by 0.9 metres. The reductions in the dimensions of the proposed extension are minor in scale, with the main difference between the current and previous proposal being the design of the extension. The extension previously proposed would have competed with the main front part of the dwelling and, when the appeal was dismissed, the Inspector commented that, "The proposal would add considerable bulk to the property transforming it from a relatively modest house to something far grander. The proposal would not continue the stepping down that currently occurs in the ridge lines of buildings on the site". He continued by stating that, "the suggestion of symmetry would mean that the proposal would not appear as subordinate to the size of the original building". The Inspector concluded by stating that, "the reflection of the mass of the front section of the building would significantly alter the scale of the house" and the extension would be viewed as a "disproportionate addition over and above the size of the original dwelling and constitute inappropriate development in the Green Belt". The extension includes a large basement and the overall floor area of the proposal, including the basement, would not be subordinate to the size and scale of the original dwellinghouse. However, the basement is entirely below ground and, in itself, would not have an impact on the openness of the Green Belt. The extensions above ground level have been redesigned in an attempt to overcome the harmful impact identified by the Inspector and the eaves and the ridge are now set down from the existing side wing, with the front elevation set in from the existing front elevation. The extension has a hipped roof with a small area of flat crown visible from the side and rear of the dwelling. The extension has been designed to continue the stepped ridge heights of the existing dwelling, with the proposed ridge set below that of the existing side wing which is itself set below that of the main part of the house. Given this design and the scale of the proposal, it is considered that the current extension is subordinate to the size and scale of the original dwellinghouse.

4. The previous Appeal Inspector stated that the increased size and scale of the dwelling would, to some extent, erode the open rural character Chilterns AONB. However the Inspector considered this impact would be slight. Given the changes to the design and appearance of the extension, it is considered that it would no longer adversely affect the AONB landscape.

5. With extensions to dwellings in the Green Belt it is also necessary to have regard to the cumulative impact of all extensions and, whilst there are presently no additions to the original dwelling, work has commenced on an extension that can be built as permitted development. In addition, there are extant planning permissions for extensions to the building that could still be implemented or implemented in part. In respect of the construction of the permitted development extension, when considered cumulatively with the current proposal, the increase in the size of the original dwelling would not be subordinate to the size and scale of the original dwelling house.

Furthermore, when the permitted extensions are considered either solely with the current proposal, or in conjunction with both the current proposal and the permitted development extensions, the proposed additions cannot be considered to be subordinate to the size and scale of the original dwelling. Moreover, these additions together with the current proposal would significantly alter the simple functional appearance of the original dwelling, resulting in a disproportionate addition that would appear visually intrusive within the landscape, thereby failing to conserve the scenic beauty of the Chilterns AONB. Objections are therefore raised in respect of Policies GB2, GB13, LSQ1 and CS22, and the NPPF.

6. The comments of the District Historic Buildings Officer are noted with regard to the impact of the proposal on the setting of the listed Windmill. The proposed two storey extension will add to the upper storey mass of the existing dwelling, blocking more of the view of the lower part of the windmill, and increasing the size of the house from modest to notably substantial. In views from the south the projection of the proposed extension beyond the existing rear elevation of the wing will also give a grander impression of hipped pavilions flanking a central recess in manner akin to that of a small country house. In views of the windmill from the grounds of Grove Mill to the east, the main living accommodation of the dwelling will appear closer to the windmill, and the extension will be more prominent than the narrower end of the existing wing or the roof of the lower addition previously approved. The increased scale and subsequent change in character of Windmill Farm resulting from the proposed extension will result in harm to the setting and significance of the windmill as a building of humbler but more visible origin, particularly when taking into account the extant permission for a two storey extension to the western side of the dwelling. The proposal would, therefore, result in harm to the setting of the adjacent listed windmill, and objections are raised in respect of Policy LB2 and the NPPF.

7. The proposed two storey side extension incorporates two first floor windows in the north elevation, however given the siting of the extension over 5 metres from the common boundary with the neighbouring property to the north, Hill House, it is considered that it would not appear overbearing or visually intrusive and, given the small size of the proposed windows, these would not result in an unacceptable reduction in privacy. However, the introduction of a larger number or size of windows in the first floor of this northern elevation could result in an unacceptable loss of privacy to the rear garden area of Hill House and it is therefore necessary to place a Condition on the extension restricting the insertion of any additional windows. Furthermore, the proposed two storey extension would be set well away from the neighbouring property to the east, Grove Mill, so as not adversely affect the residential amenities of this neighbouring property.

8. The existing dwelling exceeds 120 square metres in gross floor area and, therefore, the proposed extension would not require any additional parking provision.

9. As stated above, objections are raised in respect of the impact of the proposal on the Green Belt, the AONB and the resultant harm to the setting of the neighbouring listed building. The objections in regard to the Green Belt and the AONB are based on the cumulative impact on the original dwelling arising from the current proposal, the unimplemented planning permissions and the commencement of the works allowed under permitted development. As noted above, the proposal on its own would not give rise to these concerns. As a way forward, and given that works have started on the permitted development extension, advice has been obtained from the Council's Solicitor and she confirms that it is possible to use a Legal Agreement to effectively revoke the unimplemented planning permission and also to prevent the construction of the permitted development extension, returning the affected land to its former condition, and removing permitted development rights going forward. The mechanism to secure this would be that if planning permission was granted for the current scheme, then, prior to its implementation, the construction of the permitted development extension shall cease and the land shall be returned to its former condition. In addition, upon implementation of any planning permission granted under this application, it would no longer be possible to implement the extant permissions or carry out the construction of any extension under permitted development to the principal elevation of the

dwelling. Any such Agreement would also have to waive the owner or future owners' rights to compensation that can be claimed through the removal of permitted development rights. A Legal Agreement covering these points would be effective in overcoming the objections to the Green Belt and AONB.

10. In respect of the setting of the listed building, the above Legal Agreement could also secure public benefits that outweigh the harm arising from the extension on the neighbouring listed building. The comments of the Historic Buildings Officer are set out in the consultation section of the report, and it is clear that if permitted development rights were removed and the works to the permitted development extension on the principal elevation ceased and could not be continued, then there would be a public benefit arising from the proposal that would be sufficient to outweigh the identified harm.

11. In conclusion, objections are raised in respect of the current proposal, but the applicant's agent has confirmed in writing that that he is willing to enter into a Section 106 Legal Agreement. Subject to this Legal Agreement being completed prior to planning permission being issued, then it is considered that the scheme would be acceptable. The Heads of Terms for such an Agreement are as follows:

1. To revoke the outstanding planning permissions for extensions granted under references CH/2011/1584/FA and CH/2012/0498/FA.
2. Agree to cease work on the permitted development extension to the principal (north) elevation and return the land to its former condition.
3. To remove permitted development rights to the dwelling covering all extensions to the principal (north) elevation.
4. Agree to no compensation arising for the refusal of an application that would normally have been permitted development, in respect of point 3 above.

In addition to the above, it will also be necessary to advertise the application as a departure to the provisions of the Development Plan, although given the scale of the development it will not be necessary to refer the matter to the Secretary of State.

12. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Defer to grant conditional permission subject to advertising the application as a departure from the Development Plan and following the completion of a Legal Agreement to cover the points set out in the report. Decision delegated to the Head of Sustainable Development

Subject to the following conditions:-

- 1 C108A General Time Limit
- 2 Prior to the commencement of development full details of the method of disposal of the excavated soil, including any distribution of soil within the site or its removal from the site, resulting from the creation of the basement level hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall also include details of the likely number of traffic movements associated with the removal of any soil from the site. The development shall then only be implemented in accordance with the approved details.
Reason: To ensure that development is not detrimental to the character of the locality.
- 3 The materials to be used in the external construction of the development hereby permitted shall match the size, colour and texture of those of the existing building. No alterations shall take place thereafter.

Reason: To ensure that the external appearance of the enlarged building is not detrimental to the character of the locality or the setting of the nearby listed windmill.

- 4 The new windows shall be painted timber casements of a style to match of the existing windows. No alterations shall take place thereafter.

Reason: To ensure that the appearance of the development is not detrimental to the setting of the nearby listed windmill.

- 5 No development shall take place until a plan, drawn to a scale of 1:20, showing the brick eaves detail of the proposed extension has been submitted to and approved in writing by the Local Planning Authority. No alterations shall take place thereafter.

Reason: To ensure that the appearance of the development is not detrimental to the setting of the nearby listed windmill.

- 6 No external lightwells or accesses to the basement hereby approved shall be constructed at any time and the ground level around the basement shall not be altered at any time from that shown on the submitted plans.

Reason: To maintain the openness of this part of the Green Belt and to ensure that the appearance of the development is not detrimental to the character of the locality or the setting of the adjacent listed building.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order, with or without modification), no windows, other than those expressly authorised by this permission, shall be inserted or constructed at any time at first floor level or above in the northern flank elevation of the extension hereby permitted.

Reason: To protect the amenities and privacy of the neighbouring property.

- 8 AP01 Approved Plans

RECOMMENDATION

The Officer recommendation remains to defer to grant Conditional Permission, subject to prior completion of a Legal Agreement to secure the affordable housing contribution and subject to the conditions set out in *Appendix 1* with the decision delegated to the Head of Sustainable Development.

AGENDA ITEM No. 7

- 7 CH/2014/0018/FA - TWO STOREY SIDE EXTENSION WITH BASEMENT LEVEL
WINDMILL FARM, WINDMILL HILL, COLESHILL, AMERSHAM,
BUCKINGHAMSHIRE, HP7 0LZ.
(Case Officer: Emily Walsh)**

Matter for consideration

- 7.1 This planning application was reported to the Planning Committee on 3rd April 2014 with the recommendation to “Defer to grant conditional permission subject to advertising the application as a departure from the Development Plan and following the completion of a Legal Agreement to cover the points set out in the report. Decision delegated to the Head of Sustainable Development”. The original Committee report is attached as *Appendix 2*.
- 7.2 The proposed extension was considered to result in harm to the setting of the adjacent windmill, a Grade II listed building, but no objections were raised with regard to its impact on the Green Belt or the Area of Outstanding Natural Beauty. However, the applicants have commenced work on an extension to the principal (North) elevation of the dwelling, which constitutes permitted development, and also benefit from two extant planning permissions for extensions to the eastern and southern elevations of the side wing (reference: CH/2011/1584/FA and CH/2012/0498/FA), which could be implemented or implemented in part. Cumulatively, the proposed extension, the permitted development extension, and the extant planning permissions would fail to maintain the openness of the Green Belt and fail to conserve or enhance the high scenic quality of the Chilterns Area of Outstanding Natural Beauty. In addition, as part of her original consultation response, the District Historic Buildings Officer (HBO) made reference to the need for planning permissions CH/2011/1584/FA nor CH/2012/0498/FA (including the south extension of the wing) to be null and void.
- 7.3 As a way forward, the applicant agreed in writing ahead of the drafting of the previous Planning Committee report to enter into a Legal Agreement to revoke the two unimplemented planning permissions and to remove permitted development rights to prevent the construction of the permitted development extension to the principal elevation. With regard to the setting of the listed building, whilst the proposed extension itself was considered to result in harm to the setting of the listed building, it was considered that the public benefit secured through the use of the Legal Agreement, as set out below, was sufficient to outweigh the harm resulting from the proposed extension.
- 7.4 Therefore, the scheme was considered acceptable, subject to a Legal Agreement being completed prior to planning permission being issued. The Heads of Terms for the Agreement are set out as follows:

1. To revoke the outstanding planning permissions for extensions granted under references CH/2011/1584/FA and CH/2012/0498/FA.
 2. Agree to cease work on the permitted development extension to the principal (north) elevation and return the land to its former condition.
 3. To remove permitted development rights to the dwelling covering all extensions to the principal (north) elevation.
 4. Agree to no compensation arising for the refusal of an application that would normally have been permitted development, in respect of point 3 above.
- 7.5 After negotiations regarding the wording of the Legal Agreement, the applicant's solicitor has disputed the need for the first term of the Legal Agreement – to revoke extant planning permissions CH/2011/1584/FA and CH/2012/0498/FA – and has not progressed with the completion of the Legal Agreement. In light of this, and the fact that further correspondence remains unanswered, Officers have reviewed the situation and consider all four Heads of Terms remain relevant. Given this, Officers now recommend the refusal of planning permission.

RECOMMENDATION

Members delegate the Head of Sustainable Development to refuse planning permission for the reasons set out below if the Legal Agreement has not been completed by 12th September 2014 in accordance with the original Heads of Terms. In the event of an appeal, the Head of Sustainable Development in consultation with the Head of Legal Services negotiate and enter into any Legal Agreement that is considered necessary to secure an appropriate form of development.

Reasons for Refusal

- 1) Within those parts of the Green Belt which are located outside existing rows of dwellings or settlements as defined on the Proposals Map of the Adopted Chiltern District Local Plan 1997, the extension of an existing dwelling can be considered acceptable where the extension is subordinate to the size and scale of the original dwellinghouse and is not intrusive within the landscape. In this case, the property benefits from two extant planning permissions for extensions to the eastern and southern elevations of the side wing of the dwelling, and work has commenced on an extension to the principal elevation which constitutes permitted development. When the proposed extension is considered cumulatively with the extant planning permissions, or in conjunction with both the extant planning permissions and the permitted development extension, the proposed additions would not be subordinate to the size and scale of the original dwelling. The extensions would significantly increase the scale and bulk of the existing modest dwelling, resulting in a building which is materially larger than the original dwelling and which would be visually intrusive within the Green Belt. As such, the proposal constitutes inappropriate development which would fail to maintain the openness of the Green Belt. The proposal is therefore contrary to Policies GB2 and GB13 of the Adopted Chiltern District Local Plan - 1997 (including Adopted Alterations May 2001 and July 2004).
- 2) When the proposed extension is considered cumulatively with the extant planning permissions, or in conjunction with both the extant planning permissions and the permitted development extensions, the additions would significantly alter the simple functional appearance of the original dwelling, resulting in disproportionate additions and a considerably larger building that would appear visually intrusive within the surrounding landscape. As such, the proposal would not conserve or enhance the

natural beauty of the landscape within this part of the Chilterns Area of Outstanding Natural Beauty. The proposal is, therefore, contrary to Policies GC1 and LSQ1 of the Adopted Chiltern District Local Plan 1997 (including Adopted Alterations May 2001 and July 2004) and Policies CS20 and CS22 of the Adopted Core Strategy for Chiltern District (November 2011).

- 3) The proposed two storey extension will add to the upper storey mass of the existing dwelling, blocking more of the view of the lower part of the adjacent Grade II listed windmill. In views from the south the projection of the proposed extension beyond the existing rear elevation of the wing will give a grander impression of hipped pavilions flanking a central recess in manner akin to that of a small country house. In views of the windmill from the grounds of Grove Mill to the east, the main living accommodation of the dwelling will appear closer to the windmill, and the extension will be more prominent than the narrower end of the existing wing. The increased scale and subsequent change in character of Windmill Farm resulting from the proposed extension will result in harm to the setting and significance of the windmill as a building of humbler but more visible origin, particularly when taking into account the extant permission for a two storey extension to the western side of the dwelling. The proposal would, therefore, result in harm to the setting of the adjacent listed windmill, and as such, is contrary to Policy LB2 of the Adopted Chiltern District Local Plan 1997 (Including the Adopted Alterations May 2001 and July 2004) and the provisions of the NPPF.

AGENDA ITEM No. 8

8 ITEMS FOR NOTING

8.1 NEW PLANNING AND ENFORCEMENT APPEALS

Contact Officer: Jayne Froome (01494 732162)

CH/2013/1860/FA - Conversion of existing outbuilding to an independent dwelling, with alterations to external elevations including insertion of rooflights, Land Adjoining 5 Ballinger Row, Blackthorne Lane, **Ballinger**

CH/2013/1954/FA - Detached outbuilding to front of dwelling, Pynest Green Cottage, Two Dells Lane, **Ashley Green**

CH/2014/0138/FA - Part single storey/part two storey/part first floor extension to create two storey dwelling, front porch extension, stone cladding to part of front elevation, rendering of resulting dwelling, 183 Amersham Way, **Little Chalfont**

CH/2014/0218/FA - Extension to roof space to create second floor accommodation, The Firs, Millfields, **Chesham**

CH/2014/0284/FA - Erection of three single storey detached outbuildings (Retrospective), Land To R/o Of 2 Mill End Close, **Prestwood**

CH/2014/0341/FA - Detached triple garage and retaining wall, Woodlands, Beacon Hill, **Penn**

CH/2014/0348/FA - Single storey side/front/rear extension with accommodation in roof

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 22nd February 2018

INDEX TO APPLICATIONS ON MAIN LIST OF REPORT

Great Missenden

CH/2017/1422/OA Ward: Ballinger South Heath And Page No: 3
Chartridge

Proposal: Outline planning application for demolition of redundant mushroom farm and erection of 10 dwellings and formation of car parking on Meadow Lane (all matters reserved)

Recommendation: Defer-minded to approve subject to the prior completion of Legal Agreement.

Decision delegated to Director of Services

Former Mushroom Farm, The Limes, Meadow Lane, South Heath, Buckinghamshire, HP16 9SH

Chesham Bois

CH/2017/1824/FA Ward: Chesham Bois And Page No: 16
Weedon Hill

Proposal: Demolition of existing house and erection of three 5 bedroom houses, served by existing access

Recommendation: Conditional permission

Rowanlinden, 70 Long Park, Chesham Bois, Buckinghamshire, HP6 5LF

Chalfont St Peter

CH/2017/1890/FA Ward: Austenwood Page No: 26

Proposal: Part single/part two storey rear extensions, single storey side extension, two storey front infill extensions, front rooflights, central roof lantern and rear roof dormers to facilitate habitable accommodation in roofspace (amendment to planning permission CH/2017/0682/FA)

Recommendation: Conditional permission

Woodfield, 2 Claydon End, Chalfont St Peter, Buckinghamshire, SL9 8JX

Penn

CH/2017/1958/FA Ward: Penn And Coleshill Page No: 32

Proposal: Erection of 6 retractable floodlight columns (2.8m rising to 15m) and lamps to light a football pitch plus associated control cabinet.

Recommendation: Refuse permission

Penn And Tylers Green Football Club, Elm Road, Penn, Buckinghamshire, HP10 8LG

Great Missenden

CH/2017/2224/FA Ward: Prestwood And Heath End Page No: 43

Proposal: Erection of new attached two storey house served by existing vehicular access off Fair Acres and widened access off Wrights Lane

Recommendation: Conditional permission

1 Wrights Lane, Prestwood, Buckinghamshire, HP16 0LH

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Main List of Applications 22nd February 2018

CH/2017/1422/OA

Case Officer: Andy White
Date Received: 24.07.2017
Parish: Great Missenden

Decide by Date: 23.02.2018
Ward: Ballinger South Heath And Chartridge

App Type: Outline Application
Proposal: Outline planning application for demolition of redundant mushroom farm and erection of 10 dwellings and formation of car parking on Meadow Lane (all matters reserved)
Location: Former Mushroom Farm
The Limes
Meadow Lane
South Heath
Buckinghamshire
HP16 9SH
Applicant: H. G. Bird (South Heath) Limited

SITE CONSTRAINTS

Article 4 Direction
Adjacent to C Road
Area Special Advertising Control
Within Chilterns Area of Outstanding Natural Beauty
Within Green Belt other than GB4 GB5
Within 500m of SINC NC1
Tree Preservation Order
Tree Preservation Order Individual Trees
GB settlement GB5,6,12,23,H7,13,19

CALL IN

Councillor Jones has requested that the application be referred to the Planning Committee if the Officers' recommendation is for refusal.

Councillor Gladwin has requested that the application be referred to the Planning Committee if the Officers' recommendation is for approval.

SITE LOCATION

The property is located within the Green Belt Settlement of South Heath. The site is bounded by housing to the north and east, housing and a garden centre to the west and adjoins open agricultural fields to the south.

The site is located on Meadow Lane, a private road which serves the existing site, the houses on the Lane and the Garden Centre.

THE APPLICATION

The application is an Outline planning application for the demolition of the redundant mushroom farm buildings and the erection of 10 dwellings and formation of car parking on Meadow Lane with all detailed matters (layout, scale, appearance, access and landscaping) reserved for approval at a later stage.

Any drawings provided with the application are for illustrative purposes only and are therefore not subject to detailed consideration within the report. It is important to note that the layout of dwellings illustrated on the drawings is purely an indication of where dwellings could be sited. If approved, this layout is not binding, as all detailed matters would be then be subject to a subsequent detailed planning application for the reserved matters.

This report will therefore consider the principle of residential development on the site, which is the sole issue for consideration.

The application was supported by a Planning Statement, Ecology Report, Transport Statement, Affordable Housing Statement and Flood Risk and Surface Water Assessment.

RELEVANT PLANNING HISTORY

Extensive planning history but of most relevance to the current application are:

CH/2005/2396/OA - Redevelopment of site to provide four detached houses, two pairs of semi detached houses, detached building (300 square metres) for business use (Use Class B1) and car parking for use by South Heath Garden Centre. Application withdrawn by applicant.

CH/2005/2398/OA - Redevelopment of site to provide seven detached houses, and car parking for use by South Heath Garden Centre. Refused Permission:

(1) The application site constitutes a single, contiguous parcel of land, approximately 0.97 ha in area, which is not in existing residential use. The proposal therefore constitutes inappropriate development which is by definition objectionable in principle and is harmful to the Green Belt. Inappropriate development should not be approved except in very special circumstances such that the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. The applicants case for very special circumstances has been taken fully into account, however, it is not considered to outweigh the harm to the Green Belt resulting from the residential development proposed on this site. The proposal is therefore contrary to Policies GB1 and GB3 of the Adopted Buckinghamshire County Structure Plan 1991- 2011 and Policies GB2 and GB5 of the Adopted Chiltern District Local Plan.

(2) The provision of car parking in connection with the Garden Centre may be acceptable in principle providing it maintains the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. In general such provision should be small and sited, designed and landscaped so as to be visually unobtrusive in its open land setting. It is considered that the size and location of the proposed car park within the Green Belt and on the edge of a Green Belt settlement is neither small nor visually unobtrusive such that the proposed parking area would be viewed as a distinctly urban feature in this Green Belt settlement. The proposed development is therefore contrary to Policy GB2 of the Adopted Chiltern District Local Plan

(3) The proposed car parking adjacent to the boundary with 'Laurels' and also the internal boundaries with plots 6 and 7 to the rear of the site would, by reason of its location and associated vehicle movement result in an unacceptable level of disturbance and would thereby be intrusive and detrimental to the amenities of

residents. The proposed development is therefore contrary to Policy GC3 of The Adopted Chiltern District Local Plan.

CH/2006/1449/OA - Erection of two detached chalet bungalows. Conditional Permission. Constructed. [opposite side of road].

CH/2008/0719/OA - Erection of two detached chalet bungalows. Refused Permission: The two dwellings with the maximum ridge height indicated would appear prominent and overly dominant in the locality and would not be compatible with the existing character of dwellings and buildings along this section of Meadow Lane, thus being detrimental to the character and appearance of the locality. The proposal is therefore contrary to Policies GC1 and GB5 of the Adopted Chiltern District Local Plan - 1997 (including Adopted Alterations May 2001 and July 2004). [Directly adjoining current site].

CH/2008/1115/DE - Erection of two detached dwellings (submission of details pursuant to outline permission CH/2006/1449/OA). Details approved. Constructed. [Opposite side of road]

CH/2008/1187/OA - Erection of two detached chalet bungalows. Conditional Permission. [Directly adjoining current site].

CH/2010/0666/OA - Erection of one detached chalet bungalow. Refused Permission. Appeal Dismissed. Inspector concluded that at the time of appeal the site did not adjoin an existing row of dwellings [dwellings approved under CH/2010/1471/FA were under construction on 10th May 2011 when Inspector conducted site visit], appeal site not a small parcel of land enclosed by existing residential development therefore contrary to Policy GB5. The site is previously developed but in terms of PPG2 and the relevant development plan policies South Heath is a settlement washed over by Green Belt where there can only be limited infilling.

CH/2010/1471/FA - Erection of two detached chalet bungalows, each with a detached double garage. Conditional Permission. Constructed. [Directly adjoining current site].

PARISH COUNCIL

Supports the application in principle subject to safe access and the tree officer's report on the mature trees.

REPRESENTATIONS

There were 35 representations received. These may be broadly categorised as 12 in support, 14 of general comment (neither specifically objecting nor supporting) and 9 objecting. However, in almost all replies comments included a concern that proposals should not harm the garden centre opposite. Those that neither objected nor supported generally state that there is no objection to the residential development but wanted to see consideration given to parking and deliveries to the garden centre. One reply from the owners of the garden centre reflected the majority of concerns regarding parking and deliveries. The comments are summarised below:

- Fully support the proposed residential development of the site.
- Whilst supporting the application need to ensure that garden centre is not affected. Entrances opposite the main entrance to garden centre could cause problems to garden centre.
- Support as site is an eyesore and attracts unwanted attention from local youths
- The present proposal is unlikely to cause additional traffic as the mushroom farm was a commercial use generating its own traffic.
- Proposal by the developer to seal the road will benefit existing residents
- Not opposed to the principle of the redevelopment of the derelict plot, but scale of the proposal puts the garden centre in jeopardy.

- The proposal will clearly affect the viability of the last remaining business in the vicinity and should be rejected.
- 10 houses is not in keeping with the current development plan and the principles of "limited infilling".
- The number of houses planned is the correct density for the lane.
- Oppose development as it will overload junction of Meadow Lane and Ballinger Road.
- Concern about construction traffic in combination with HS2 construction.
- Support the proposal providing it does not jeopardise the Garden Centre through affecting parking for customers.
- Speculators making money at expense of village which needs cheaper housing, a village hall and community services.
- Something needed on the site for the local community as well as some residential development.
- The village used to have two shops (post office) and two pubs - now the much valued garden centre is the only asset and its loss would harm the community.
- There could be many more houses built in South Heath.
- South Heath is a hamlet - definitely not a village.
- Buildings contain asbestos
- Thought should be given to parking for the garden centre. Proposal should be reviewed as considered that parking for the garden centre can be accommodated [Officer Note: description of development amended to include parking on Meadow Lane].
- There is a need for smaller homes to enable older residents of South Heath to down size and free-up their homes for families.
- Not a sustainable solution for the wider community
- Lack transport, transport system limited, no secondary emergency route.
- Density and size of properties not in keeping and there is no detail to ensure that construction method and material will be in keeping with the village. [Officer Note: this is an outline application and such matters (including layout) are not for consideration].
- Concern that magnificent trees will be removed near the garden centre. [Officer Note: This is an outline application with no details provided].
- Garden Centre relies upon land outside its site to turn lorries as it stores pallets, machinery in a an area it purchased for storage and car parking.

CONSULTATIONS

District Tree Officer

Meadow Lane is an unmade road with an incomplete avenue of lime trees, many of which are protected by a Tree Preservation Order. Although these trees are correctly shown on the submitted Site Survey, the indicative plans do not show some of the trees in their correct positions and totally omit the four protected limes near the garden centre. The application makes no mention of improvements to the road, which could cause root damage to the lime trees.

There are various conifer hedges around the boundaries. It is likely the hedges adjacent to the access road, which include some Leyland cypress about 4m in height, some cypress about 6m in height and some laurel about 4m in height would be removed. A sycamore about 6m in height, a willow about 8m in height and an ash about 6m in height within these hedges would also be lost.

The line of large Leyland cypresses on the south-eastern boundary and the cypress hedge on the north-eastern boundaries appear to be retained. Various young trees have now grown up within the site. These are mainly ash up to about 8m in height but also include some hazel and crab apple. Some of these could be retained within a housing scheme.

In principle there appears to be sufficient space for a housing scheme without causing damage to the lime trees but the indicative layout would require the loss of at least one of the protected limes and may involve the loss of five of the trees.

I would have no objection to the application if the limes are retained, they are adequately protected during development and they are not too close to buildings or road surfaces.

County Highways Authority

The County Highways Authority objects to the application. It considers that the proposal would result in an intensification of the use and suggests that the applicant conducts a survey of mushroom farm sites to justify the 86 vehicle movements per day. The initial section of Meadow Lane is of inadequate width to enable two vehicles to pass contrary to the aims of the National Planning Policy Framework (NPPF) and Local Plan policy. The access would need to be a minimum of 4.8m to accommodate two-way vehicular flow. The site is remote to forms of transport other than the car and there is no footpath on Ballinger Road so walking to the bus stops for the limited bus service would require walking on the narrow verge. Concerns are raised that there would be inadequate space for refuse vehicles to turn and it would be detrimental to highway safety for bins to be placed by the Meadow Lane/ Ballinger Road junction. [Officer Note: Waste Management confirms that waste vehicles currently enter Meadow Lane and collect from the edge of the residential properties. Vehicle tracking map has been provided.]

County Ecological Officer

The ecology report has been reviewed. The county ecologist agrees that the mitigation proposed is appropriate. No objection subject to conditions requiring mitigation in accordance with All Ecology report and confirmation from Natural England that a European Protected Species Licence is not required.

County Strategic Flood Management Team & Thames Water

County Surface Drainage Systems (SuDS) team stated that under section 10 of the NPPF a Flood Risk Assessment (FRA) is required for the site as it is more than 1 hectare. No FRA was provided and therefore objects to the proposal. The development site is understood to be a brownfield site and offers a fantastic opportunity to incorporate SuDS. [Officer Note: The SuDS team has advised that it will withdraw the objection if the applicant amends the Surface Water Assessment to state that the preferred option is infiltration and that this will be taken forward subject to ground investigations. Update will be provided].

Thames Water had no objection with regard to sewerage infrastructure capacity but noted that there were sewers close to and crossing the site.

Building Control

Access for fire service will be required to within 45m of all plots, road widths should be 3.7m between kerbs, 3.1m between gates and turning facilities.

Housing

The District Council's Housing Enabling officer has advised as follows:

Tenure

In terms of the Council's Housing Register and its statutory duties to re-house households that have been accepted as homeless, properties of an intermediate tenure will not be a solution. It is crucial therefore that on-site affordable housing provides an element for rent.

Size and Type of Property

The flats in this location may have limited appeal to applicants on the Housing Register who are allowed to choose in which properties to express an interest. If family sized houses (eg 2 bed 4 person) were being

proposed it may tempt Housing Register applicants who are existing housing association tenants out of an overcrowded flat or appeal to households who are sharing with friends or family in spite of the somewhat remote location.

In terms of the Council's statutory duty to re-house households who have been accepted as homeless, and who will only get one offer of accommodation, it is possible that the location, and therefore the property, could be argued as unsuitable due to its remoteness.

Summary

In summary, the affordable housing needs to provide an element of rent in order to meet the Council's statutory housing duties and flats in this location may have limited appeal and usefulness.

POLICIES

National Planning Policy Framework.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS8, CS20, CS22, CS23, CS24, CS25, CS26.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC2, GC3, GC4, GC10, GB2, GB4, GB5, LSQ1, H12, TR2, TR3, TR11 and TR16.

Sustainable Construction and Renewable Energy SPD - Adopted 25 February 2015.

Affordable Housing Supplementary Planning Document (SPD) Adopted 21 February 2012.

Chilterns Buildings Design Guide. February 2010.

EVALUATION

Principle of development

1. The site is located in the Green Belt Settlement of South Heath where small scale residential development is considered acceptable in principle, subject to complying with the relevant policies of the Development Plan. The National Planning Policy Framework advises that most new building is inappropriate in the Green Belt but identifies that limited infilling within Green Belt villages is an exception to this.

2. The identification of South Heath within Policy GB5 does not mean that every parcel of open land within South Heath is suitable for development. Proposals to develop land on the edges of these settlements, or to develop land whose present open appearance contributes to the physical character of the settlement, will not be acceptable. The whole of the former mushroom farm is within the Green Belt settlement with the land to the south being open Green Belt land.

3. The site is also within the Chilterns Area of Outstanding Natural Beauty and therefore the proposal should conserve, and where considered appropriate and practicable, enhance the high scenic quality of the landscape.

Principle of the Residential Development/Green Belt considerations

4. The lawful use of the site is for agriculture and therefore it would not fall within the definition of previously developed land as set out in the NPPF. Consequently its use would be considered to be inappropriate within the Green Belt unless it falls within one of the other exceptions criteria within the NPPF. The publication of the NPPF is a key material change in circumstance since the last planning application as it has replaced PPG2.

Both documents support the limited infilling in villages and both suggest that Planning Authorities seek to exclude villages from Green Belt designation if they do not make an important contribution to its openness and where limited development is considered appropriate. Policy CS23 of the Core Strategy noted that the GB5 designation was not consistent with PPG2 by not excluding GB5 settlements from the Green Belt. The Inner Green Belt review that will look into the boundaries around settlements in Chiltern District has identified a methodology for such an assessment.

5. It may be argued that the correct approach is to consider the site under its GB5 designation. In this circumstance the land would be within the Green Belt albeit within a Green Belt Settlement that would be considered appropriate for small scale residential development and limited infilling by the NPPF. The scale of the proposal would then need to be considered against the definition of small scale in policy GB5 which is not "more than about" 0.5 hectares. It is considered that the 0.5Ha is a general guide and the policy is phrased "about" to reflect the reality that sites do not come in specific sizes so a site of 0.7Ha whilst being larger than the suggested size reflects the extent of the remainder of the former Mushroom Farm site. Sites of more than 0.5Ha fall into the category of 'major development' as defined in the NPPG if the volume of development is not known, however major development is also defined by developments of 10 dwellings or more. Should the site come forward in smaller portions the opportunity to secure affordable housing would probably be lost. A distinction is made between sites of up to 10 dwellings and more than 10 dwellings in considering affordable housing contributions which is helpful in considering small scale development and larger scale proposals. However, it is concluded that a development of 10 dwellings would be at the top end of small scale development.

6. The land use would also not meet the criteria of being an existing authorised or established residential use which is totally or substantially enclosed by existing residential development in order to represent infill development within a GB5 settlement as defined by the policy. All the above argument serves to address is that the designation of South Heath is critical to whether the principle of development can be accepted.

7. Crucial to the consideration of the proposal is the NPPF. This post-dates the previous history of the site and supports limited infill in villages (not just of sites surrounded by residential land) and in paragraph 86 suggests that villages capable of protection by normal development management policies should be excluded from the Green Belt. Policy CS23 of the Core Strategy identified that Policies GB4 and GB5 did not accord with National Guidance. Significantly, in relation to Policies GB4 and GB5, are the implications of Court of Appeal decision into Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin) which places a requirement on the decision maker to consider the physical boundaries to a site irrespective of boundaries shown on a local plan. The judgement found that the policy wording in the NPPF relating to limited infilling in villages required the decision-maker to consider whether, as a matter of the physical characteristics of land, a site appears to be in a village.

8. In conducting an assessment, in accordance with the judgement, the former Mushroom Farm is within the GB5 boundary for South Heath. At the south end of the site is a tall, mature, leylandii screen which physically defines the boundary of the settlement, with the area beyond being within the open countryside and also within the Green Belt. The site is bordered on three sides by residential development, a road and a garden centre all of which are within the settlement. The site contains agricultural buildings which have the appearance of industrial sheds with cement hardstanding in between. The former Mushroom Farm site, houses on Meadow Lane and the Garden Centre are served by a private road which has a hardcore surface and is tree lined for part of its length, which terminates just beyond the garden centre and the application site. It is the view of officers that, having regard to the surrounding land uses, the extent of the access road and the fact that the Policy GB5 designation includes the whole site, the site is within the village and that in being within the village may be considered appropriate for limited infilling.

9. Having concluded that the site is within the settlement of South Heath, the question is then whether the proposal constitutes limited infilling. Policy GB4 suggests a limit of 1 or 2 dwellings however, the courts and planning appeals have concluded that the NPPF contains no advice on the interpretation of "limited infilling". Appeal decisions vary on the number based on individual circumstances, but support may be found for limited infilling in the context of the exceptions criteria for sites of between 1 and 12 dwellings. It is therefore for the decision maker to make a considered judgement based on the characteristics of the site. It is the Officer view that having regard to the extent of the existing structures and hardstanding on the Former Mushroom site, the proposal would offer the potential for the infilling of the site, limited in scale to less built development than that which currently exists. In this respect support for the redevelopment of the site would not be harmful to one of the key aims of the Green Belt which is to preserve its openness.

10. The conclusion is therefore that the site is within the GB5 settlement and although washed over by Green Belt, the proposed residential development represents one of the exceptions identified within paragraph 89 of the NPPF to development within the Green Belt. As such although the applicant has suggested that very special circumstances exist, it is not necessary to consider the very special circumstances having concluded that the site meets the exception criterion of the NPPF. Very special circumstances are only relevant if a proposal is inappropriate development in the Green Belt, and it is considered that this proposal is not inappropriate.

11. It is also to be noted that the most recent appeal decision in relation to a part of the site (CH/2010/0666/OA) determined that the site was previously developed land. It is not considered that this judgement is entirely sound, as it did not appear to recognise that the site was an agricultural site, however, it is considered to be a common sense assessment of the appearance of the buildings on the site.

12. If Committee agrees with the officer view that the proposal constitutes limited infilling within a village then the outline proposal may be considered in the context of other policies of the Development Plan.

Affordable Housing

13. Policy CS8 of the Core Strategy sets out that, on sites of 10 dwellings, at least three affordable housing units should be provided on site. As the site is within the Chilterns Area of Outstanding Natural Beauty the NPPG supports a threshold for the provision of affordable housing to be 5 units and above. The applicants propose 3 affordable houses as part of the proposed development. The application is supported by a statement from the applicant that, if Committee was minded to grant planning permission, the applicant would be willing to enter into a Section 106 agreement to provide affordable housing on site based on a split of 2 affordable rented units and 1 shared ownership unit (see Affordable Housing Statement from Fowler Architecture and Planning submitted in July 2017).

Residential amenity

14. The existing buildings at the site appear structurally sound albeit that over time some have suffered from vandalism. The existing buildings are not considered to enhance the character and appearance of South Heath and many of the comments either in support of the proposal, or not, identify the negative impact that the existing buildings have on the amenity of the area.

15. There is scope within the available land to design a scheme that would not be harmful to the amenity of the existing neighbouring dwellings and that would provide an appropriate level of privacy and amenity to occupiers of the proposed development. It will be important to consider the distance to boundaries and to take account of the fact that the properties to the east of the site are at right angles to the properties shown in the illustrative plan.

16. One of the issues that is referred to in many of the representations received, is the benefit that the garden centre brings to many local people. It would be important that any detailed design did not restrict the access to the garden centre such that the residential development would be a constraining factor to the future of the garden centre business. It would seem that an improved access road would be capable of benefitting both new residents and customers and the amended illustrative plan indicates that parking provision may be made for the garden centre. Indeed, the applicant agreed to an officer request to amend the description of the proposed development to include the formation of parking on Meadow Lane. It is considered that this is a relevant planning consideration in view of the benefit that many local people appear to derive from the presence of the garden centre. It is not possible through this planning application to guarantee the long-term success of the garden centre but it is possible to seek to ensure that this planning decision is not detrimental to the future of the garden centre. In this regard the details of the design of the access road, its surfacing and the provision of parking on Meadow Lane may be required by condition to be provided as part of the reserved matters.

Design/character & appearance

17. The purpose of this assessment is not to consider whether the indicative development is acceptable but only to consider whether the site is suitable for residential development having regard to the surrounding land uses. The issue of the type and size of houses is one that can be addressed at the reserved matters stage, but it is clear that plot widths comparable to other houses close to the site can be achieved. Meadow Lane contains predominantly 1.5 and 2 storey detached dwellings. The character of any proposed scheme would need to reflect the character of the area. The site would also be capable of making its own contribution to character. Given the location within the Chilterns AONB, the future designs would need to take account of the Chilterns Buildings Design Guide, February 2010.

Parking/Access/Highway implications

18. The proposal would need to make provision for parking within the curtilage of the proposed dwellings in accordance with the Council's standards. This would need to be addressed at Reserved Matters stage. The Transport Statement refers to the County Parking Standards which are different to the District's standards. The applicant will be advised that the County Parking Standards have not been adopted by the Local Planning Authority. However this is a detail that is not problematic at this stage.

19. With regard to the access from Ballinger Road to Meadow Lane, when the site was in use as a mushroom farm the associated vehicles used the road for access and egress. Today the customers of the garden centre and residential properties on Meadow Lane access Ballinger Road from Meadow Lane. In theory, the site could begin use again as an agricultural use of some sort and that this would generate vehicular movements in addition to the "live" uses on Meadow Lane. The status of the road access will not change and it is not considered that on the basis of additional residential uses using the existing road and its existing access onto Ballinger Road that it would be appropriate to be seeking a better access. Any issues of access out onto Ballinger Road do not seem to justify an urban solution and it is preferable for the access to Meadow Lane to remain as much as possible as is currently configured. The aim of Manual for Streets is to provide a balance between good design and highway safety. It is considered that in this case the safe operation of the highway within South Heath has not presented major safety concerns with the existing uses. The maximum speed on Ballinger Road at this point is 30mph. The land use proposed is not a new one for Meadow Lane. It is therefore considered that the new residents would be likely to take the same level of care as the existing residents in access and egressing Meadow Lane. In this instance therefore the rural character of South Heath is considered to outweigh the safety concern. Meadow Lane can accommodate passing points in the restricted part where the street trees are located and there is scope for refuse vehicles to be able to turn within Meadow Lane and the proposed development such that vehicles would always be leaving Meadow Lane in forward gear.

20. Waste and recycling vehicles currently collect bins from within Meadow Lane. As the access to Meadow Lane would be unaltered bin collections would be possible from the boundary of the proposed properties.

21. Although South Heath is not highly accessible to forms of transport other than the car, it does have a weekday morning bus service to Chesham with a late afternoon return to coincide with school times and is on national and regional cycle routes. It is clearly not a sustainable location in transport terms but committed cyclists would be able to cycle to Great Missenden to use the rail service.

Trees

22. The trees lining the east side of Meadow Lane at the entrance to the lane and by the Garden Centre are subject to a Tree Preservation Order. It would be a requirement of any detailed proposal to protect the trees that are subject to Tree Preservation Order No 9 of 2004 and to do so by instigating appropriate protection measures. A planning informative is proposed to ensure that appropriate protection measures would be required as part of the detail submitted for the reserved matters.

Ecology and Biodiversity

23. The comments of the County Ecologist are noted and if planning permission is granted then the requirements for mitigation set out in Section 6 of the All Ecology report would be required to be implemented in full such that bat roosting features would be required in the detailed design of the proposed development to compensate for the loss of night roosts. External lighting would be required to be kept to a minimum and surrounding trees retained to support foraging and commuting bats. Policy CS24 requires consideration of the enhancement and encouragement of ecology. As such detailed proposals for ecological enhancement submitted with the reserved matters would be required to identify the means by which this core aim will be achieved.

Sustainability Principles

24. Policies CS4 and CS20 require that new development should reduce the CO₂ emissions having regard to the sustainability principles set out in the core strategy. Whilst the location is not in the most sustainable location it is capable of achieving development that addresses many of the criteria identified in Table 1 of Policy CS4 in particular elements such as energy efficiency, renewable technology, water recycling, waste management maximum re-use of construction and demolition materials, the use of locally produced building materials, sustainable drainage and retention of key features of the natural environment. In particular, given the rural location, the inclusion of vehicle charging points to serve the proposed properties would assist in the reduction of particulate and CO₂ emissions locally through the encouragement of electric vehicles usage.

Conclusions

25. The scheme is considered to accord with Development Plan policies and guidance contained in the NPPF and the interpretation of the NPPF in appeal decisions and Courts which support limited infilling within villages located within the Green Belt.

Working with the applicant

26. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

Chiltern District Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case, Chiltern District Council has considered the details as submitted which were considered acceptable.

Human Rights

27. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Defer-minded to approve subject to the prior completion of Legal Agreement. Decision delegated to Director of Services

Subject to the following conditions:-

1 C106A Outline Time Limit Reserved Matters

2 C107A Outline Time Limit

3 C101A Outline All Matters Reserved

4 No part of the development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Plan shall include details of:

- Construction access;
- Management and timing of deliveries;
- Routing of construction traffic;
- Vehicle parking for site operatives and visitors;
- Loading/off-loading and turning areas;
- Site compound;
- Storage of materials;
- Precautions to prevent the deposit of mud and debris on the adjacent highway.

The development hereby permitted shall thereafter be carried out in accordance with the approved Construction Management Plan.

Reason: To minimise danger and inconvenience to highway users, in accordance with Policies TR2 and TR3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policies CS25 and CS26 of the Core Strategy for Chiltern District (Adopted November 2011).

5 No development shall take place on site until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- Drainage layout with pipe numbers complete with full construction details
- Source control features as outlined in the Surface Water Assessment to use infiltration as the preferred method subject to detailed ground investigation; permeable paving and soakaways
- Details demonstrating that the site will be managed during construction so as to limit mobilisation of contamination on site and to prevent contamination of groundwater.

Reason: To ensure a satisfactory surface drainage system, to minimise flooding in accordance with policy GC10 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS4 of the Core Strategy for Chiltern District (Adopted November 2011). The reason for this pre-start condition is to ensure that a sustainable

drainage strategy has been agreed prior to construction in order to ensure that there is a satisfactory solution to managing flood risk.

6 No development shall take place on the site until all of the existing buildings located on the site, as shown in dotted lines on Drawing No. 161031-06 Revision C, have been demolished, recyclable material stored and all waste and debris removed from the site.

Reason: In order to provide sufficient amenity space for the occupiers of the dwellings hereby permitted and having regard to the location of the site in the Green Belt.

7 The ridge height of the dwellings hereby approved shall not exceed the ridge height of the existing dwellings (Mulberry House and Wisteria House) to the north of the application site.

Reason: To protect, as far as is possible, the character of the locality.

8 AP01 Approved Plans

INFORMATIVES

1 **INFORMATIVE:** You are advised that many of the lime trees in the avenue of trees beside the existing access road are protected by Tree Preservation Order No 9 of 2004 and you should have regard to these trees in the design of the proposed development. The indicative layout appears to show the loss of some of these trees which is unlikely to be acceptable. Consequently you are advised to carry out a full BS5837:2012 arboricultural survey and to have regard to its recommendations in the final design of the development and in any alterations to the access road.

2 **INFORMATIVE:** The requirements for mitigation set out in Section 6 of the All Ecology report would be required to be implemented in full including bat roosting features to compensate for the loss of night roosts from the removal of buildings. External lighting would be required to be kept to a minimum and surrounding trees retained to support foraging and commuting bats. Policy CS24 of the Core Strategy for Chiltern District requires consideration of the enhancement and encouragement of ecology. As such detailed proposals for ecological enhancement submitted with the reserved matters would be required to identify the means by which this core aim will be achieved.

3 **INFORMATIVE:** In accordance with the revised description of development the proposed parking area shown on the indicative plan on Meadow Lane which would support the South Heath Garden Centre should be shown on detailed proposals provided as part of the reserved matters for the scheme

4 **INFORMATIVE:** It is noted that the submitted Transport Statement refers to the County Parking Standards which are different to the District's standards. The applicant is advised that the County Parking Standards have not been adopted by the LPA, therefore they have no relevance. The District's parking standards are set out in Policy TR16 of the Local Plan. The detailed layout submitted as part of the reserved matters shall include parking in accordance with the Councils standards of 2 spaces per dwelling containing up to 120 sq.m of floor area and 3 spaces for dwellings in excess of 120 sq.m of floor area.

5 **INFORMATIVE:** The detailed design shall be supported by detailed information identifying the measures that have been included to assist with: energy efficiency; use of renewable technology; achievement of water recycling, waste management maximum re-use of construction and demolition materials; the use of locally produced building materials; sustainable drainage and retention of key features of the natural environment. In particular, given the rural location, the inclusion of vehicle charging points to serve the proposed properties might assist in the reduction of particulate and CO2 emissions locally through the encouragement of electric vehicles usage.

6 INFORMATIVE: All wild birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Consequently you should take adequate precautions to ensure that any tree work does not cause any disturbance to birds and their nests particularly during the normal nesting season of March to August. Similarly all bats and their roosting sites are protected by the same legislation so precautions should also be taken to avoid carrying out activities which might harm or disturb bats or their roosts.

7 INFORMATIVE: The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge or other land forming part of the highway. A period of 28 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for information.

Transport for Buckinghamshire
Amersham Highways Depot
London Road
Amersham
HP7 9DT

8 INFORMATIVE: A public sewer may be affected by the proposed development. You are advised to contact the District Engineer, Chiltern District Council, prior to the commencement of work, regarding any approvals that may be required.

9 INFORMATIVE: It is contrary to the Highways Act 1980 for surface water from private development to drain onto the highway or discharge into the highway drainage system. The development shall therefore be so designed and constructed that surface water from the development shall not be permitted to drain onto the highway or into the highway drainage system.

10 INFORMATIVE: Should any contaminants be identified on site, please contact the Council's Health and Housing Division for further advice. A general guidance document on the "Development of potentially contaminated sites in the Chiltern District" is available and should be requested from the Health and Housing Division.

11 INFORMATIVE: The land is located on the edge of the settlement and within the Chilterns Area of Outstanding Natural Beauty. The detailed design of the dwellings shall take account of the guidance in The Chilterns Building Design Guide February 2010, the ridge height and plot widths in the immediate vicinity of the site and the requirements for appropriate separation between dwellings in The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

CH/2017/1824/FA

Case Officer: Emma Showan
Date Received: 27.09.2017
Parish: Chesham Bois

Decide by Date: 19.02.2018
Ward: Chesham Bois And Weedon Hill

App Type: Full Application
Proposal: Demolition of existing house and erection of three 5 bedroom houses, served by existing access
Location: Rowanlinden
70 Long Park
Chesham Bois
Buckinghamshire
HP6 5LF
Applicant: Beacon Build

SITE CONSTRAINTS

Article 4 Direction
Adjacent Conservation Areas
Adjacent Archaeological Notification Site
Bovingdon Technical Radar Zone
Conservation Area
Within 500m of SINC NC1
Tree Preservation Order
Tree Preservation Order (A/G/W)
Established Residential Area of Special Character

CALL IN

Councillor Harris has requested this application be referred to the Planning Committee if the Officers' recommendation is for approval.

SITE LOCATION

This application relates to No. 70 Long Park, a residential property in the built-up area of Chesham Bois. The area is characterised by a range of property types, although the majority are large and are set back from the highway. No. 70 too is set back from the main highway and is accessed via a private driveway serving a small handful of properties. It occupies a sheltered site and a plot which is considerably larger than that of neighbouring properties. The site is located within an Established Residential Area of Special Character.

THE APPLICATION

This application proposes the demolition of the existing house and the erection of three 5-bedroom houses.

The house on Plot 1 would have a maximum width of 10.2 metres, depth of 11 metres and crown roof height of 9.2 metres, with an eaves height of 5.5 metres.

The house on Plot 2 would have a maximum width of 10.4 metres, depth of 9.8 metres and roof height of 9 metres, with an eaves height of 5.5 metres.

The house on Plot 3 would have a maximum width of 16.4 metres, depth of 9.8 metres and roof height of 9 metres, with an eaves height of 5.5 metres. This dwelling would have an integral double garage.

Plots 1 and 2 would both be served by separate double garages.

Plot 1 would be served by a new access onto Long Park, while Plots 2 and 3 would use the existing access onto Long Park.

Amended plans have been submitted during the course of the application and these show an amended site layout (the dwellings are set further forward with the site) and minor alterations to the height and design of the proposed dwellings.

RELEVANT PLANNING HISTORY

None relevant.

PARISH COUNCIL

In regards to the original plans: We have no objection in principle to proposed development of the site but have sympathy for owners of 66 Long Park and their concerns about loss of privacy due to the proposed location of Plot 1. We also have concerns about the increase in traffic along the existing narrow access route which will serve the new properties.

In regards to the amended plans: The amended plans show the re-siting of Plot One and two garages. We have heard from a number of local residents regarding this planning application and support their concerns which remain about the increase in traffic along the existing narrow access route and the resultant danger to road safety. The siting of the three plots for the three storey properties are too close together and result in a cramped form of development which is not in keeping with the surrounding area. The proposals would result in overdevelopment and would erode the local character.

REPRESENTATIONS

14 letters of objection received which can be summarised as follows:

- Plot 1 is located immediately adjacent to and half way down the garden at No. 66 so views from No. 66 will be dominated by the side elevation of the new house
- The site elevation of Plot 1 has a number of windows which will overlook the garden and dwelling at No. 66
- Concern about traffic and the new access as the private lane has no passing places leading to the site
- Two of the trees that the Arboricultural report says should be removed are not reference on the plan
- No information about the ground floor level, ridge and eaves levels of the existing and proposed buildings
- The houses are three storey high and are not in-keeping with the other houses in the area
- Concern about access for emergency vehicles
- Residents have a shared financial responsibility for the upkeep of the road
- No. 51 reserves the right, where legally possible to withhold the right of access over their property
- Serious implications for safety given the intensification of the road
- The application should insist that the road is upgraded and that a paved footpath be introduced
- The properties will overlook the bungalows in The Grove
- The process will be noisy and disruptive
- The public footpath should not be closed at any time
- Concerns that the site joins a popular public footpath
- The siting of the three new houses appears to deliberately leave room for more houses to be added later
- Rowanlinden currently has no mains drainage
- There is already great strain on the existing infrastructure and the utilities in particular were not put in to serve so many dwellings
- Not enough parking for the properties
- Three houses on the plot is excessive
- Overdevelopment

- Noncompliance with Policy H12 regarding proposed garden depths
- The Amersham and District Residents Association strongly objects to the proposal

A petition of 26 signatures has been submitted, objecting to the development.

3 neutral letters received which can be summarised as follows:

- Support from No. 12 The Grove in respect of the removal of the trees (as per the plan)
- Support from No. 8 The Grove provided the line of cypress trees, adjacent to the boundary with this property remains intact
- The applicant has offered to make good any damage to the road or verges caused by construction vehicles and to not allow the parking of vehicles on this part of the road
- The applicant has stated that the site was originally sold as 68 & 70 Long Park, as two plots and No. 74 was sold as 72 & 74 Long Park so the intention was always for an additional two houses served by this road

7 letters of objection in response to the amended plans which can be summarised as follows:

- The original concerns remain
- The movement of the dwelling on Plot 1 will mean that this dwelling is now more intrusive and overbearing to No. 66 Long Park
- Overdevelopment
- Concern over footpath
- Any development should be conditioned so that the access/road is kept clear at all times and work should be undertaken within the site
- Loss of privacy to No. 12 The Grove as a result of the proposed third floor rear window
- The amended plan does not show the location of the house at No. 66
- Concern over bats

CONSULTEES

Buckinghamshire County Highways Authority:

The application seeks planning permission to erect three, five-bedroom houses. The houses will be served off Long Park which is privately maintained up to the junction with Green Lane.

In terms of trip generation, I would expect each dwelling to generate 8-10 daily vehicular movements, two-way. As the site already consisted of one dwelling, the overall development has the potential to generate in the region of 16-20 additional vehicular movements (two-way), per day. As the site would be subject to an intensification in use, the access arrangements serving the site will need to be assessed in order to determine their suitability to accommodate the additional movements.

The Highway Authority would have concerns regarding the suitability of the private section of Long Park, as the access is of an inadequate width to serve additional vehicle movements. An access road serving more than three dwellings is usually required to be a minimum of 4.8m wide. Furthermore, the visibility from the fork of the private road onto the main part of the private road is substandard. However, as this road is private, whilst we can raise these concerns to the Local Planning Authority, we cannot justify them as a reason for refusal as the road does not form part of the publicly maintained highway.

Therefore, I will comment on the impact of the development where the public highway meets the private road. In accordance with guidance contained within Manual for Streets, visibility splays of 2.4m x 43m are required in both directions from the junction commensurate with a speed limit of 30mph.

Mindful of the above, I have no objection to the proposals.

Building Control Officer:

The proposed work is to comply with Approved Document B5-Access and facilities for the fire service.

District Tree and Landscape Officer:

In the early twentieth century various belts of woodland were planted around the grounds of Bois House (now Tenterden). Neither the house nor the woodland is shown in an 1898 Ordnance Survey map but they are present on a 1925 map. Much of the grounds appear to have been sold after the Second World War and housing development on much of the land took place during the 1950s and 1960s. Tree Preservation Order No 11 of 1950 was made around this time to protect these belts of woodland and the whole of the application site is within this protected woodland.

The application includes an Arboricultural and Planning Integration Report.

The application proposes three detached houses within the southern part of the site leaving the northern part, about 40% of the site, as woodland. This woodland includes some very large old trees with some showing signs of deterioration with old age.

Plot 1 would use a new access through some poor hedging while Plots 2 & 3 would use the existing access. Two major trees, T1 oak and T2 hornbeam are shown retained between the drives, largely surrounded by no-dig construction. A clump of trees and shrubs up to about 8m in height that includes T4 holly and T10 birch is shown to be removed. A group of apple and cherry trees, G8, close to the boundary with 66 Long Park is also shown to be removed.

A line of tall cypresses along the rear boundary of Plots 1 & 2 is shown to be retained. There is a group of quite closely-spaced tall trees behind the existing dwelling and the proposed Plot 3. This consists of two very tall ash about 30m in height and various slightly smaller sycamore, ash and beech about 20-25m in height (T14, G15, T16 & G17). Most of these are shown to be removed. There appears to have been some recent damage to the roof of the existing house by some of these trees. One tall ash has a weak twin-stemmed structure and many of the other trees have little lower branching. The other tall ash has a better shape but it would be sheltered by the adjacent trees. I have concerns about the loss of this entire group of trees but I recognise that it would be difficult to retain a limited number of these trees safely.

The Arboricultural and Planning Integration Report lists the trees proposed for removal on section 6.1. This also refers to T15 and G19 for removal but these are not valid references and appear to be an error.

Overall although I have some concerns about the loss of the group of trees behind Plot 3, I would not object to the application provided there is adequate protection for the retained trees.

POLICIES

National Planning Policy Framework.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS5, CS8, CS10, CS11, CS20, CS25, CS26, CS31 and CS32.

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, H3, H4, H11, H12, TR2, TR3, TR11 and TR16.

Affordable Housing SPD - Adopted 21 February 2012.

EVALUATION

Principle of development

1. The application site is located within the built-up area of Chesham Bois where proposals for new dwellings will be acceptable in principle subject to there being no conflict with any other policy in the Local Plan. Proposals should be compatible with the character of the area by respecting the general density, scale, siting, height and character of buildings in the locality and the presence of trees, shrubs, lawns and verges.
2. The site is also located within an Established Residential Area of Special Character which sets out the following criteria to assess new dwellings:
 - The plot size of any proposed dwelling in terms of shape and magnitude should not be significantly at variance with other existing plots in the vicinity
 - Each proposed dwelling plot should have an existing frontage to an existing road
 - The width across each plot frontage should be closely similar to other plot widths in the vicinity
 - The position of each proposed dwelling within its plot and the spacing between dwellings should be in accordance with the prevailing character in the vicinity
 - The frontage building line to the existing road should be generally maintained and the general height of buildings in the vicinity should not be exceeded
 - The form of existing residential development should be maintained in terms of dwellings being detached, semi-detached, terraced
 - The size, design and external appearance of each new dwelling should be compatible with the character of existing dwellings in the vicinity
 - Important features which are characteristic of the street scene in the vicinity should be retained. Such features include trees, shrubs, hedges, footways etc.

Design/Character and appearance

3. The application site currently comprises a two storey dwelling which is set back from the highway within extensive gardens and a plot that is considerably larger than that of neighbouring properties. The site contains mature vegetation and trees that give the location a green and secluded position at the end of the cul-de-sac. It is proposed to demolish this existing dwelling and to erect three detached properties and their respective garages in its place. While Plot 1 would have a new access onto Long Park, Plots 2 and 3 would rely on the existing access serving No. 70.

4. As the application site falls within an Established Residential Area of Special Character, the criteria for new development are more stringent, in line with Development Plan Policy H4. Taking each of these in turn, the plot size of the proposed dwellings should not be significantly at variance with the other plots in the vicinity. In this case, the plots would be similar to their neighbours in terms of shape and magnitude and they would have a frontage with an existing road. Taking into account the plot widths, the plot sizes of the proposed dwellings would have an average width of 16 metres which compares to the average along this part of Long Park which falls between 20-25 metres. However, Long Park itself is characterised by a range of property types and includes sections along both sides of the highway which contain semi-detached and smaller detached properties with narrower plot widths, akin to those of the proposed dwellings. Accordingly, although smaller than the plot widths of the immediate neighbours, the proposed plots would not be notably out of character with Long Park as a whole and the difference between the proposed plots and their neighbours is not significant enough to be of major concern. In addition, the plot depths and shapes are comparable to their neighbours which further helps the plots to integrate with the others in the vicinity. Taking the next criteria into consideration, each dwelling would respect the existing build line, with the dwelling on Plot 1 being positioned slightly towards the rear of No. 66 Long Park and the dwellings on Plots 2

and 3 being stepped back from Dwelling 1. All the properties would be set forwards within their plots so that they retain adequate garden depths commensurate to others in the locality and adequate spacing would be retained between the properties in accordance with Development Plan Policy H11. Despite having living accommodation set over three levels, this would be achieved through the erection of rear dormers in the properties that allow for habitable accommodation in the roofspace. They are quite clearly two storey properties with further accommodation in the roofspace and the presence of a third floor would not be easily discernible from the front elevation and the dormers would be small and are not considered to dominate their respective roof slopes. Furthermore, the proposed dwellings would be of a similar height to others along Long Park and in accordance with the prevailing development type in the area, with the dwellings being detached and their design and proportions being considered compatible with the character of the existing dwellings in the vicinity. Finally, many of the trees on site will be retained and this part of Long Park will retain its green and relatively secluded position. A condition to ensure no trees are felled and further conditions to ensure a landscaping scheme is approved and implemented would ensure adequate vegetation and greenery remains on site, should planning permission be granted.

5. Although neighbours and the Parish Council have raised concern that the proposed dwellings would constitute overdevelopment and would be out of character with neighbouring properties, it is considered that the site is large enough to adequately take the erection of three new dwellings and adequate spacing would be retained, in accordance with the terms of Development Plan Policy H11, between the dwellings so that they do not appear overly cramped in relation to one another. In fact, it should be noted that the space between the houses is actually greater than the spaces between some of the existing houses along Long Park, so it cannot be said that the development is out of character in terms of spacing. It should also be noted that overdevelopment is just a vague descriptive term, with no precise meaning, and does not constitute harm in itself. A minimum of 3.5 metres would separate the flank walls between Dwellings 1 and 2, while 6.5 metres would separate the flank walls between Dwellings 2 and 3 which is considered to be wholly sufficient. In terms of the proposed design, the three dwellings would be detached properties with pitched roofs and a fairly traditional appearance. Although the properties would contain rear dormers in the roofslope to facilitate habitable accommodation in the roofspace, these dormers would be modestly proportioned and located to the rear where they would not be visible in the streetscene. As such, the properties would appear as two storey from the front elevation and will therefore be in keeping with the neighbouring properties. Accordingly, they are considered to integrate with the character of the other properties along this part of Long Park and a condition requiring the approval of details in relation to the facing materials proposed will ensure that the development integrates within the locality and is not intrusive or overly prominent in the street scene.

Neighbouring amenity

6. The proposed dwellings would be located at the cul-de-sac end of Long Park, adjacent to No. 66. The dwelling on Plot 1 would be set to the rear of No. 66 so that it extends in depth beyond the rear elevation at No. 66. The garage serving this property would also be located at the boundary with No. 66 and in line with the front elevation of this neighbour, but would be single storey and of a modest height. The proposed dwelling on Plot 1 would have a roof which is pitched away from No. 66 which will help to offset its bulk and it is considered that adequate separation between Dwelling 1 and No. 66 will be maintained (approximately 10 metres), and with Dwelling 1 being situated a minimum of 3 metres away from the flank boundary with No. 66, it is considered that the proposal would not appear overly overbearing to this neighbour. In addition, no first floor flank windows are proposed in the west flank elevation of Dwelling 1 facing No. 66 aside from two windows serving bathrooms and these can be subject to a condition requiring them to be obscurely glazed and non-opening. This will eliminate overlooking in this direction and a condition restricting the future insertion of windows in this west flank will also mitigate against future overlooking.

7. To the rear, the three properties would face towards the rear elevations and gardens of properties along The Grove. A number of the occupiers of the bungalows along The Grove have raised concern in

relation to a potential loss of privacy as a result of the rear dormers serving the three properties. Although this concern is noted, it is considered that adequate separation will be retained between the rear elevations of the proposed dwellings and the properties to the rear at The Grove (there would be a minimum of 16 metres between the rear elevations of the proposed properties and their respective rear boundaries), and the retention of adequate boundary screening to the rear will further offset some of the intrusion. Given this separation distance, a refusal based on loss of amenity could certainly not be substantiated at an appeal.

8. With regards to amenities of future occupiers of the dwellings, each dwelling would have adequate light and outlook and access to a private rear garden with a garden depth in excess of 15 metres, and therefore in compliance with Development Plan Policy H12. Adequate bin storage can also be provided within the site and so no objections are raised in this respect.

Parking/highway implications

9. It is proposed to provide a minimum of three parking spaces per dwelling to be laid out on an area of hardstanding to the front of the dwellings and each property would also have access to a double garage. This is in line with the parking standards set out in Development Plan Policy TR16. Furthermore, in regards to the creation of the new accesses, as the proposed access is onto a privately owned highway, no objections can be raised by Buckinghamshire County Highways Authority. Despite being less than 4.8 metres wide, the access already serves more than three dwellings and it is not considered that the erection of an additional two properties would lead to an intensification of the site to such an extent that there would be an adverse impact on the highway. The Highways Authority have also confirmed that there is adequate visibility and no detrimental impact from the proposal at the point where the public highway meets the private road. Finally, in regards to the maintenance of the access along Long Park, this is a civil matter to be discussed between the applicant and the owners/users of the driveway.

Trees

10. The District Tree and Landscape Officer has raised no objections to the proposal.

Affordable housing

11. For proposals under 5 dwellings, Policy CS8 of the Core Strategy requires a financial contribution towards off-site affordable housing to be made. However, there are now specific circumstances set out in the NPPG (National Planning Practice Guidance) where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development, including developments of 10 units or less, which have a gross floor space of less than 1,000 square metres. This carries more weight than Policy CS8, as it is more recent, so an affordable housing contribution cannot be sought in this instance.

Sustainability and access

12. Core Strategy Policy CS4 sets out sustainable development principles for new development and in this respect it is noted that the site is within a relatively sustainable location in the built-up area of Chesham Bois which benefits from bus routes, local amenities and existing waste collection routes. As such, no objections are raised in respect of Policy CS4.

Working with the applicant

13. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

Chiltern District Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,

- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case, Chiltern District Council has considered the details as submitted which were considered acceptable.

Human Rights

14. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Conditional permission

Subject to the following conditions:-

1 C108A General Time Limit

2 Before any construction work commences on the site, details of the materials to be used for the external construction of the development hereby permitted, including the facing materials, roofing materials and surface materials for the paths and parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in the approved materials.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality, in accordance with policies GC1 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

3 Prior to the commencement of any construction works on site, detailed plans, including cross sections as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the residential units hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.

Reason: To protect, as far as is possible, the character of the locality and the residential amenities of neighbouring properties, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

4 Prior to the occupation of the development hereby permitted, the access onto Long Park shall be laid out in accordance with the approved plans and visibility splays shall be provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

Reason: in order to minimise danger, obstruction and inconvenience to users of the highway and of the development, and to provide adequate intervisibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access, in accordance with policies TR2 and TR3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policies CS25 and CS26 of the Core Strategy for Chiltern District (Adopted November 2011).

5 The scheme for parking indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and those areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to park clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway, in accordance with policies TR2, TR3, TR11 and TR16 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policies CS25 and CS26 of the Core Strategy for Chiltern District (Adopted November 2011).

6 Prior to the occupation of the development hereby permitted, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall then be erected/constructed prior to the occupation of the residential units hereby permitted.

Reason: To protect, as far as possible, the character of the locality and the amenities of neighbouring properties, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

7 Prior to the occupation of the development hereby permitted, full details of the proposed refuse and recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved bin storage shall be provided in accordance with the approved plans.

Reason: To ensure that adequate bin stores are provided, in accordance with Policy GC3 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no roof lights, windows/dormer windows other than those expressly authorised by this permission, shall be inserted or constructed at any time in the flank elevations of the properties hereby approved.

Reason: To protect the amenities and privacy of the adjoining properties, in accordance with policy GC3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011.

9 This permission is granted on condition that none of the trees or hedges on the site (other than those specified to be removed on the plans hereby approved), shall be felled, topped, lopped or uprooted without the prior approval in writing of the Local Planning Authority for a period of five years from the date of implementation of this permission. Furthermore, the existing soil levels around the boles of the trees so retained shall not be altered.

Reason: In order to maintain, as far as possible, the character of the locality.

10 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping at a scale of not less than 1:500 which shall include indications of all existing trees and hedgerows on the land, with details of those to be retained, and those to be felled being clearly specified.

Reason: In order to maintain, as far as possible, the character of the locality.

11 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced

in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to maintain, as far as possible, the character of the locality.

12 The flank windows on the proposed dwellings will remain obscurely glazed in accordance with the approved plans.

Reason: To protect the amenities and privacy of the adjoining properties, in accordance with policy GC3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011.

13 AP01 Approved Plans

INFORMATIVES

1 All species of bat and their roosts are protected under the Wildlife and Countryside Act 1981 and The Conservation of Habitats and Species Regulations 2010. The applicant and contractors should be aware that all bats and any structures used by them are protected by law, and that works likely to disturb bats or their resting places (even if undertaken at a time of year when the bats are absent) require a licence from Natural England. Should a bat be encountered during development, work should cease immediately and advice should be sought from Natural England (tel. Batline 0345 1300228). Bats should preferably not be handled (and not without gloves) but should be left in place, gently covered, until advice is obtained. Particular care and vigilance should be taken when roof tiles or slates are removed (remove by hand and check underside for bats before stacking, particularly the ones over the gable ends and ridge tiles.) Fascias, barge boards and external cladding may also provide roost opportunities for bats and should be disturbed with care. As a further precaution, undertaking roof work during the months of March to May, or September to November will avoid the main hibernation and breeding seasons when bats are most sensitive to disturbance.

CH/2017/1890/FA

Case Officer: Murtaza Poptani
Date Received: 09.10.2017
Parish: Chalfont St Peter
App Type: Full Application
Proposal: Part single/part two storey rear extensions, single storey side extension, two storey front infill extensions, front rooflights, central roof lantern and rear roof dormers to facilitate habitable accommodation in roofspace (amendment to planning permission CH/2017/0682/FA)
Location: Woodfield
2 Claydon End
Chalfont St Peter
Buckinghamshire
SL9 8JX
Applicant: Mr Fernandez

SITE CONSTRAINTS

Article 4 Direction
Adjacent Conservation Areas
Adjacent to Unclassified Road
Conservation Area
Heathrow Safeguard (over 45m)
Mineral Consultation Area
Northolt Safeguard zone
Established Residential Area of Special Character

CALL IN

Councillor Wertheim has called this application to the Planning Committee regardless of the Officers' recommendations, in view of local concerns.

Councillor Mrs Darby has called this application to the Planning Committee regardless of the Officers' recommendations, in view of local concerns.

Councillor Harrold had called this application to the Planning Committee if recommended for approval, in view of local concerns.

SITE LOCATION

The application site accommodates a significant sized two storey detached dwelling situated to the western side of Claydon End and is set within a substantial sized curtilage. The land slopes upwards at a gentle gradient from east to west and the dwelling benefits from off road parking to the front driveway. The neighbouring properties are predominantly in the form of detached two storey dwellings with similar front and rear building lines. The site is situated within the built up area of Chalfont St Peter and is not within a Conservation Area.

THE APPLICATION

The application proposes the erection of a part single/part two storey rear extensions, single storey side extension, two storey front infill extensions, front rooflights, central roof lantern and rear roof dormers to

facilitate habitable accommodation in roofspace as an amendment to approved planning CH/2017/0682/FA. The proposed amendments are as follows:

- Insertion of 2 dormers to the rear roof slope, each measuring 1.6 metres in width and 1.6 metres in height;
- Erection of a portico porch to the front measuring 4 metres in width, 1.3 metres in depth and 3.1 metres in height;
- Erection of a bay window feature to the first floor rear extension measuring 4.6 metres in width and 1.4 metres in depth;
- Insertion of 5 rooflights and a roof lantern;
- Minor alterations to the fenestration detailing.

(Officer note: Amended plans were received from the agent amending the extent of the site so that the substation at the rear of the site is no longer included within the red line, and showing a patio area and retaining wall to the rear.)

RELEVANT PLANNING HISTORY

CH/2017/0602/PNE - (Larger Home Extension Prior Notification) - Notification of proposed single storey rear extension; depth extending from the original rear wall of 8 metres, a maximum height of 3.704 metres and a maximum eaves height of 2.882 metres. Prior approval not required.

CH/2017/0682/FA - Part two storey, part single storey rear extension, single storey side and two storey front extensions. Conditional permission. Not implemented.

PARISH COUNCIL

Strongly object. Gross overdevelopment indicated by large areas of flat roof, extension beyond front and rear building lines and extended too close to the boundary in an area characterised by open frontages. [Officer Note: The Parish Council do not explain what harm arises from perceived overdevelopment, which in itself is a descriptive term with no real meaning.] Gutter overhanging neighbours. Overbearing. Poor design out of keeping with other 6 properties on this open area. Third floor out of keeping with the street scene. Overlooking properties on both sides leading to loss of privacy. Loss of light. Drafting errors still remain despite previous comments, this makes it impossible to know what exactly is being applied for. Extensive ground works not detailed. Despite note that no trees or hedges will be destroyed, a mature beech hedge will certainly be removed if allowed. Concerned that this is planning approval by stealth with third application and an application for demolition and redevelopment with even larger property is possible unless stopped now.

REPRESENTATIONS

Six letters of representation received which are summarised as follows:

- We object on the grounds of loss of amenity, privacy and enjoyment of our patio and garden by being overlooked by second storey accommodation in the roof.
- The guttering will overhang our boundary [Officer Note: This has been corrected and no part of the development is shown on the plans to overhang a boundary].
- Land opposite road was previously included in red line and should be included here [Officer Note: This is not material to the application and there is no requirement to include additional land within the red or blue lines].
- Query inclusion of substation within site and the relevance of signing Certificate A [Officer Note: This has been corrected and the substation removed from the site area].
- The dwelling would be overbearing and out of keeping with other houses in the road.
- The number of windows would result in a loss of privacy.
- The extension is close to the boundaries and will obscure the light and privacy to the adjacent properties.
- The application form that no hedges or tree will be removed but this is incorrect.

- There are numerous drafting errors on the submitted drawing many of which have been carried over from the previous application, specifically:

1. Bay windows not drawn correctly [Officer Note: They are correct].
 2. Rooflights shown differently on floorplans and elevations [Officer Note: There are very minor discrepancies but they have no impact on the overall scheme and it is clear where the rooflights would be located].
- The residents have a right to light which would be impinged by the proposed extensions.
 - The highway would be blocked by construction traffic.
 - The application does not comply with local plan policies GC1, GC3, H11, H13, H14, H15, H16, Chalfont St Peter Neighbourhood plan policies H6 and H7 and the principles set out in the Council's Residential extension and householder development Supplementary Planning Document (SPD).
 - The first floor bay projection which has side windows directly overlooking the properties at numbers 1 and 3 Claydon End.
 - Second floor accommodation was not shown on application reference CH/2017/0682/FA as the applicant was aware that the additional accommodation and second floor windows would be unacceptable.
 - The introduction of six over six sash windows and a classical style portico would seem to be an attempt to bring a classical style to the building. The scale and proportions are all wrong and the result is a very poor architectural ensemble that fails to fit satisfactorily into the mid twentieth century style of the rest of the street and consequently fails to comply with the Council's design criteria.

CONSULTATIONS

None.

POLICIES

National Planning Policy Framework.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4 and CS20.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, H13, H14, H15, H16, H17, H18, TR11, TR16.

Residential extension and householder development SPD - September 2013.

Sustainable Construction and Renewable Energy SPD - Adopted 25 February 2015.

The Chalfont St Peter Neighbourhood Plan: 2013 - 2028: Policies H6 and H7.

EVALUATION

Principle of development

1. The site is located in the built up area of Chalfont St Peter where extensions to existing dwellings are acceptable in principle, subject to complying with the relevant policies of the Development Plan.

Design/character & appearance

2. The application property is a significant sized two storey detached dwelling set within a substantial sized curtilage. As aforementioned, this application is an amended scheme to approved planning reference: CH/2017/0682/FA. The proposed amendments are the insertion of 2 dormers to the rear roof slope, erection of a portico porch, erection of a bay window feature to the first floor rear extension, insertion of 5 rooflights and a roof lantern, minor alterations to the fenestration detailing and the construction of a patio area and retaining wall to the rear. As the relevant policies and site circumstances are unchanged since the previous planning permission, no objections can be raised in relation to the elements that have in effect already been

granted planning permission. This report will therefore assess the implications of the specific amendments as the main body of the extensions have already been permitted.

3. In terms of the dormer windows, Policy H18 requires them to respect the scale, proportions, existing windows and other features of the external appearance of the roof and elevation in which they are located. The proposed rear dormers would be set down slightly below the ridge of the main roof, would be set a satisfactory distance above the eaves and from the left and right roof edges such that they would be considered as subservient forms of development and would certainly not dominate the rear roof slope. The proposed roof lantern would be set back from the front and rear elevations and would not be prominent in any views of the property. Rooflights can be inserted as permitted development under Class C of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and therefore no objections can be raised to these elements. With regards to the portico porch, by virtue of its modest depth and proportionate size in comparison to the remainder of the front elevation and its set back position from the main highway, it is not considered to be detrimental to the character of the surrounding area. The bay window feature to the first floor rear elevation would replicate the approved ground floor rear bay feature and would be in keeping with the vernacular of the property. The minor alterations to the fenestration detailing would also be of sympathetic appearance. The comments from an objector are noted, regarding the mixed "ensemble" of design styles. However, the NPPF states that LPAs should concentrate on guiding the overall layout, scale and form of development and should not be overly prescriptive in terms of detailed appearance. The rear garden of the site slopes upwards at gentle gradient, resulting in the partial excavation of the garden area immediately to the rear of the property. This would result in the erection of a retaining wall with an approximate height of 1 metre which would be acceptable. A condition requiring a cross section of the retaining wall and patio area to be submitted for approval would be attached to the permission. It is therefore considered that the proposed amendments are minor in nature and would satisfactorily integrate with the character of the approved extensions and the host dwelling and the overall height, width and scale would be proportionate and subservient. The siting of the majority of the extensions to the rear and that the proposal would not reduce the spacing of the dwelling to the side boundaries at first floor level is such, that the proposal would not have an adverse impact on the character of the locality. No objections are raised with regard to Local Plan Policies GC1, H13, H14, H15, H16, H17, H18, Core Strategy Policy CS20 and Policies H6 and H7 of The Chalfont St Peter Neighbourhood Plan.

Residential amenity

4. The adjacent dwellings to the north and south have a similar rear building line as the application property and all benefit from west facing rear gardens of significant width and length. Although the proposed rear extensions would be of significant size, the first-floor element would not encroach any closer to the side boundaries than the existing dwelling, would have a modest rearward projection of 4 metres, and the hipped roof design assists in reducing the bulk and massing of the roof void. The single storey rear extension would be characterised with a low height pitched roof and would not appear intrusive. As such, it is considered that the proposed extensions would not appear as an unduly prominent or visually intrusive feature when viewed from either neighbouring property. Furthermore, the proposed rear extensions would have a lesser impact on No. 1 Claydon End due to the northern orientation of the application dwelling and therefore would not result in a direct loss of sunlight or overshadowing. The view from the glazing to the first and second floors of the rear elevation would be similar to what exists at present and by virtue of the modest size of the rear dormers, would not result in a material loss of privacy. Specific concerns have been raised in regards to the angled glazing to the first floor rear bay feature. Due to the modest size of the glazing panels and that they would face towards the lower end of the adjacent neighbouring gardens, this element would not result in significant overlooking of the garden areas immediately to the rear of the adjacent properties and would not result in a material loss of privacy. A condition would be attached to the permission to prohibit the installation of any further windows to the first floor flank elevations and for the proposed first floor northern flank windows to

be obscured glazed and fixed shut up to an internal height of 1.7 metres in order to protect the privacy of the adjacent properties. No objections are therefore raised with regard to Local Plan Policies GC3, H13(i) and H14.

Parking/Highway implications

5. The dwelling benefits from off road parking for 4 cars to the front driveway. As such the proposal would have no adverse parking implications having regard to the Council's Parking Standards and no objections are raised with regards to Policies TR11 and TR16.

Other matters

Response to Further Objection Statement

6. The concerns outlined in the representations are addressed as follows:

- The red line outlining the curtilage has been amended to exclude the substation to the rear of the site.
- The submitted block plans show the single storey side extension to be set in from the shared boundary and to not encroach over the boundary with No. 1 Claydon End.
- The boundary treatments would be retained in their current form.
- The loss of the boundary hedge is not deemed material in the consideration of this application.
- The existing and proposed elevations and floor plans appear to be drawn correctly, with the exception of slight discrepancies to the rooflights, which do not prejudice the application.
- It is acknowledged that the site is not level however, the rear extension would be built on the same ground level as the existing dwelling. This would involve some partial excavation of the rear garden and would not affect the design or residential amenity. A condition would be attached to the permission requesting land level and retaining wall details.
- The dimensions of the rear and side extensions and roof form have previously been approved under ref: CH/2017/0682/FA. The application dwelling is situated within a spacious curtilage and can accommodate the extension without appearing unduly cramped or overdeveloped and would comply with Policies H13 and GC1.
- The first-floor element would not encroach any closer to the side boundaries, would have a modest rearward projection of 4 metres and the hipped roof design assists in reducing the bulk and massing of the roof void. The single storey rear extension would be characterised with a low height pitched roof. Therefore the proposed works would have an acceptable level of impact on the neighbouring properties and would comply with Policy H14.
- With regards to the roof, although it would accommodate a crown roof section, this would be partially obscured by the pitched roof to all sides and would be of acceptable appearance. Furthermore, the modest depth of 4 metres of the first floor element is considered subordinate and due to the set back position of the dwelling from the highway boundary, the crown roof would not appear unduly prominent within the surrounding locality. The proposed extension would utilise matching materials.
- The proposed extension at first floor level, would not encroach any close to the side boundaries than the existing dwelling and would therefore comply with Policies H16 and H11.
- Both of the adjacent dwellings at No. 1 and 3 Claydon End benefit from rear gardens of significant width and depth and are west facing and as such, the extension would not appear unduly overbearing or would adversely restrict the outlook from the neighbouring dwellings and their gardens.

Conclusions

7. For the aforementioned reasons, the application is recommended for approval.

Working with the applicant

8. Chiltern District Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case, Chiltern District Council assessed the application based on the amended plans which are considered acceptable.

Human Rights

9. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Conditional permission

Subject to the following conditions:-

1 C108A General Time Limit

2 C431 Materials to Match Existing Dev

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no windows/dormers/rooflights other than those expressly authorised by this permission, shall be inserted or constructed at any time at first floor level or above in the flank elevations of the extensions hereby permitted.

Reason: To protect the amenities and privacy of the adjacent properties.

4 The first floor windows in the northern flank elevation of the existing dwelling shall only be glazed with obscured glass and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: To protect the amenities and privacy of the neighbouring property.

5 Full details of the retaining wall to the rear patio area as shown on the Block Plan (Drawing No. GSB/2/2018/SITE received on 10 January 2018) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the retaining wall being built. The retaining wall shall be constructed in accordance with the approved details prior to the first occupation of the dwelling. The retaining wall shall be retained thereafter in accordance with the approved details.

Reason: In the interests of visual amenity.

6 AP01 Approved Plans

CH/2017/1958/FA

Case Officer: Emma Showan
Date Received: 20.10.2017
Parish: Penn
App Type: Full Application
Proposal: Erection of 6 retractable floodlight columns (2.8m rising to 15m) and lamps to light a football pitch plus associated control cabinet.
Location: Penn And Tylers Green Football Club
Elm Road
Penn
Buckinghamshire
HP10 8LG
Applicant: Penn and Tylers Green Football Club

Decide by Date: 19.01.2018
Ward: Penn And Coleshill

SITE CONSTRAINTS

Article 4 Direction
Adjacent Conservation Areas
Adjacent to A and B Road
Area Special Advertisement Control
Adjacent Listed Buildings
Adjacent Archaeological Notification Site
Within Chilterns Area of Outstanding Natural Beauty
Archaeological site
Adjacent Public Footpaths and Public Rights Of Way
Conservation Area
Within Green Belt other than GB4 GB5
Public footpath/bridleway
A and B Roads
Within 500m of SINC NC1
Adjoining Public Amenity Open Space
Public Amenity Open Space
Established Residential Area of Special Character

CALL IN

Councillor Mrs Burton has requested that this application be determined by the Planning Committee, regardless of the Officers' recommendation.

SITE LOCATION

This application relates to Penn and Tylers Green Football Club which is located in the open Green Belt outside of Penn. The football club is accessed off Elm Road which is the main road through the settlement of Penn and the football club is sited to the rear of a number of residential dwellings and their gardens which front Elm Road. The site is also located within the Chilterns Area of Outstanding Natural Beauty and it borders a Conservation Area and is adjacent to a number of Listed Buildings and a site of archaeological significance.

THE APPLICATION

This application proposes the erection of six retractable floodlight columns (2.8 metres rising to 15 metres) and lamps to light a football pitch, plus an associated control cabinet.

This application follows on from planning application CH/2005/2012/FA for the erection of six 16 metre high floodlights which was refused permission. The main difference between this application and the previous application is that the latest floodlight columns will be retractable and will have a height of 2.8 metres when not in use.

RELEVANT PLANNING HISTORY

CH/2012/0306/FA - Levelling of ground to facilitate repositioning of existing football pitch with dug outs, surrounding fencing and relocation of existing storage container, conditional permission.

CH/2008/1272/FA - Replacement clubhouse, conditional permission.

CH/2007/1346/FA - Change of use from agricultural land to recreation use to provide an additional tennis court and children's mini court with 2.7m high fence surround and re-siting of existing hut. Refused permission as insufficient information has been supplied to demonstrate that there is a proven requirement for the additional facilities and the associated works proposed would involve a substantial change to the appearance of the area. The works would raise up and enclose this currently open area of land and would be detrimental to the openness of the Green Belt and beauty of the AONB.

CH/2005/2012/FA - Erection of stand, six 16 metre high poles each containing three floodlights, over flow car park, retaining walls and resiting of dugouts. Refused permission as the floodlights would represent inappropriate development within the Green Belt and would fail to enhance the AONB. They will rise more than twice the height of the listed buildings and will be seen in the background in views from Penn green which forms the heart of the conservation area. The lights would be at odds with the rural character of the village.

CH/2001/2038/FA - Retention of three replacement floodlights and removal of existing floodlight, conditional permission.

CH/1996/0179/FA - Erection of eight 8m high steel poles each containing two floodlights. Refused permission as the proposal would be inappropriate development in the Green Belt and would conflict with the AONB. The floodlights would result in increased activity and disturbance to nearby residents and would have a detrimental impact on their visual amenity.

CH/1989/0229/FA - Extension to existing football clubhouse to provide joint facilities for the football and cricket clubs. Refused permission as it would be contrary to the Green Belt designation and would be detrimental to the amenities and quiet enjoyment of nearby residential properties. There would also be inadequate provision for the parking of vehicles.

CH/1986/2292/FA - Replacement cricket pavilion, conditional permission.

PARISH COUNCIL

Objection - we accept in principle the Club's need for floodlights but the lack of a satisfactory Institute of Lighting Professionals survey of the impact on the CA/AONB and lack of restrictions placed on floodlight usage means we must object to the present application.

REPRESENTATIONS

- A supporting statement has been submitted by the secretary of Penn & Tylers Green Football Club
- A Heritage & Planning Statement has been submitted.
- An Archaeology Report has been submitted.
- A statement from the lighting provider has been submitted.
- A statement setting out the Football Association's requirements has been submitted.
- A Uhlsport Hellenic League supporting letter has been submitted.

170 letters of support have been received which can be summarised as follows:

- The proposal is as a result of FA requirements
- The Club is a successful and thriving community organisation
- There is pressure on finding appropriate training facilities
- Weekend usage is not going to change
- The number of games is unlikely to increase
- The lights will allow play when it gets dark in winter
- The Club is a very important leisure and sporting facility
- The proposal will allow teams to compete at current and appropriate levels
- The Tennis Club already has floodlights
- The Club provides a much needed facility for the community
- Visual effect will be limited
- Local engagement with the community
- The floodlight use will be minimal
- Concern of loss of league positions
- Concern of loss of members
- The Club previously has had temporary floodlighting
- There is screening between the gardens that back onto the ground and the pitch itself
- The Club will allow members to compete fairly with other similar local clubs
- Encourage greater participation
- Facilities are regularly used
- Changes are required for the benefit of future generations

48 letters of objection have been received which can be summarised as follows:

- The reasons of refusal for the 2005 application still stand
- Concern in regards to light pollution
- Detrimental impact on AONB
- Intrusion into the Green Belt
- Concerns of parking
- Failure to preserve the Conservation Area
- Adverse impact on neighbouring amenity
- Lack of a bat survey
- Development at the football club has gone too far
- Noise and general disturbance
- Unsightly floodlights
- Village has a dark and rural setting
- No street lights in the village
- Discrepancies in the technical information submitted by the Applicant
- Concern of an increase in membership/attendances
- Failure of the Club to comply with the conditions of its previously granted planning permissions

Comments from the Campaign to Protect Rural England: Objection to the proposal.

Comments from Penn & Tylers Green Residents Association: Objection to the proposal.

CONSULTATIONS

Buckinghamshire County Highways Authority:

The proposed development has been considered by the County Highway Authority who has undertaken an assessment in terms of the impact on the highway network including net additional traffic generation, access arrangements and parking provision and is satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway objections, and in this instance has no conditions to include on any planning consent that you may grant.

Building Control Officer:

No comments.

County Archaeological Officer:

The nature of the proposed works is such that they are not likely to significantly harm the archaeological significance of the asset(s). We therefore have no objection to the proposed development and do not consider it necessary to apply a condition to safeguard archaeological interest.

Environmental Health Officer:

Environmental Health have no recorded complaints in relation to light nuisance sourced at these premises since 2007.

I have reviewed the plans and documentation submitted in support of this application, with particular reference to the Abacus Lighting Ltd Obtrusive Light Compliance report.

This report notes that this area falls within the appropriate location category (2 / Low District Brightness) and demonstrates that the proposed floodlight installation illuminance falls within acceptable guidance limits (Max 5 Lux) as received at the nearest sensitive receptors (Guidance Notes for the Reduction of Obtrusive Light GN01:2011 - Institution of Lighting Professionals).

Given this I can confirm that I would not be objecting to any considerations to grant consent. However in order to protect the local amenity after guidance curfew hours (23.00).

Historic Buildings Officer:

Penn and Tylers Green Football Club lies directly behind the rear of houses and gardens fronting onto Elm Road and The Green at Penn. The rear boundary of these houses also forms the boundary of the Penn and Tylers Green Conservation Area so that the football club forms part of the setting to the conservation area. Many of the houses backing onto the football club are listed grade II and include the following: two pairs of flint and brick cottages, The Chestnuts and Collaine and Kenilworth and Japonica, a terrace of flint and brick cottages, Elm Cottage, Midelm Cottage and Flintstone, the seventeenth century Dutch gabled Old Bank House and the large seventeenth century house known as French Meadow located directly next to the access drive to the football club. To the east of the football club and across open fields is the grade II listed Puttenham Place Farm.

The current proposal seeks to install six floodlight columns, three on each side of the primary pitch and remove three existing six metre high poles. The proposed columns will have a height of 15 metres which will be reduced to 2.8 metres when not in use. There will be an associated control cabinet. The lights will be used for matches twice a week until 10pm and on Saturdays in the winter months until 6pm with occasional

matches on Easter Sunday or Boxing Day. The illumination will be 180 lux reduced to 100 lux for training sessions, detail is not given on the occurrence of training sessions. The application states that some of the teams playing at the club play in leagues that the FA requires flood lighting of a lux of 180 and these floodlights should be in place within two years or face relegation.

In 2005 permission was refused for a similar application to install 16 metre high floodlights amongst other proposals (CH/2005/2012/FA). This application states that it has attempted to overcome previous objections and in this context sought pre-application advice which was broadly supportive of the proposal (CH/2017/40078/IQL). However, historic building advice was not consulted for this pre-application submission.

Some of the objections that were raised in 2005 have indeed been overcome by technological developments within lighting. Where previously the raising and lowering of the lights was rather cumbersome it can now be done in one minute making it more likely that the lights are lowered when not in use. The light spill of the floodlights is now more targeted than previously so likely to affect the amenity of neighbouring properties less than before. The application has been clear that matches will occur on three days of the week with additional matches at holiday times. All this helps to build the case that the harm that the floodlights will cause is more limited than the previous application and the public benefits will offset this harm.

However, I still have real concerns regarding the proposal. The poles are fifteen metres in height with the lights on top taking them closer to the sixteen metres of the refused application. They remain almost twice the height of the small scale cottages listed or otherwise along Elm Road and would be visible over the roofs of the listed buildings in views from The Green. This would clearly be harmful to the setting of the listed buildings and the character of the conservation area and at odds with the village's own policy of not installing street lighting around the Green in order to preserve the character of the area. Their modern character would be at odds with the small scale historic character of the buildings along Elm Road and would appear alien and unwelcome in this context. When viewed from the setting around Puttenham Place Farm they would appear as alien modern intrusions within the arable landscape in which it is sited.

The lights are in a similar location as previously, three on either side of the pitch, the closest being approximately 10 metres from the boundary of the gardens backing onto the pitch and approximately 40 metres from the closest houses themselves. The three on the north side of the pitch are aligned with the boundary of the grade II listed The Chestnuts and Collaine and those on the south side are aligned with the boundary of the grade II listed Kenilworth and Japonica.

Although the number of matches proposed is limited there is the grey area of training. The application states that the primary pitch would only be used when the ground is sufficiently dry and the proposed lights would be reduced to 100 lux. It is not at all clear how frequent this might be and it is of real concern that the proposed lights would be fully extended and in use (albeit at a lower lux) over a far longer period than the details given regarding matches. It might be possible to argue the public benefits of the proposal offsetting the harm caused to the setting of the listed buildings and conservation area if they were raised for "very limited times" as quoted from the 2005 Historic Buildings Officer's comments. However, using them for training on top of the matches cannot be regarded as "very limited times".

I don't think there is any question that the proposed spotlights would be harmful to the setting of the listed buildings and the conservation area. The question is are the minor changes between the unsuccessful 2005 application and this application sufficient to reduce the harm to such a degree that it might be possible to offset that harm in terms of the public benefit. My view is that the alterations do not go far enough and the potential for the lights to be fully extended and illuminated for long periods of time mean that I object on the grounds of the less than substantial harm to the setting of the heritage assets of the listed building and the conservation area not being outweighed by the public benefits in line with NPPF 134. In addition the proposal

would fail to conserve the designated assets and would harm the significance of their setting in line with NPPF 132.

Sport England:

No objections.

Wycombe District Council:

No objections.

POLICIES

National Planning Policy Framework, 2012.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20, CS22 and CS28.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies: GC1, GC3, GB2, LSQ1, R6, LB2, CA2, AS2, AS3, TR11 and TR16.

EVALUATION

Principle of development

1. Within the Green Belt, most new development is considered to be inappropriate and there is a general presumption against such development. Inappropriate development is harmful to the Green Belt and should not be permitted except in very special circumstances.
2. However, the NPPF states that the provision of appropriate facilities for outdoor sports and recreation are not inappropriate as long as such facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Furthermore, Local Plan Policy GB2 states that new buildings to provide essential facilities for outdoor sport and outdoor recreation which preserve the openness and do not conflict with the purposes of including land in the Green Belt are not inappropriate development. In this instance, the proposal does relate to the provision of appropriate facilities for outdoor sports and recreation and so, the proposal could be acceptable in principle, provided there is no conflict with the openness of the Green Belt.
3. The site is also located within the Chilterns Area of Outstanding Natural Beauty (AONB) where proposals should conserve, and where considered appropriate and practicable, enhance the special landscape quality of the area.
4. Finally, the site borders the Penn Conservation Area and is adjacent to a number of Listed Buildings. The site is also of known archaeological significance. As such, the proposal should not detract from the character and setting of the Listed Buildings or the Conservation Area and should mitigate against the impact of any proposed development on any archaeological remains on site. All other relevant Development Plan policies should also be complied with.

Previous applications

5. This application follows on from planning applications CH/1996/0179/FA and CH/2005/2012/FA for the erection of floodlights, both of which were refused. The 1996 application was refused on the grounds of being inappropriate development in the Green Belt; conflicting with the AONB; and having a detrimental impact on neighbouring amenity in terms disturbance and visual impact. Meanwhile, the 2005 application was refused permission on the grounds of being inappropriate development in the Green Belt, failing to enhance

the AONB, having a detrimental impact on the Listed Buildings and conservation area, failing to provide an archaeological investigation and having a detrimental impact on neighbouring amenity.

6. The difference between the scheme proposed within this application and the previous schemes is that the floodlights will now be retractable so, when not in use, they would have a maximum height of 2.8 metres. Meanwhile, the full height would be 15 metres, which is 1 metre shorter than the floodlights proposed in 2005. In addition, the floodlights would also utilise improvements in design and light spill containment so that the maintained average illumination over the pitch area will be 180 lux which is lower than the 228 lux average illuminance sought in 2005. It is hoped that these amendments will overcome the previous reasons for refusal.

Local Plan Policy R6

7. Proposals for floodlights are specifically referred to in Policy R6 of the Local Plan which states that, in the Green Belt, proposals for floodlights will be refused except where it can be demonstrated that they are essential to the use of the land for outdoor sport and where the following criteria are complied with: (a) The amenities of residents in the locality in which the floodlights are proposed would not be significantly impaired; (b) the character of the locality would not be significantly impaired; (c) other Local Plan policies are complied with. Further guidance indicates that although floodlighting may be desirable, it is not necessarily essential. It gives examples of information that will be of assistance to demonstrate the need for floodlights, for example, the level of competition to be attained, the number of people using the facility, the size of waiting lists, the anticipated increased level of use and the requirement of bodies controlling individual sports.

8. Supporting evidence has been provided by the applicant to justify the football club's requirement for floodlighting. This includes correspondence from the Chief Executive of the UHLSPORT Hellenic League which states that installation of floodlighting with an average lux of 180 is required in order to meet the Football Association (FA) requirement for UHL Division One (Grade G). An extract from the National Ground Grading - Category G document states that: 'when new and improved installations are being planned, an average lux reading of at least 180 must be provided.' This is applicable to the football club which currently plays at Step 6.

9. Further information has been provided by the applicant to justify the essential/appropriate need for the floodlights. This can be summarised as follows:

- The club provides sporting opportunities for over 800 members
- The need for floodlights has intensified as a result of FA requirements and the competitiveness of other clubs which have received consent/installed floodlights in recent years (including sites in the Green Belt)
- There are 14 clubs playing in the same Step 6 league and out of these, only three others do not have floodlights and will face enforced relegation if lights are not installed
- Without floodlights, the club is at a serious disadvantage both in attracting and retaining members, and maintaining playing levels
- A decrease in membership will deprive the Club of vital income
- If Step 6 football cannot be maintained, it is likely that the number of senior teams will be reduced
- The introduction of floodlights will not fundamentally change the pattern of use as the Club already holds training sessions on Saturday mornings and midweek evenings with the help of the existing training and portable lights
- The introduction of permanent lights will allow for Saturday matches to start at the League required standard times of 3pm, with switch off by 6pm. Clubs without floodlights are currently able to start at 2pm but this is a concession that will expire within 2 years

10. It is therefore proposed to erect 6 lighting columns in order to meet the FA requirements and maintain the Club's position at Step 6 in the UHLSPORT Hellenic League.

Impact on Green Belt and AONB

11. It is accepted that the provision of appropriate facilities for outdoor sports and recreation are not inappropriate as long as such facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is also accepted that, in accordance with the NPPF, the use of land within the Green Belt has a positive role to play in providing outdoor sport and recreation. This compares to the previous 2005 application which was refused prior to the introduction and adoption of the NPPF. This application was refused partly on the impact of the floodlights on the openness of the Green Belt and the reason for refusal stated that:

'The floodlight poles by reason of their number, location and overall height would result in a dominant appearance and be visually obtrusive, given the close proximity to neighbouring properties and nearby public vantage points and the siting of the floodlight poles in a prominent location. Given the site's location in open countryside within the Green Belt and Chilterns Area of Outstanding Natural Beauty, the proposal would result in inappropriate development within the open Green Belt and would also fail to conserve or enhance the natural beauty of the area...The proposal therefore conflicts with Policy HE1 of the Buckinghamshire County Structure Plan 1991 - 2011 (Adopted March 1996) and Policies GB2, LB2, CA2, GB28, LSQ1 and R6 of the Adopted Chiltern District Local Plan 1997 (Including Alterations Adopted May 2001 and July 2004).'

Since the 2005 application, Development Plan Policy GB28 which relates to 'Other acceptable land uses and new ancillary buildings in the Green Belt' has not been saved and so this application will be assessed in regards to the impact of the proposed changes to the floodlights (i.e. their lux levels and retractable design) and the provisions of the NPPF.

12. In this instance, although the erection of floodlights would represent new buildings (by definition) within the Green Belt, they would be associated with the usage of the football club and in this respect they are clearly linked to the provision of outdoor sport and are not necessarily inappropriate development, in accordance with the provisions of the NPPF and Development Plan Policy GB2. Their justification is further supported above in relation to the FA requirements and needs of the Club. Mindful of this, and the fact that the proposed floodlights would be retractable, with a maximum height of 2.8 metres at their lowered position, and as the floodlights in of themselves do not enclose an unreasonable area of land, they are considered to constitute an appropriate facility and, in principle, their erection would not constitute inappropriate development within the Green Belt.

13. The site is also located within the AONB where proposals should conserve, and where considered appropriate and practicable, enhance the special landscape quality of the area. Although the floodlights may be acceptable in the Green Belt, it is nonetheless considered that they would not enhance the special landscape quality and nor would they, once lit, conserve the rural character of the locality. Whilst at their lowered height they would not be visible from the public highway along Elm Road, they would be noticeably visible when erect and would be prominent in views from within Penn and surrounding areas of open Green Belt, including public vantage points.

14. Importantly, although the number of matches proposed is limited there is a grey area surrounding the references to training sessions. The application documentation states that the primary pitch would only be used when the ground is sufficiently dry and the proposed lights would be reduced to 100 lux for training. However, there is no indication at all how frequent this might be and it is of considerable concern that the proposed lights would be fully extended and in use (albeit at a lower lux) over a far longer period than the details given regarding matches. The club's website details that the club has 800 members, with many teams playing matches from junior to senior levels, including women's teams. There are references on the website to training sessions being held twice a week on Tuesdays and Thursdays, but this only relates to men's senior and reserve teams. There are several other references to "training TBC", implying more training sessions could

be organised. In theory, training could take place every day, therefore the floodlights could be fully extended and in use every evening. The floodlights would also introduce an urbanising feature that is at odds with the local rural landscape. This would be contrary to the provisions of Development Plan Policy LSQ1, although it is accepted that the amended scheme is much less intrusive and is therefore a significant improvement on the previously refused scheme.

Design/character & appearance

15. An Archaeology survey has been submitted and the County Archaeology Advisor has raised no objection in terms of the impact of the proposal on the site of archaeological significance. However, when it comes to the impact of the proposal on the adjacent Listed Buildings and Conservation area, the Historic Buildings Officer has raised a number of concerns, notably that the floodlights, once erect, would remain almost twice the height of the small scale cottages Listed or otherwise along Elm Road and would be visible over the roofs of the Listed buildings in views from the green. This would be harmful to the setting of the Listed buildings and at odds with the local character of the settlement and the settlement policy of not installing street lighting around the green. It is also considered by the Historic Buildings Officer that the modern character of the lighting would appear alien and unwelcome in the local context and would appear as a modern intrusion within the arable landscape adjacent the application site. These concerns would be offset to a degree by the fact that the floodlights are retractable and, when not in use, their height of 2.8 metres would not be visible from the green, however the concerns of the Historic Buildings Officer are noted and they will be assessed against the benefits offered by the lighting to the Club later in this report.

Residential amenity

16. There have been a considerable number of objections to the proposal, particularly highlighting the impact of the floodlights on neighbouring amenity given that there would be light spillage and light pollution in an area where there is by choice no street lighting. There have also been concerns in regards to the lux levels proposed and the lighting data submitted by the Club.

17. A letter in response to these concerns has been composed by Abacus Lighting Limited, who are members of the Institute of Lighting Engineers, and this has provided further clarity on proposed floodlighting. This letter confirms that the initial lux values of the lighting will be stronger but will average 180 lux once they have 'settled down'; the uniformity of pitch illuminance will be 0.6 to ensure the Club gets a uniform distribution of light but this has no relevance to light spill; it is not correct to suggest that the pitch illuminance has been designed for a higher level than necessary; and the submitted plans have not taken into account the effect of any natural barriers, such as the effect of trees and hedging, which will mean that the spill will be less than that indicated. As such, the proposed lighting is considered to be in accordance with the FA requirements for clubs playing at Step 6.

18. Furthermore, the Environmental Health Officer has confirmed that the Environmental Health Department have no recorded complaints in relation to light nuisance at the football club since 2007. They have also stated that, having reviewed the documents for this proposal, the site falls within the appropriate location category (E2/Low District Brightness) and the proposed floodlight installation illuminance falls within acceptable guidance limits as received at the nearest sensitive receptors. As such, no objection is made, subject to the inclusion of a condition limiting the usage of the proposed floodlights to before 23:00 hours in order to protect local amenities.

19. It is also noted that the nearest pole will be approximately 10 metres from the garden boundary to the nearest house in Elm Road and approximately 47 metres from the rear elevation of this dwelling. It is therefore not considered that the lighting columns in of themselves would be intrusive or overbearing to these properties given the distance between the floodlights and the dwellings and the topography of the site.

20. In conclusion, although it is accepted that at full height and when turned on the floodlights could be intrusive to a degree to neighbouring amenities, the usage of the floodlights could be conditioned to limit the times and hours of use in order to minimise their impact on neighbouring amenities.

Parking/Highway implications

21. A considerable number of representations in objection to the proposal have also raised parking and highway concerns. It is frequently stated that as the Club has expanded, the parking provision has remained inadequate and the overspill of parking onto Elm Road has been detrimental to the local highway network. Although this may be the case, this application can only assess the impact of the floodlights on the parking/highway network and cannot comment more widely on the long term plans of the Club or overcome the existing inadequacies in this respect. As the erection of floodlights would not necessarily lead to an increase in the membership of the Club or an increase in the facilities offered by the Club, it is not considered that further parking would need to be provided as part of this application. Meanwhile, the access to the site would remain as existing and given that floodlights would not in of themselves intensify the access or the use of the site, it is not considered that any additional highways provisions are required as part of this planning application. It is also noted that Buckinghamshire County Highways Authority has no objection to the proposal.

22. Nonetheless, given the level of concern in regards to parking and access along Elm Road, neighbours are advised to contact Buckinghamshire County Highways Authority directly for all highway matters that are not planning considerations.

Conclusions

23. In conclusion, the justification from the applicant as to why floodlights are proposed in this location and why the design/lux levels proposed are such as they are, is noted. It is also accepted that FA requirements mean that Step 6 teams require floodlights with an average reading of at least 180 lux to be provided, but importantly, this is for matches only. There is a significant grey area surrounding training sessions, which in theory could take place every evening, meaning the floodlights are never retracted during the evenings and are in use most days. Also, the need for floodlights during matches must be balanced against the harm arising from the proposed erection of the floodlights. In this respect, the floodlights would be extremely visible when at full height and would be prominent in views from within Penn and the surrounding areas of AONB, contrary to the provisions of Development Plan Policy LSQ1. In addition, the Historic Buildings Officer has stated that the erection of floodlights would be at odds with the local character of the settlement and settlement policy of not installing street lighting around the green. Therefore, the proposed modern floodlights would be detrimental to the Listed Buildings and Conservation Area, contrary to Development Plan Policies LB2 and CA2.

24. Paragraph 70 of the NPPF states that planning policies and decisions should: 'plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.' Meanwhile, Paragraph 73 states that: 'access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.' In this respect, it could be argued that if the floodlights were raised only for very specific times then the detriment to the Listed Building setting and character of the Conservation Area could be justified for short term periods on the grounds of being of benefit to the community as a whole. But the issue regarding training sessions means that the floodlights could be extended and in use for far greater periods of time than could reasonably be called short term.

25. At the same time, Paragraph 115 of the NPPF also states that: 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural

Beauty, which have the highest status of protection in relation to landscape and scenic beauty' and Paragraph 116 states: 'Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.'

26. The applicant has stated that other local clubs have erected floodlights in Green Belt locations and whilst this may be the case, every application must be decided on its own merits and the unique constraints of this site, namely its siting in the AONB as well as the Green Belt, and adjacent to a number of Listed Buildings and a Conservation Area, all factor heavily in this decision. Specifically, taking into account the provisions of NPPF Paragraph 116 which states that development in the AONB should be in the public interest and given that the NPPF too holds community engagement in planning in high regard, consideration must also be given to the level of opposition to the floodlight proposal from nearby residents and the fact that the settlement has a local policy of disallowing streetlights in the village centre, in order to protect the special landscape character of the AONB and Conservation Area. Therefore, based on the proposal's detrimental impact on the AONB, the Conservation Area and Listed Buildings, and the fact that the proposal is contrary to the settlement's local policy of not having street lights, it is considered that this application is not in the public interest and it should be refused.

Working with the applicant

27. In accordance with paragraphs 186 and 187 of the NPPF Chiltern District Council take a positive and proactive approach to development proposals focused on solutions. Chiltern District Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case, the proposal did not accord with the Development Plan, and no material considerations were apparent to outweigh these matters. It was not considered that any changes during the course of the application would have reasonably overcome these issues, so the application was recommended for refusal on the basis of the submitted plans.

Human Rights

28. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Refuse permission

For the following reasons:-

1 Given the location of the site in open countryside within the Chilterns Area of Outstanding Natural Beauty, the proposal would fail to conserve or enhance the natural beauty of the area. In addition, the potential for the lights to be fully extended and illuminated for substantial periods of time will have a detrimental impact on the heritage assets of the nearby Listed Buildings and adjacent Conservation Area. The floodlights would be out of keeping with the character of the settlement and local policy of disallowing street lighting in the village centre. The proposal therefore conflicts with Policies GC1, LSQ1, LB2 and CA2 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and the provisions of the National Planning Policy Framework (2012).

CH/2017/2224/FA

Case Officer: Lucy Wenzel
Date Received: 30.11.2017
Parish: Great Missenden
App Type: Full Application
Proposal: Erection of new attached two storey house served by existing vehicular access off Fairacres and widened access off Wrights Lane
Location: 1 Wrights Lane
Prestwood
Buckinghamshire
HP16 0LH
Applicant: Mr & Mrs Harvey

SITE CONSTRAINTS

Article 4 Direction
Adjacent to Unclassified Road
Within Chilterns Area of Outstanding Natural Beauty

CALL IN

Councillor Gladwin has requested that the application is referred to the Planning Committee if the Officers' recommendation is for approval. There is concern with the impact on the street scene, the loss of amenity land and lack of adequate parking provision.

SITE LOCATION

The application site is located on the western side of Wright Lane on the corner junction with Fairacres, a residential road located in the built-up area of Prestwood. When looking at the street scene of Wrights Lane, there is a clear characteristic of terraced dwellings. There is a relatively uniform build line facing the highway with narrow plots with both front and rear amenity space. With regards to the site, it is sited within the Chilterns Area of Outstanding Natural Beauty (AONB).

THE APPLICATION

This application proposes the erection of a new attached two storey house served by the existing vehicular access off Fairacres.

The proposed dwelling would have a maximum width of 5.5 metres, depth of 8.6 metres and pitched roof height of 6.85 metres, with an eaves height of 5.2 metres. It would have two bedrooms with parking for one car to the front and one car to the rear.

The dwelling will be served by the existing access off Fairacres and a widened access off Wrights Lane. Two parking spaces would be provided for the new dwelling and two spaces would be retained for the existing dwelling.

RELEVANT PLANNING HISTORY

None.

PARISH COUNCIL

No objection.

REPRESENTATIONS

None received at time of drafting report.

CONSULTATIONS

Buckinghamshire County Council Highway Authority:

Wrights Lane is an unclassified road subject to a speed limit of 30mph. The application seeks planning permission to erect a new attached two storey dwelling.

In terms of trip generation, I would expect the proposed dwelling to generate in the region of 4-6 daily vehicular movements, two-way. I am satisfied that these additional vehicle movements can be accommodated within the local highway network.

With regard to parking provision, the existing dwelling currently has two parking spaces, comprising of one forecourt space and one garage space. The proposed dwelling will have one forecourt space and one space to the rear of the dwelling. Whilst I trust that the Local Planning Authority will comment on the adequacy of parking provision provided, I would have concerns over the proposed parking arrangement. I would ask that the dropped kerb fronting onto Wrights Lane is widened so that vehicles associated with the proposed dwelling can satisfactorily enter and exit without being obstructed by vehicles parked in association with the existing dwelling.

Once I am in receipt of a revised site plan showing an extended dropped kerb I will be able to finalise my comments.

The agent then submitted a revised site plan, to address these concerns.

Further comments from BCC Highways:

I write further to my comments dated 8th January 2018, which the Highway Authority requested a revised site layout plan showing an extended kerb. The applicant has subsequently submitted this and has therefore overcome the Highway Authority's previous concerns relating to the proposed parking arrangement. Mindful of the above, I have no objection to the proposals.

Chiltern and South Bucks Building Control

The plans appear to be compliant for Part B5 access for the fire service.

POLICIES

National Planning Policy Framework.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS8, CS20, CS22, CS25 and CS26.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, GC4, LSQ1, H3, H11, H12, TR2, TR3, TR11 and TR15 and TR16.

Affordable Housing Supplementary Planning Document (SPD) - Adopted 21 February 2012.

Sustainable Construction and Renewable Energy SPD - Adopted 25 February 2015.

EVALUATION

Principle

1. The site is located within the built-up area of Prestwood where in accordance with Policy H3, proposals for new dwellings are acceptable in principle subject to there being no conflict with any other Development Plan policy. Proposals should be compatible with the character of those areas by respecting the general density, scale, siting, height and character of buildings in the locality of the application site, and the presence of trees, shrubs, lawns and verges. The site is also sited within the Chilterns Area of Outstanding Natural Beauty (AONB) so development should conserve, and where considered appropriate and practicable should enhance the special landscape character and high scenic quality of the landscape.

Design/character & appearance

2. The application site consists of the plot of No. 1 Wrights Lane. It is proposed to build a new dwelling terraced onto the flank elevation of No.1 with existing vehicular access being extended to the front and a new access point to the rear. The development would reflect the existing layout along Wrights Lane with the proposed dwelling being a continuation of the existing terraced row. The proposed plot would have a width of approximately 6.6 metres which is comparable to the other plot widths along this part of Wrights Lane and given that the plot depth is similar with those in the existing terraced row, the proposed plot size is not considered to be out of place with others in the locality. Furthermore, as the proposed dwelling will be sited in line with the existing terraced row, it will not appear incongruously or randomly placed having regard to the existing pattern of development. It is acknowledged that the new house will project closer to Fair Acres than No. 26 Fairacres, which is the end of terrace property sited to the rear of the site. However this relationship is not uncommon, as No. 9a Wrights Lane to the north projects closer to the highway than the row of terraced properties immediately to the south (which is the row of which No. 1 forms part). With regards to the proposed design of the new dwelling, it would be two storeys in height and of a comparable size to its neighbours. Meanwhile, with regards to the proposed appearance of the dwelling it would be designed with a pitched roof which is characteristic in the area and a continuation from the existing terraced row. Spacing to the south eastern boundary complies with Local Plan Policy H11. Whilst no conclusive boundary treatment has been stated for the south eastern border, hedging will be secured by condition to ensure that the character of the area is maintained and that the boundary remains compatible to those existing in the vicinity. The overall site would not appear dominated by hardstanding and sufficient space within the site will ensure that the development does not appear cramped. As such, the proposal would not have a detrimental impact on the character and appearance of the area.

Residential amenity

3. No privacy reduction to neighbouring dwellings is considered to occur and therefore, it is considered that there will not be an unacceptable degree of overlooking. The proposed boundary treatments to be used between the new dwelling and No.1 will ensure that adequate separation is maintained between the proposed dwelling and its neighbour with fencing edging the adjoining boundary lines. The positioning of the dwelling and its design and siting prevents it from being overbearing or visually intrusive.

4. With regard to private amenity space, Development Plan Policy H12 states that the general standard expected will be a minimum rear garden depth of about 15 metres, unless the rear garden lengths in the vicinity are significantly less. In this instance, the proposed dwelling would have a plot depth of 12 metres, which is obviously the same as the other dwellings in this row. The actual garden area would be around 9 metres deep, due to the proposed parking space at the rear. Nevertheless this depth is not overly dissimilar to other properties in the area, and the garden would be slightly wider than others nearby, meaning that the overall area of garden is very similar to others. No objections are therefore raised in this respect. With regards to the remaining rear amenity space for No. 1, this would remain appropriate in size to the dwelling and would reflect the size of neighbouring rear gardens. Meanwhile, taking into account bin storage, the submitted application form indicates that the dwelling would have an adequate bin store provided within the

curtilage. As the distance between the proposed dwelling and the bin collection point would be less than the expected 30 metres and would reflect distances existing in the area, the provision for bin storage is considered to be acceptable.

Highways/parking

5. The proposed and existing dwellings would each have a floor area exceeding 120 square metres. As such, the parking standard would be three spaces per dwelling, in line with Development Plan Policy TR16. The new dwelling is able to provide one space on the shared driveway to the front while a second can be accommodated to the rear of the garden within the curtilage of the site. The existing dwelling would also retain two spaces. The parking standards are not minimum standards (and it is incorrect to interpret them as such), therefore it is not a definite requirement to provide three spaces. The standards are a starting point to assess development and in this instance, given the nature of the area, where on street parking could easily take place along Fairacres with no highway safety issues, two spaces are considered adequate for each dwelling. It is also recognised that the majority of dwellings in the vicinity only have access to two off road parking spaces and therefore the proposal replicates existing levels. It has also been confirmed that the additional vehicular movements can be accommodated onto the local highway network and the Highway Authority does not object to the widened access from Wrights Lane. No objections are therefore raised in terms of the impact of the proposal on the local highway network.

Affordable housing

6. For proposals under five dwellings, Policy CS8 of the Core Strategy requires a financial contribution towards off-site affordable housing to be made. However, there are now specific circumstances set out in the National Planning Practice Guidance where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development, including developments of 10 units or less, which have a gross floor space of less than 1,000 square metres. The NPPG carries more weight than Policy CS8, as it is more recent, therefore no affordable housing contribution can be required in this instance.

Sustainability

7. Core Strategy Policy CS4 sets out sustainable development principles for new development and in this respect it is noted that the site is within a relatively sustainable location in the built-up area of Prestwood which benefits from bus routes, local amenities and existing waste collection routes. As such, no objections are raised in respect of Policy CS4.

Working with the applicant

8. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

Chiltern District Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case, Chiltern District Council has considered the amended details as submitted which were considered acceptable.

Human Rights

9. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Conditional permission

Subject to the following conditions:-

1 C108A General Time Limit

2 Before any construction work commences, details of the facing materials and roofing materials and any external hardstanding to be used for the external construction of the dwelling, hereby permitted shall be made available to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with these details.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality.

3 Prior to the commencement of any works on site, detailed plans, including cross section as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the dwelling hereby permitted shall be made available to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.

Reason: To protect, as far as is possible, the character of the locality and the amenities of neighbouring properties.

4 Prior to the occupation of the new dwelling hereby approved, the parking layout for the existing and new dwellings, and the widened access to Wrights Lane, shall be laid out as shown on the approved drawings. The parking areas shall be permanently retained thereafter for this purpose only.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

5 Prior to the commencement of development, details of all the boundary treatments around the new plot shall be submitted to and approved in writing by the Local Planning Authority, along with a timetable for their erection/planting. The boundary treatments shall be erected/planted in accordance with the approved details. Should any plants forming part of the boundary treatments die or be removed within a period of five years from the implementation of this permission, they shall be replaced with the same or similar species by the end of the next planting season.

Reason: To maintain the character of the area, the amenity of neighbouring properties and the amenity and privacy of the new dwelling.

6 AP01 Approved Plans

INFORMATIVES

1 The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge or other land forming part of the highway. A period of 28 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for information.

Transport for Buckinghamshire (Streetworks)
10th Floor, New County Offices
Walton Street, Aylesbury,
Buckinghamshire

HP20 1UY
01296 382416

2 It is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.

3 No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980.

The End

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 22 February 2018

INDEX TO APPLICATIONS ON ALLEGED BREACHES OF PLANNING CONTROL REPORT

Chesham

2017/00121/AB

Ward: St Marys and Waterside

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Alleged Breach: Material change of use of land for the display and storage of cars for sale.

112 Latimer Road, Chesham. Buckinghamshire. HP5 1QQ

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Alleged Breaches of Planning Control Applications 22 February 2018

2017/00121/AB

Case Officer: Miss Kirstie Elliot
Date received: 05.05.2017
Parish: Chesham Ward: St Marys And Waterside
Alleged Breach: Material change of use of land for the display and storage of cars for sale
Location: 112 Latimer Road
Chesham
Buckinghamshire
HP5 1QQ

MATTER FOR CONSIDERATION

To consider the expediency of further action in respect of the use of the land for the display and storage of cars for sale.

A site location plan is attached as *Appendix AB.1*

RELEVANT PLANNING HISTORY

CH/2005/1032/OA: Replacement industrial buildings. Refused due to lack of Flood Risk Assessment. Subsequent appeal dismissed 05.12.05 (paragraph 7 of the decision notes the use of site to be a 'general breakers yard and fabrication site')

CH/2005/1707/OA: Replacement industrial buildings. Refused due to lack of Flood Risk Assessment (officer report states the site is being currently used as a general breakers yard and fabrication site).

CH/2006/1294/BCC: Application for certificate of lawfulness for an existing use relating to the importation, storage and processing of waste. Application site identified as including the dwelling to the east. Certificate not granted by reason of lack of evidence and inclusion of residential property.

CH/2017/1677/FA: Change of use for storage and sale of cars (Use Class Sui Generis) (Retrospective) Permission refused, 02.02.2018. The case officer's report is attached as *Appendix AB.2*

ALLEGED BREACH

Enforcement Officers from the Council first visited the Land on 18th May 2017 following an allegation made by a member of the public.

At the time of this visit the enforcement officer observed, and was advised by the business owner, that the site was being used for car sales. The majority of the external areas of the site and the access bridge were covered with cars displayed and/or stored for the purpose of being sold.

REPRESENTATIONS

The business owner made a retrospective planning application to regularise the breach of planning control under reference CH/2017/1677/FA. The agent submitted a statement in support of the application and there were a number of third party representations, these are detailed in the case officer report at **Appendix AB.2**

CONSULTATIONS

The Highway Authority and Environment Agency were consulted with regard to the retrospective planning application (reference CH/2017/1677/FA). Their responses are detailed in the case officer's report at **Appendix AB.2**

POLICIES

Core Strategy for Chiltern District - Adopted November 2011. Policies: CS4, CS16, CS20

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, GC10, GC12, GB2, GB29, TR2, TR11 and TR16

ISSUES

1 Is there is a breach of planning control?

1.1 As detailed in the case officer report for retrospective application CH/2017/1677/FA, the site has previously been used as a car breakers yard and a general breakers yard and fabrication site. There are a number of timber structures and shipping containers present on the north-west and west sides of the site and a large area of cement hardstanding present on the central and eastern side of the site. Aerial photographs and the planning history indicate that these buildings/structures and hard standing have been on site for many years. It is not known what the site was being used for immediately prior to the current use for car sales. Notwithstanding this, the use of the site for the display and storage of cars for sale (sui generis use) is a material change of use of the land for which planning permission is required.

2 Is it expedient to take enforcement action?

2.1 The breach results in planning harm as set out in the case officer's report for refused retrospective planning application reference CH/2017/1677/FA (see **Appendix AB.2**), and therefore amounts to an unacceptable form of development when considered against the policies in the development plan. It is therefore expedient to consider using formal powers of enforcement to seek the remedy of the breach of planning control in order to remedy the harm caused by the development.

2.2 The harm caused by the unauthorised development specifically results from harm to:

- the openness of the Green Belt through the external display and storage of cars for sale on the site, contrary to saved policies GB2 and GB29 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011, and paragraphs 87-90 of the National Planning Policy Framework;

- visual amenity and special landscape quality provided by the Chess riverbank through the external display and storage of cars for sale on the site contrary to saved policies GC1 and GC12 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011; and

- public and highway safety by reason of additional traffic generation, intensification in use of an existing inadequate access with substandard visibility and inadequate provision on site for vehicles to manoeuvre, load and unload clear of the highway, contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policies TR2, TR11 and TR16 of The Chiltern Local Plan

Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

3 Human Rights

3.1 The taking of enforcement action would amount to an interference with the Human Rights of the owners and/or occupiers of the site as set out in the Human Rights Act 1998 ("the HRA"). The Council must act compatibly with the rights of the owners and occupiers of the site and must take into account the impact that a decision to take enforcement action will have on those rights.

3.2 The relevant Articles of the HRA which need to be considered are:

- Article 6: The right to a fair hearing. This is an absolute right. The owners and occupiers of the land are aware that the unauthorised development is a breach of planning control and that the Council is considering taking enforcement action in respect thereof and have been given the opportunity of making written representations, and to make an application for the Council to consider 'without prejudice' granting planning permission or lawfulness for the development. Any applications made and the relevant decisions have been reported earlier in this report. The availability of the statutory right of appeal following the issuing of any Enforcement Notice together with the further statutory right of appeal against the decision of the Secretary of State for Communities and Local Government meets the requirements to ensure a fair hearing.

- Article 8 and Article 1 of the First Protocol: The right to respect for private/family life and the protection of property. This is a qualified right and the Council can only interfere with this right where this:-

(a) is in accordance with the law;

(b) serves a legitimate aim; and

(c) is necessary and proportionate in the particular circumstances of the case.

3.3 In respect of (a) above, as long as the decision to take enforcement action is taken pursuant to the provisions of Part VII of the 1990 Act, the action will be taken in accordance with the law.

3.4 In respect of (b), taking enforcement action against breaches of planning control serves a legitimate aim, namely the preservation of the environment in the wider public interest. This has been confirmed by decision of the European Court of Human Rights in the cases of *Buckley v United Kingdom* and *Chapman v United Kingdom*.

3.5 Thus the only issue left that requires consideration is (c), whether enforcement action is necessary and proportionate in the particular circumstance of the case. In this respect, the Council needs to consider whether the objective can be achieved by a means which is less interfering with an individual's rights and whether the measure has an excessive or disproportionate effect on the interests of the affected individual(s). The objective in this case is the proper enforcement of planning control. It is not considered that there is any other means by which this objective can be secured which interferes less with the rights of the owner/occupant(s). Nor is it considered that the service of an enforcement notice would have an excessive or disproportionate effect on their rights.

3.6 Given the harm identified in this report that is caused by the development, it is considered appropriate to pursue action in the form of an Enforcement Notice under Section 172 of the Act as a mechanism for resolving the adverse impact that the development has as described above.

RECOMMENDATION

1 That the Planning Committee authorises the service of such Enforcement Notices pursuant to Section 172 of the Town and Country Planning Act 1990 (as amended) in respect of remedying the breach of planning control as may be considered appropriate by the Director of Services. The precise steps to be taken, period of compliance and the reasons for serving the Notice to be delegated to the Director of Services. In the event of non-compliance with the Notice, the Director of Services having delegated authority to instigate legal proceedings and/or direct action to secure compliance with the Notice.

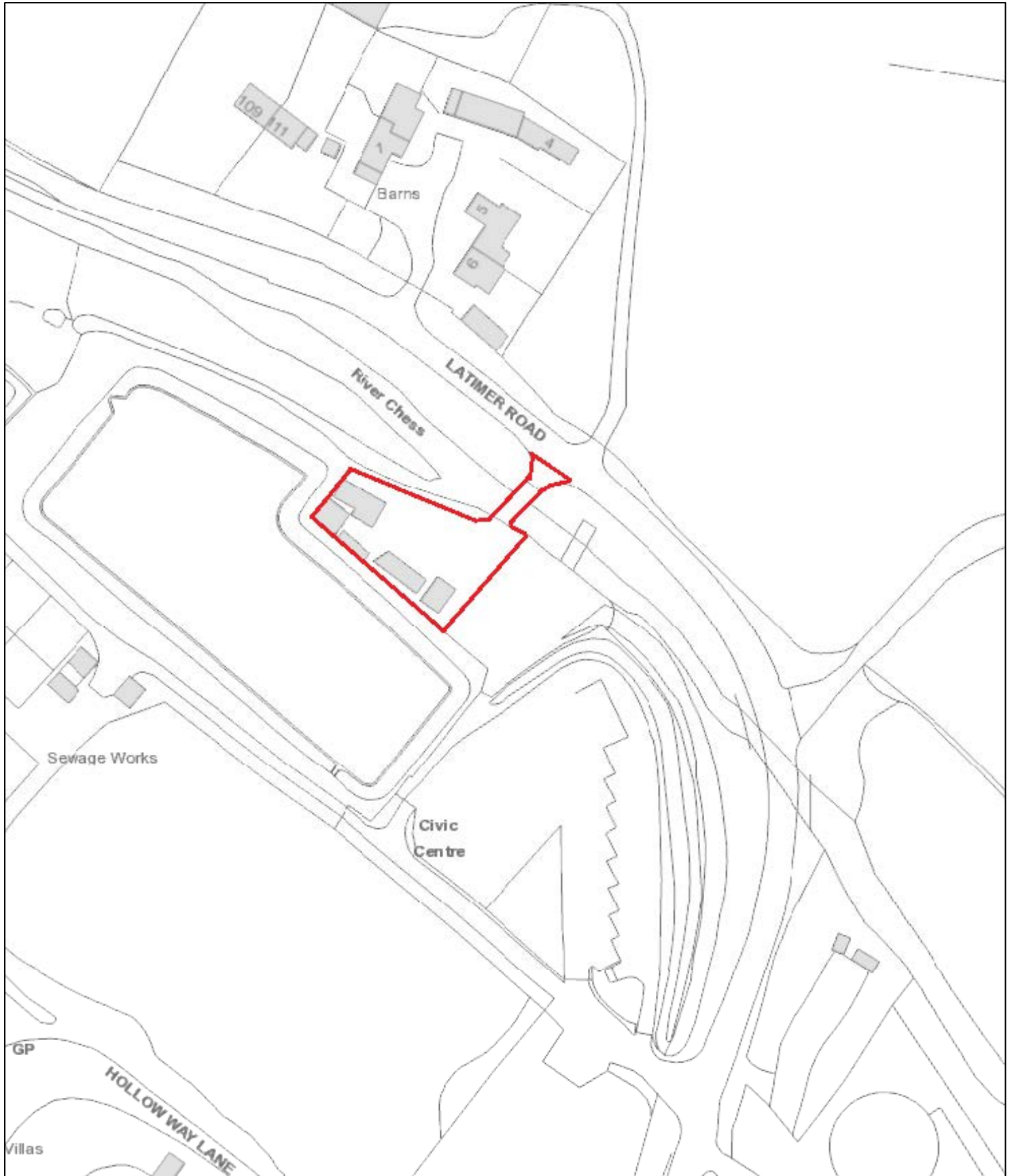
2017/00121/AB
112 Latimer Road
Chesham
Buckinghamshire
HP5 1QQ

Location Plan

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Ordnance Survey
100025874.



0 5 10 20 30 40
Meters



Classification: OFFICIAL



Reference	CH/2017/1677/FA	Decide by Date:	30 October 2017
Case Officer:	Kirstie Elliot	Publicity end Date:	3 November 2017
Parish:	Chesham	E.O.T. Date:	
Ward:	St Marys And Waterside	Date Received:	4 September 2017

App Type: Full Application
Proposal: Change of use for storage and sale of cars (Use class sui generis) (retrospective)
Location: Just The Car Ltd
 112 Latimer Road
 Chesham
 Buckinghamshire
 HP5 1QQ

Applicant: Just the Car Limited

SITE CONSTRAINTS

Adjacent to C Road
 Area Special Adv. Control
 Bovingdon Technical Radar Zone
 Critical Drainage Area
 National Flood Zone 2
 National Flood Zone 3
 Within Green Belt other than GB4 GB5
 Within 500m of SINC NC1
 Dev within 8m Env Agency Main River

SITE LOCATION

The application site is located on the southern side of Latimer Road, in the valley of the Chess River and to the east of Chesham, within the open Green Belt. It borders a detached residential property to the east and a reservoir to the south and west. The site contains a number of buildings and structures located along the south-west and west boundaries. The remainder of the site is a hard surfaced, open yard.

THE APPLICATION

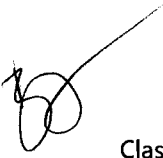
Retrospective planning permission is sought for a change of use of the site, including use of the existing buildings and structures, for the storage and sale of cars.

RELEVANT PLANNING HISTORY

The majority of the planning history relates to neighbouring residential property to the east, 112 Latimer Road ('Chess Castle').

The planning history for the site the subject of the current application is that it has been used in the past as a car breakers yard (sui generis use) and more recently as a general breakers yard and fabrication site, which have found to be general industrial uses (falling within Use Class B2). The applications pertinent to the site are:

CH/2005/1032/OA: Replacement industrial buildings. Refused due to lack of Flood Risk Assessment. Subsequent appeal dismissed 05.12.05 (paragraph 7 of the decision notes the use of site to be a 'general breakers yard and fabrication site')



Classification: OFFICIAL

CH/2005/1707/OA: Replacement industrial buildings. Refused due to lack of Flood Risk Assessment (officer report states the site is being currently used as a general breakers yard and fabrication site).

CH/2006/1294/BCC: Application for certificate of lawfulness for an existing use relating to the importation, storage and processing of waste. Application site identified as including the dwelling to the east. Certificate not granted by reason of lack of evidence and inclusion of residential property.

TOWN COUNCIL

Recommends refusal, due to harm to Green Belt and AONB and highway safety issues. [Officer note: the site lies just outside the Chiltern AONB designation].

REPRESENTATIONS

The applicant as submitted the following information in support of the application (included on site location/block plan):

- proposal is generally in line with current policy where LPAs should give priority to re-using previously developed land within urban areas;
- site has been generally used as large open storage area for many years...proposal is to continue the general storage use but this time for storage of cars for sale;
- generally 30-40 cars on site at one time;
- Site generally open between 0800 - 18.00 Monday - Saturday, and a few hours on Sunday;
- two full-time employees and 1-2 part-times employees as required;
- people coming to view cars generally come by appointment , on average 2-3 and no more than 10 customers visiting per day;
- a lot of business transactions and sales are confirmed after the pre-sale viewing and dealing is carried out through electronic media and without buyer/seller contact;
- average of 25 cars per month sold and 100 customers visit per month;
- this use is not quite the same as 'sui generis - shops selling and/or displaying motor vehicles' and probably borders on the Use Class B2 (General Industrial Use);
- no adverse impacts on the amenities of neighbouring properties;
- in the existing character of the site and considered to comply with the all relevant requirements of the Council's adopted plan

1 letter of no objection has been received

9 letters of objection have been received, including one from the Chiltern Society, which including the following comments:

- Pollutants will flow into the River Chess, causing environmental damage, and it is in an area prone to flooding
- This site has made entrance to Chesham an eye sore, and it has been particularly bad since car sales started
- This rural site is totally inappropriate for this rural Green Belt and AONB location [Officer note: site is not in the Chilterns AONB]
- Cars have recently been parked dangerously on verges and on both sides of the road
- Access is on a dangerous blind bend, already large vehicles making deliveries/collection have caused near misses
- Only a matter of time until there is a serious collision
- This use has greatly increased traffic volume on this road
- Many errors on application forms, such as incorrectly stating there is good public transport access and not recognising environmental sensitives
- Visitors to site would cause further disruption and highway safety issues

CONSULTATIONS

Environment Agency: No objection

County Highway Engineer: Objection raised, for the following reasons -

Reason 1: Insufficient information has been submitted with the planning application to enable the highways, traffic and transportation implications of the proposed development to be fully assessed. From the information submitted, it is considered that the additional traffic likely to be generated by the proposal would adversely affect the safety and flow of users of the existing distributor road network, contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policy TR2 of the Chiltern District Local Plan.

Reason 2: The proposed development would result in an intensification of use of an existing access at a point where visibility is substandard and would lead to danger and inconvenience to people using it and to highway users in general. The development is contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policy TR2 of the Chiltern District Local Plan.

Reason 3: The applicant has not included adequate provision space within the site for the loading, unloading and manoeuvring of vehicles clear of the highway. The development if permitted would therefore be likely to lead to the stationing of vehicles on the highway and to vehicles reversing onto or off of the highway to the detriment of public and highway safety. The development is contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policy TR2 of the Chiltern District Local Plan.

Reason 4: The proposed means of access to the site is inadequate by reasons of its width to serve the proposed development with safety and convenience. The development is contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policy TR2 of the Chiltern District Local Plan.

POLICIES

National Planning Policy Framework

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS16, CS20

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, GC10, GC12, GB2, GB29, TR2, TR11, TR16

EVALUATION

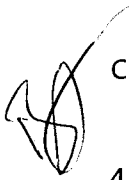
Principle of development

1. The planning history shows that the site has been used as a car breakers yard and as a general breakers yard/for fabrication. Whilst car breaking would fall to be considered a sui generis use, fabrication is considered to fall within the B2 use class as an industrial process. The applicant's agent asserts that the current use is 'bordering' on a B2 use. The current use is a material change of use of the site requiring express planning permission. This report will therefore consider the implications of this change.

Green Belt

2. The application site is located in the open Green Belt wherein there is a presumption against inappropriate development which is, by definition, harmful to the Green Belt and the purposes of including land within it. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

3. Paragraphs 89 and 90 of the NPPF provide a closed list of exceptions to this stance, of which bullet point 4 of paragraph 90 is the re-use of buildings providing the buildings are of permanent and substantial construction. This exception is also provided on condition that the re-use of the building would preserve the openness of the Green Belt and would not conflict with the purposes of including the land in the Green Belt. Policy GB2 of the Adopted Local Plan is broadly in line with the NPPF in this respect.



4. The existing buildings/structures on site comprise some single storey timber workshops but also a number of converted shipping containers, some of which are stacked. The workshop building to the north-west corner is used for minor repairs to the cars and a mobile office building is located opposite the entrance gates. None of the existing buildings/structures are suitable to store cars in or for their display. As such, the use of the site and buildings for the sale and storage of cars has resulted in the coverage of the majority of the external area of the site with cars, including on the access bridge to the site over the River Chess. It is considered that this is significantly different and more intensive to the way in which this outside area would be utilised as part of the former industrial use. As such the development has a greater impact on the openness of the Green Belt. This is contrary to Local Plan Policies GB2 and GB29 and the NPPF and is therefore inappropriate development, which should not be approved except in very special circumstances. No case of very special circumstances has been advanced with this application and as such there is no evidence of any considerations which outweigh the harm by reason of inappropriateness.

Design/character & appearance

5. There are no external alterations proposed to the buildings or within the application site. However, the cluttered appearance of the site due to the presence of a large number of cars in the external areas of the site and also on the access bridge over the River Chess is considered harmful to the appearance of the area, particularly given its proximity to the Chilterns AONB which is located opposite the site on the north side of Latimer Road and also wraps around to the rear beyond the sewage works.

6. The site is located directly adjacent to the River Chess, and a bridge over the river comprises part of the application site. Adopted Local Plan Policy GC12 seeks to protect the special characteristics of the River Chess, and states that any development which will detrimentally affect the character of the river, river banks or land in the vicinity of the river, particularly where it impinges visually on the riverside landscape, will not be permitted. In this instance, the use introduces a significant number of cars within proximity of the river, which is considered to cause a detrimental visual impact on the river landscape contrary to policy GC12.

Residential amenity

7. There is a residential property, 112 Latimer Road, immediately adjacent to the eastern boundary of the site. Due to its proximity, this dwelling will clearly be impacted by any noise, disturbance and general activity taking place on this site, and it is noted that the lawful general industrial use is normally not considered to be appropriate for residential areas due to the impact of industrial operations. As such, there is a high likelihood that the amenities enjoyed at this property would be harmed if the site were to operate for a general industrial use. The current display and storage of cars for sale whilst capable of generating a level of disturbance is, on balance, considered to present a less harmful impact than the use as a steel fabrication site with regard to policy GC3 of the Adopted Local Plan.

Highway Safety

8. The comments of Buckinghamshire County Council are noted in terms of the implications on highway safety and objections are raised in accordance with County recommendations.

Conclusions

9. The use of the site for the storage and sale of cars is considered inappropriate development which does not preserve the openness of the green belt due to the presence of cars stored and for sale on the external areas of the site. Further, the visual impact of this excessive external storage and sale of cars on the character and appearance of the locality given the site's proximity to the River Chess and the Chilterns AONB is considered to present further harm. Finally, the use of the site for the storage and sale of cars is considered to detrimentally affect the safety of highway users.

Working with the applicant

10. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant/Agent and was

focused on seeking solutions to the issues arising from the development proposal. In this case, the Applicant/Agent was informed/advised via pre-application advise that the proposal did not accord with the Development Plan, that no material considerations are apparent to outweigh these matters of principle and was provided with an opportunity to comment before refusal was recommended.

11. The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

RECOMMENDATION: Refuse permission

For the following reasons:-

1 The site lies within the open Green Belt wherein there is a presumption against inappropriate development save for the closed list of exceptions stated at paragraphs 89 and 90 of the NPPF and in Policy GB2 of the Adopted Local Plan for Chiltern. Whilst bullet point 4 of paragraph 90 of the NPPF and point (e) of Policy GB2, and Policy GB29, state that the reuse of buildings may not necessarily be inappropriate, in this instance it is considered that the reuse of the buildings results in the intensive use of the external areas of the application site for the display and storage of cars for sale and does not preserve the openness of the Green Belt. As such, the development is considered inappropriate and there are no very special circumstances which outweigh this harm. Accordingly, the development is contrary to The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011: Saved Policies GB2 and GB29 and to paragraphs 87-90 of the National Planning Policy Framework.

2 The application site is located in proximity to the River Chess, with access provided via a bridge, and is also opposite the Chilterns AONB. It is considered that the use of the site for the display and storage of cars for sale results in a cluttered appearance which is harmful to the visual amenity of the area and special landscape quality provided by the riverbank, contrary to The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011: Saved policies GC1 and GC12.

3 The development is considered harmful to public and highway safety by reason that:

- the additional traffic generated by the proposal adversely affects the safety and flow of users of the existing distributor road network;
- the development results in an intensification of use of an existing access at a point where visibility is substandard and leads to danger and inconvenience to people using it and to highway users in general;
- the applicant has not included adequate provision space within the site for the loading, unloading and manoeuvring of vehicles clear of the highway, leading to the stationing of vehicles on the highway and to vehicles reversing onto or off of the highway;
- the means of access to the site is inadequate by reasons of its width to serve the development with safety and convenience.

Accordingly the development is contrary to the aims of Buckinghamshire LTP4, the National Planning Policy Framework and Saved Policies TR2, TR11 and TR16 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.



Appeal Decisions

Site visit made on 9 January 2018

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 26th January 2018

Appeal A Ref: APP/X0415/W/17/3180787

Victoria House, Victoria Road, Chesham HP5 3AJ

- 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 A McLaughlin, Andrews Construction against the decision of Chiltern District Council.
- The application Ref CH/2016/2334/FA, dated 15 December 2016, was refused by notice dated 7 March 2017.
- The development proposed is the installation of two dormer windows and fenestration alterations at the rear.

Appeal B Ref: APP/X0415/W/17/3180845

Victoria House, Victoria Road, Chesham HP5 3AJ

- 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 A McLaughlin against the decision of Chiltern District Council.
- The application Ref CH/2016/2332/FA, dated 15 December 2016, was refused by notice dated 6 March 2017.
- The development proposed is installation of four dormer windows and single roof light at front.

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matter

3. The appellant has made reference within evidence to the building being used for residential purposes. I acknowledge that a prior notification application was allowed¹ for 7 residential units in the building. I also observed that on my site visit that works were being undertaken to the building, although I have not been provided with details as to what these works relate.
4. The planning application forms however describe the building as vacant, with its last use being storage and distribution. The annotation on the application drawings indicates that the roof area is storage. It is on this basis that I have considered both appeal proposals.

Main Issues

5. The main issues in respect of both appeals are the effect of the proposals on the significance of this non-designated heritage asset, and in respect of Appeal

¹ Ref: APP/X0415/W/15/3137742

A, the impact of the scheme on the living conditions of nearby occupiers, in terms of privacy and outlook.

Reasons

Appeal A and Appeal B - Effect on Non-Designated Heritage Asset

6. The Council have indicated that the host property is a detached, late 19th century former factory/workshop for the boot, shoe or wooden ware industries which were common in Chesham at that date. It is an attractive brick building under a slate roof with a roof light on the front elevation, and a number of roof lights on the rear elevation. It comprises two storeys with additional space in the roof. The building has industrial windows with metal frames and small panes under brick arches. The Council consider that the building has historical connections to nearby dwellings, including No 78 Victoria Road and terraced properties in Gladstone Road. The Council indicate that Victoria House is a non-designated heritage asset. This is not disputed.
7. Policy GC1 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 (LP) requires development to be of a high standard of design. The policy sets out a number of criteria which are considered important including the scale of development, detailing and the character of the site and its surroundings. Policy CS20 of the Core Strategy for Chiltern District (CS) has similar aims.
8. Paragraph 135 of the National Planning Policy Framework (the Framework) states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
9. Paragraph 131 of the Framework states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.
10. Appeal A seeks the installation of 2 flat roofed dormers on the rear elevation and the blocking up of a number of windows at ground and first floor level on the rear elevation. Appeal B seeks the installation of 4 flat roof dormers on the front elevation and a single roof light. The submitted drawings also indicate that the same number and position of windows on the rear elevation would be blocked up. The dormer windows would have a flat roof with lead cheeks and an apron. They would be sited below the ridgeline of the host property and would be set in from the side of the roof slope.
11. The Council has raised no objection to the closing up of the windows on the rear elevation of the building, or the roof light on the front elevation. I consider that such proposals would sustain the significance of the heritage asset and I have no reason to find differently to the Council in this regard.

12. However, I find that the dormer windows on the front elevation in respect of Appeal B and on the rear elevation in respect of Appeal A would have an overly domestic appearance. They would result in bulky additions within the roof which would detract significantly from the uniformity and industrial appearance of this attractive building. This would be harmful to the building's character and appearance. In both appeals, the new dormer windows would result in a reduction in the appreciation of the building's significance as a heritage asset.
13. I note the appellant's submissions that the dormer windows in both appeals would allow the roof space of the building to be converted into residential use which would protect its future existence. However, as stated earlier in my Decision, the residential use of the building is not before me. I am therefore unable to make an assessment in this regard. In any event, I am not convinced that the absence of dormer windows would prejudice any future use of the building. I note that the Council reached a similar view in its consideration of the planning applications.
14. The appellant is concerned about the level of importance that the Council attached to the building. Whilst the building is not a designated heritage asset, like a listed building for example, the Framework is clear that it is desirable to sustain and enhance the significance of all heritage assets, including non-designated heritage assets. The approach taken by the Council in its assessment of each of the proposal's impact on the significance of Victoria House as a non-designated heritage asset seems entirely reasonable to me.
15. In light of my findings, I conclude that the proposed dormer windows in Appeal A and Appeal B would significantly detract from the building's historic character and its significance as a non-designated heritage asset. Neither scheme would sustain or enhance the significance of this heritage asset. The matters advanced by the appellant in support of the proposals do not outweigh the harm identified. Accordingly the dormer windows in respect of both Appeal A and Appeal B would conflict with the design and character aims of LP Policy GC1, Policy CS20 of the CS and paragraph 131 of the Framework.

Appeal A – Living Conditions

16. The host property is elevated above the dwellings fronting Gladstone Road whose rear gardens adjoin the appeal site. I observed on my site visit that windows in the rear elevation of the appeal property overlook the rear elevations and rear gardens of Nos 68-72 Gladstone Road. The provision of 2 dormer windows on the rear elevation would exacerbate this matter. Harm to the living conditions of nearby occupiers in Gladstone Road would occur as a result.
17. However, the proposal includes the blocking up of 2 windows at ground floor level and 3 at first floor level on the rear elevation. The proposal would therefore result in a reduction in the number of windows on the rear elevation from where views toward the rear of properties in Gladstone Road could be taken. This would be an improvement to the existing situation. In this regard and subject to a suitably worded planning condition to control the blocking up of existing windows, I find that the proposal would not result in additional harm to the living conditions of nearby occupiers, in terms of privacy.
18. The new dormer windows on the rear elevation would visually increase the scale and bulk of the host property when viewed from the rear of neighbouring

properties in Gladstone Road. However, I find that the relationship and separation distance between Victoria House and these dwellings is sufficient to ensure that the changes to the building would not be overpowering or overbearing on the outlook from the rear of neighbouring properties or their gardens. Harm to living conditions as a result of loss of outlook would not therefore result.

19. In light of the foregoing, I conclude that the proposal would not result in a reduction in privacy to nearby occupiers, or result in harm to outlook. The living conditions of nearby occupiers would not be adversely affected by the proposal. There would be no conflict with the aims of LP Policies GC1, GC3 or CS Policy CS20.

Conclusion

20. For the above reasons and having regard to all other matters raised, I conclude that both appeal proposals must fail because of their harmful effect upon the significance of Victoria House as a non-designated heritage asset. Both Appeal A and Appeal B are dismissed.

R C Kirby

INSPECTOR



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

Decision date: 15th January 2018

Appeal Ref: APP/X0415/W/17/3184622

Hazeldene Farm, Asheridge Road, Asheridge, HP5 2XD

- 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 Stephen Bateman against the decision of Chiltern District Council.
 - The application Ref CH/2016/2407/FA, dated 23 December 2016, was refused by notice dated 19 April 2017.
 - The development proposed on the application form is described as "Use of land for the stationing of 3 no. canvas lodges for tourist accommodation and formation of track and parking and turning area".
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The Council states that the proposal would result in a change in use of the land and not constitute operational development. However, the development description on the application form does not refer to a change of use and the supporting statement says that out of season, the area will revert to an agricultural use. The appellant asserts that the canvas lodges would constitute buildings in terms of Section 55 of the 1990 Town and Country Planning Act (as amended) ('the Act') and not a change of use of the land, and has referred to a number of appeal decisions¹ in support of this position. These make reference to the tests set out in case law to establish whether a structure is a building (relating to size, permanence and physical attachment to the land)².
3. In view of the qualifying criteria in local and national policy that relate to inappropriate development in the Green Belt, it is necessary for me to adjudicate on the above dispute between the Council and appellant. I have accordingly reviewed the development against the relevant tests referred to above and concluded that on the basis of their substantial size, lack of mobility and continuous retention on-site in the same position, that the canvas lodges would have a significant degree of permanence and thereby constitute a building in terms of Section 55 of the Act. My conclusion on this is further reinforced by the appellant asserting that it would not be viable to remove the canvas lodges out of season because of the costs associated with employing

¹ APP/J9497/C/17/3169342 dated 12 June 2017; APP/V4250/X/16/3162115 dated 3 July 2017 and APP/T0355/C/16/3164340 dated 18 August 2017

² *Cardiff Rating Authority v Guest Keens* [1949] 1 KB 385, as refined by *Barvis Ltd v SSE* [1971] 22 P and CR 710; *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No 2) [2000] JPL 1025; and *R (oao Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin)

specialists to take them down and re-erect them (as they would be plumbed in and stoves would need to be removed). However, with reference to that part of the development where green plastic mesh is to be laid down on the track, parking and turning area, I have concluded that this would, by reason of its substantial size, permanence and change in character to the surface of the land, constitute an engineering operation in terms of Section 55 of the Act.

4. Notwithstanding the above, given that the accommodation use would be intermittent and continue to form part of Hazeldene Farm, I recognise that it is not clear what the lawful use of the area of land surrounding the canvas lodges would be if the development did take place. However, given that I am dismissing the appeal on the basis of its conflict with local and national policy for other reasons, the subsequent lawful use is not determinative to the appeal outcome and as such I do not need to consider it any further.
5. The first reason for refusal relates to whether the development would constitute inappropriate development in the Green Belt and erode its openness. Although the Council has referred to Policy GC1 of the Local Plan³ and Policy CS20 of the Core Strategy⁴ in this reason for refusal, I have concluded that they are not applicable as they relate to general design matters and contain no criteria or requirements in relation to development in the Green Belt (unlike Policy CS19 of the Core Strategy which has been referred to by the appellant⁵).
6. The second reason for refusal relates to whether the development would harm the character of the Chilterns Area of Outstanding Natural Beauty (the AONB). Although the Council has referred to Policy CS20 of the Core Strategy in this reason for refusal, I have concluded that it is not applicable as it relates to general design matters and contain no criteria or requirements in relation to development in the AONB (unlike Policies CS19 and CS22 of the Core Strategy which have been referred to by the appellant⁶).
7. The appellant has referred to Policy T4 of the Local Plan in support of the proposal. However, in view of their assertion and my conclusion that the canvas lodges would constitute permanent buildings, this policy would not apply as it relates to touring caravans and touring holiday tents i.e. facilities that are mobile and temporary.
8. In view of the above, and the policies referred to by the appellant, my determination of this appeal has been against Policies GB2 and LSQ1 of the Local Plan and Policies CS19 and CS22 of the Core Strategy. However, in view of the Framework⁷ being more up-to-date than the Local Plan and Core Strategy, I have given this significant weight in my assessment.
9. The appellant has also referred to the Council's Economic Development Strategy⁸ and the AONB Management Plan⁹ in its submission. Although these contain important and relevant information, they have not been adopted as supplementary planning documents and I am not aware of the full extent of

³ Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011

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

⁵ Paragraph 4.6 of the appellant's statement dated September 2017

⁶ For Policy CS22, please see Paragraph 4.8 of the appellant's supporting statement dated December 2016

⁷ National Planning Policy Framework, Communities and Local Government, March 2012

⁸ Chilterns and South Bucks Economic Development Strategy (January 2017)

⁹ Chilterns Area of Outstanding Natural Beauty, Management Plan 2014-2019, A Framework for Action, The Chilterns Conservation Board

public consultation for the AONB Management Plan. I have accordingly given them modest weight in my assessment.

Main issues

10. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are;
- whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt;
 - whether the development would conserve and enhance the natural beauty of the AONB;
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

11. The appeal site is located to the west of the main farmyard complex on land that rises up in a north-westerly direction towards the brow of a hill. The site is in an elevated position and is comprised of two parcels of land laid to grass. The larger parcel of land to the north where the canvas lodges are to be sited contains a small blockwork animal pen to its south-east corner. The smaller parcel of land to the south is set below the northern parcel and is where the track, parking and turning area is proposed. Mature hedgerows and trees screen the site from the north and west.

Whether the proposal would be inappropriate development in the Green Belt

12. Policy GB2 of the Local Plan states that there is a general presumption against inappropriate development in the Green Belt. It does however specify certain categories of development that are not considered inappropriate, such as:- (a) new buildings to provide essential facilities for outdoor recreation; and (b) engineering operations;- subject to both preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. Policy CS19 of the Core Strategy supports proposals for agricultural diversification where they would maintain the openness of the Green Belt.
13. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless, amongst other things, it would involve the provision of appropriate facilities for outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Paragraph 90 of the Framework states that certain other forms of development, such as engineering operations, are also not inappropriate in the Green Belt provided they would preserve its openness and not conflict with the purposes of including land within it.
14. The appellant states that the canvas lodges are a form of 'outdoor recreation' and that the development therefore falls to be considered against Paragraph 89 (bullet point 2) of the Framework. Although there is no definition for outdoor

recreation provided in the Framework, I agree that the canvas lodges would fall within this category as they would constitute buildings and their use, appearance and finish would constitute a 'glamping experience' similar to camping.

15. However, in accordance with the interpretation of Paragraph 89 (bullet point 2) provided by the judgement in *Fordent Holdings Ltd v SSCLG & Cheshire West and Chester Council*¹⁰, I have concluded that the proposed green plastic mesh to be laid down on the track, parking and turning area would not constitute a 'facility for outdoor recreation' in terms of Paragraph 89, as this passage only applies to new buildings. The track, parking and turning area part of the development would therefore fall to be considered against Paragraph 90 of the Framework as the laying down of green plastic mesh would constitute an engineering operation.

Openness of Green Belt

16. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence.
17. The proposed canvas lodges would be visible from the bridleway that runs from west to east along the farm-drive. Despite them being finished in a dark green colour, they would still have a significant visual impact because of their substantial size. Furthermore, the volume of the canvas lodges would significantly increase the amount of built form at the site, which currently only contains a small blockwork animal pen to the south-east corner of the northern parcel and has a primarily natural, open, undeveloped character. Turning to the green mesh surfacing for the proposed drive and parking area, although this would be largely screened by grass, parked cars would nonetheless be visible from the above bridleway and gaps in the mature hedgerow on Asheridge Road to the south.
18. I recognise that the appellant has proposed additional hedge and tree planting to help screen the parking area and canvas lodges, but this would take a significant amount of time to grow and I am not convinced that even at full maturity, that it would sufficiently screen the canvas lodges given their elevated position and substantial size.
19. In view of the above, I have concluded that the scheme would cause significant harm to the openness of the Green Belt and therefore constitute inappropriate development, contrary to Policy GB2 of the Local Plan and Policy CS19 of the Core Strategy. The development would also fail to comply with Paragraphs 79, 89 and 90 of the Framework which collectively seek, amongst other things, to restrict inappropriate development and preserve the openness of the Green Belt.

Area of Outstanding Natural Beauty

20. I recognise that the scheme would help to facilitate economic and social well-being in the AONB as referred to by Policy CS22 of the Core Strategy, and assist in meeting the agricultural needs of the holding and the provision of a variety of other economic and social benefits as referred to by Policy LSQ1 of the Local Plan (please see 'other considerations' section below where these are

¹⁰ *Fordent Holdings Ltd v SSCLG & Cheshire West and Chester Council* [2013] EWHC 2844

examined in more detail). However, I have concluded that these benefits would not outweigh the significant harm to the natural, open, undeveloped character of the area as described above.

21. The proposed development would as a consequence conflict with Policy LSQ1 of the Local Plan and Policies CS19 and CS22 of the Core Strategy, which collectively seek, amongst other things, to conserve and enhance the special landscape character of the AONB.
22. In view of the harm identified above, the proposal would not conserve the landscape and scenic beauty of the AONB. I have given this great weight in my assessment and concluded that the proposal would as a consequence also fail to meet the requirements of Paragraph 115 of the Framework.

Other matters

23. I note the Appellant's reference to the pre-application response by the Council, but this has little bearing on the planning merits of the scheme before me and is a matter between the parties. The appellant has also drawn my attention to a previous appeal for six camping pods¹¹. However, because this is not directly comparable to the current proposal in terms of design, scale, form and siting, I have given it limited weight in my assessment. In any event, I must consider the appeal scheme on its own merits.

Other considerations

24. The appellant states that it would be possible for the site to be used as a 5-unit touring caravan site under the Caravan Sites and Control of Development Act 1960 and that they could also seek to develop the site for touring caravans and touring holiday tents in accordance with Policy T4 of the Local Plan. However, even if the appellant were to take advantage of permitted development rights¹² for a small touring caravan site or planning permission was granted for a camping site for touring caravans and touring holiday tents, there would be a considerable difference in impact upon character between the presence of these uses and a development of substantial canvas lodges. I do not therefore consider that the alternative uses would set any kind of precedent for the latter.
25. Paragraph 28 of the Framework seeks to promote the sustainable growth of business in the rural area, support sustainable rural tourism and leisure developments, and promote diversification of agricultural and other land-based rural businesses. The appellant's tourism data report¹³ has also demonstrated a strong level of demand for self-catering establishments in the area together with a corresponding shortage of supply. Furthermore, the AONB Management Plan and the Council's Economic Development Strategy collectively recognise, amongst other things, that recreation and tourism have the potential to make a substantial contribution to the local economy and that there is scope to promote, develop and support the short-break market, which will generate markedly higher spending in the local economy.
26. The appellant states that the proposal would assist them in their application for LEADER funding and give rise to environmental benefits in that it would provide funding for its role in conserving rare breeds, managing its old apple trees (as

¹¹ APP/K3605/A/13/2205008 dated 24 March 2014

¹² Part 5, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

¹³ Proseed Consulting Ltd, October 2016

a rare habitat) and additional hedge and wildflower planting to encourage diversity of fauna and flora. The appellant also states that the development would result in an increase in short-term breaks which are supported by the Council's Economic Development Strategy and the AONB Management Plan and that the scheme would give rise to economic and social benefits via local construction work, subsequent jobs, the creation of a local permissive pathway around the site, and increased visitor spend in the local economy.

27. I recognise that the proposal would assist in the delivery of the above benefits, but it is not clear from the evidence:- (a) how much income the tourism units would generate; (b) how much of this would be reinvested into different areas of the holding and where; and (c) to what extent it would actually deliver the above benefits. Furthermore, there is no evidence before me of any environmental harm arising to nature conservation interests or biodiversity if the development were to not take place.
28. In view of the above, I have concluded that the small-scale business nature of the 3 proposed canvas lodges would only give rise to a modest amount of social, economic and environmental benefits and that these would not clearly outweigh the scheme's significant environmental harm to the openness of the Green Belt, which I have given substantial weight to in my assessment, or outweigh the harm to the character of the AONB.

Conclusion

29. Paragraph 87 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the harm is clearly outweighed by other considerations.
30. I have identified that the scheme would constitute inappropriate development in the Green Belt and cause significant harm to its openness. It would, by definition, be harmful to the Green Belt, which I have given substantial weight in my assessment. The scheme would also fail to conserve and enhance the natural beauty of the AONB.
31. I have given modest weight to the economic, social and environmental benefits the appellant cited in support of the scheme, but have concluded that these would not clearly outweigh the significant environmental harm caused.
32. As a consequence, I have concluded that very special circumstances do not exist to justify inappropriate development in the Green Belt. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme would not be a sustainable form of development and should accordingly be dismissed.

Robert Fallon

INSPECTOR



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

Decision date: 15th January 2018

Appeal Ref: APP/X0415/W/17/3185504

Land to the rear of Chiltern Road, Ballinger, Buckinghamshire

- 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 Martin French against the decision of Chiltern District Council.
 - The application Ref CH/2017/0402/FA, dated 16 December 2016 on the application form, was refused by notice dated 6 June 2017.
 - The development described on the application form is "Proposed development of a stable building replacing the existing field shelter. Change of use to small area of land where proposed stables will sit, as well as track to main road."
-

Decision

1. The appeal is allowed and planning permission is granted for the "Proposed development of a stable building replacing existing field shelter" on land to the rear of Chiltern Road, Ballinger, Buckinghamshire in accordance with the terms of the application, Ref CH/2017/0402/FA, dated 16 December 2016, subject to the following 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:- 1:100 Stable Building Floor Plan and Elevations dated March 2017, 1:500 site plan received on 6 March 2017 and the 1:2500 location plan.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified on the application form and referred to in the design and access statement dated March 2017.

Procedural matters

2. The appellant states on the application form that the development proposed includes a change of use. However, the Council states that the use of the land would not change as a result of the proposed development and that it would remain in agricultural use.
3. In view of the qualifying criteria in national policy that relates to inappropriate development in the Green Belt, it is necessary for me to adjudicate on the above disagreement between the Council and appellant.
4. The development description on the application form does not specify what the change of use of the land would be to and aside from one exception at

Paragraph 2.5 of the appellant's appeal statement (which uses the word 'equestrian'), the remaining part of their evidence does not provide any further clarification. However, despite this, the submission is nonetheless clear that the surrounding land within the appellant's control¹ would remain in agricultural use for grazing by horses that occupy this land and the proposed stables.

5. The appellant also clarifies in their evidence that:- (a) they have up to 10 horses they intend to retain on the land, which they use for breeding, showing and charity events; (b) they are not seeking stabling for all the horses at any one time and that the majority will be kept out of the stables during Winter; and (c) the stables are only required to provide accommodation for sick or injured horses, mares in foal, young foals, elderly horses or those that are particularly vulnerable or need care for other reasons.
6. Turning to the Council's case, Paragraph 2 of the case officer's report states that 'Although the building is clearly for horses, this does not mean it is an equestrian use'. This paragraph goes on to say that in defining the lawful use, regard has to be had to its nature and the purpose for which the horses are kept. The case officer concludes this by stating that 'If the land was used for equestrian purposes in the future, that would be a separate matter for the Council to pursue....". In this respect, I agree with the Council that horse stables have the potential to fall within both an agricultural use and an equestrian use.
7. The Council further states at Paragraph 3 of the case officer's report that the land and existing shelter is an established agricultural unit. Paragraph 2.1 of the appeal statement reiterates that the existing lawful use of the land is an agricultural use, based on its definition at Section 336 of the 1990 Town and Country Planning Act (as amended) ('the Act') which refers, amongst other things, to '...the use of the land as grazing land...'. The appellant has not challenged the Council's position on this matter.
8. Case law² has held that if horses are simply turned out on the land with a view to feeding them from the land, then the land is in use for grazing purposes (an agricultural use). However, if horses are being 'kept' on land for other reasons and being fed wholly or primarily by some other means so that such grazing was completely incidental and achieved because there was no way of stopping them doing it, then the land is not being used for grazing, but for the keeping of horses (an equestrian use and not an agricultural use). In view of this, the proposed use of the stable building would depend on whether the horses that occupy it are predominantly; (a) used for the agricultural purpose of grazing the surrounding land; or (b) kept for recreational equestrian purposes.
9. Having had regard to all of the above, I have concluded that the appellant's evidence indicates that the primary use of the proposed stables would be to provide accommodation for individual horses whilst still allowing them to graze the surrounding agricultural land for the purpose of feeding them and not to "keep" the horses (as the number of stables proposed is well below the overall number of horses they intend to keep). Furthermore, I consider there to be a close and intimate relationship between the surrounding land and proposed stable building that cannot be easily separated into two distinct planning units with differing lawful uses ie the appellant has made it clear that the horses

¹ Defined by a blue line on the submitted location plan

² *Sykes v Secretary of State for the Environment* [1981] 1 WLR 1092

accommodated in the stables would be turned out onto the surrounding land within their control to graze it for agricultural purposes.

10. In view of the above, and despite neither party having provided written confirmation agreeing to a revised development description, I have as a consequence assessed the proposal on the same basis as the Council on the decision notice and the appellant on the appeal form as the "Proposed development of a stable building replacing existing field shelter".
11. Notwithstanding the above, the lawful use of the site is not a matter for me to determine in a section 78 appeal of the Town and Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use or any subsequent use/development of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.
12. Furthermore, in the event that the appellant wishes to keep horses on the land within their control for a primary purpose other than grazing for agricultural reasons and construct a new stable building for this, it is open for them to submit a new planning application under sections 57 and 70 of the Act.

Main issues

13. Within the context of the Council's reason for refusal and the evidence in this case, the main issues are;
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt;
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Appeal site context

14. The appeal site is located on the outskirts of the village of Ballinger to the north-east of Chiltern Road. The appeal site and surrounding land within the appellant's control rises up in a southerly direction and is in an elevated position. Mature hedgerows and trees screen the appeal site from the south and west.

Whether the proposal would be inappropriate development in the Green Belt

15. Although the Council states that the existing unit has a lawful agricultural use, it does not consider the size of building to be reasonably required in the Green Belt for the functioning of the agricultural unit. Representations have also been made that a concrete base is unnecessary and that the objective of housing the horses could be achieved with a more substantial field shelter, which would still allow access by stock at all times.

16. Whilst I recognise that the proposed stable building is considerably larger than the existing field shelter, given that the appellant intends to graze 10 horses on the land within their control, I do not consider the provision of 4 stables to be unreasonable given the reasons referred to above in terms of the special care that may be needed. I am also satisfied that no other buildings exist on the site that could be used for this purpose, particularly the existing field shelter, which is very restricted in space and in poor condition.
17. Furthermore, the appellant states that the size of each proposed stable would accord with the minimum size guideline provided by the British Horse Society. Although a copy of this document has not been supplied, the Council has seen no reason to dispute this, and neither do I given the need for a horse to stand up, lie down, turn around and roll easily without the risk of injury.
18. I recognise that the proposed stable building would be visible from 3 public footpaths and bridleways³. However, given that it would be single storey, finished in timber cladding and positioned against the backdrop of existing trees and hedges, I am satisfied that its visual impact and character would be appropriate to its rural setting and the wider countryside. I am also satisfied that the scheme would not give rise to any adverse impact to neighbouring properties.
19. In view of the above, I have concluded that the scheme is reasonably required for the functioning of an agricultural unit in the Green Belt and therefore accords with Policy GB27 of the Local Plan⁴.
20. Notwithstanding the above, Paragraph 89 of the Framework⁵ states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless, amongst other things, it would involve an agricultural building (bullet point 1). On the basis of the evidence provided by the appellant, I am satisfied that the stable building would constitute an agricultural building and fall within this exception category, and not therefore constitute inappropriate development in the Green Belt.
21. Although the Council states that the proposed agricultural unit could be operated utilising a smaller building as per the scheme recently approved⁶ and that the development would as a consequence compromise the openness of the Green Belt, case law⁷ has determined that where development is found to be 'not inappropriate' when applying paragraphs 89 or 90 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. In view of this, there is no need for me to consider the effect of the development on the openness of the Green Belt.

Other matters

22. Representations have been made that the scheme would constitute inappropriate development in the Chilterns Area of Outstanding Natural Beauty

³ Public bridleway and footpaths GMI/3A/1 and GMI/10/1, and public footpath GMI/7/1

⁴ Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011

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

⁶ Planning Permission CH/2017/1720/FA dated 3 November 2017

⁷ *Lee Valley Regional Park Authority v Epping Forest District Council* [2015] EWHC 1471 (Admin) and *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1)* [2016] EWCA Civ 404

(‘the AONB’). However, for the reasons identified above, I am satisfied that the development would conserve the landscape and scenic beauty of the AONB. I have given this great weight in my assessment and concluded that the proposal would as a consequence meet the requirements of Paragraph 115 of the Framework.

23. Representations have also been made that permitted development rights⁸ could result in the site being used on a temporary basis for other events. However, these rights would apply irrespective of the outcome of the current appeal and so I have given this little weight in my assessment.

Conditions

24. The Council has suggested conditions which I have considered in the light of the Planning Practice Guidance. I have made some amendments to clarify certain details or where the submitted information is unclear. 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. A condition relating to external materials is necessary to ensure a high standard of development.
25. A condition restricting the proposed stable building to be used for purposes ancillary to the grazing use of the surrounding land is unnecessary as a new application for planning permission would be necessary to change the use of the building, unless it benefits from permitted development rights to carry out other activities.

Conclusion

26. I have found that the scheme would comply with the development plan and Framework as; (a) it would be reasonably required for the functioning of an agricultural enterprise in the Green Belt; and (b) it would not constitute inappropriate development in the Green Belt. In view of this, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

⁸ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)



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: 17th January 2018

Appeal Ref: APP/X0415/W/17/3185133

The Green Man Public House, 2 High Street, Prestwood, HP16 9EB

- 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 Nick Rowland-Hill (Punch Taverns) against the decision of Chiltern District Council.
 - The application Ref CH/2017/0838/FA, dated 3 May 2017, was refused by notice dated 15 August 2017.
 - The development proposed on the application form is described as "Demolition of existing single garage and erection of one-pair of semi-detached houses served by new access".
-

Decision

1. The appeal is dismissed.

Main issue

2. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Appeal site context

3. The appeal site forms part of the garden to The Green Man Public House (the 'Public House') and is located on a prominent corner plot at the junction of Broombarne Lane and the High Street. The site contains a prefabricated garage together with a range of mature trees and falls within the Chilterns Area of Outstanding Natural Beauty. The development would be accessed by an existing private drive connected to Broombarne Lane which leads to 'Roseberry' and 'Whitcroft', two detached properties that lie immediately to the north of the appeal site.
4. Broombarne Lane consists of a mixture of detached houses and bungalows varying in age, scale and design. It has a mature verdant character with well-established trees, hedges, shrubs and lawns to the front of dwellings. The eastern side of the road generally consists of larger properties set on substantial plots, while the western side has a more compressed character, with smaller gaps between dwellings. The area's verdant character is further reinforced by Martinsend Lane, which lies to the north-east of the appeal site and also contains large properties on substantial plots dominated by soft-landscaping. Aside from Roseberry, Whitcroft and the appeal site, these roads

primarily fall within an Established Residential Area of Special Character, a designation which is subject to Policy H4 of the Local Plan¹.

5. The High Street is comprised of a range of terraced, semi-detached and detached properties of varying maturity, scale and design. This part of the village is more built-up and derives its locally distinctive character from the Public House and cottages at Nos 4 to 10, which are of a rural domestic architectural style and collectively finished in brick and flint, white render/painted brick, natural slate and plain clay tile. The cottages are also characterised by their brick and brick/flint front garden boundary walls.

Character and appearance

6. Although Broombar Lane is characterised by detached properties, I am satisfied that the proposed pair of semi-detached houses would not look out of place as they have been designed to imitate a single detached dwelling, with only one door to the front elevation. Furthermore, in view of the more compressed nature of the western side of the road, I am also satisfied that the extent of gap between the development and Roseberry would not be harmful to the character of the area.
7. The Council's Tree and Landscape Officer is satisfied that the large Robinia tree adjacent to the Public House and large Ash tree to the north of the appeal site would not be affected by the proposal. Although the development could result in pressure to remove a small group of Spruce, Willow and Plum trees in the western half of the appeal site, the Council's Tree and Landscape Officer does not consider these to be important specimens, which I would agree with given their less prominent location.
8. Whilst the appellant has said in their appeal statement that they would seek to keep the trees at the front of the site, these are not shown as retained on the submitted plans (unlike the Robinia tree adjacent to the Public House) and the design and access statement (Para 2.1) only refers to keeping 'slightly smaller trees'. In any event, even if they were to be kept, I am not satisfied on the basis of the evidence before me that the larger Sycamore and Ash specimens to the site frontage would be capable of being retained and/or protected given the layout of the parking area and their close proximity to it. Although I recognise that these are not high quality specimens, they are nonetheless very prominent trees and make a significant contribution to the verdant character of the area.
9. Furthermore, given that both front gardens to the new dwellings would be predominantly laid to hardstanding for off-road parking and turning facilities, the amount of space available for soft landscaping would be small and not of a sufficient size to accommodate extensive new planting;- particularly new trees that are capable of maturing and forming significant focal points in the streetscene to replace those substantial specimens that would be lost. As a consequence, I have concluded that the cumulative impact of the site's prominent position, insufficient soft landscaping space and more open front garden would result in the development being dominated by off-road parking and out of keeping with the soft-landscape character of Broombar Lane.

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

10. The above harm to the character of the area would be compounded by the stark appearance of the proposed 1.8 metre high close-boarded fence to the southern boundary. This would result in a visually intrusive form of development that would be out of keeping with the locally distinctive character of the Public House and Nos 4 to 10 High Street and their public facing brick/flint boundary treatments.
11. In view of the above, I have concluded that the development would be harmful to the character and appearance of the area. The proposal would as a consequence not accord with Policy CS20 of the Core Strategy² and Policies GC1 and H3 of the Local Plan, which collectively seek, amongst other things, to ensure that new development is not dominated by car-parking, and respects locally distinctive features and the character of an area.
12. The development would additionally fail to accord with the Chilterns Design Guide³, which states that the layout of development should accommodate green space provision and strengthen the network of green links, and that parking areas should not dominate the front of buildings. The scheme would also fail to comply with this guidance in that it fails to incorporate an appropriate form of boundary treatment to its southern edge that would create a visually attractive link to the locally distinctive character of the Public House and Nos 4 to 10 High Street.

Planning balance

13. The appellant states that the Core Strategy and Framework⁴ seek to encourage new residential development within existing settlement areas and on previously developed land to help relieve pressure on Green Belt land. However, Paragraphs 56 and 64 of The Framework state that good design is a key aspect of sustainable development and that poorly designed development which fails to take the opportunity to improve the character and quality of an area should be refused.
14. Although the site is located in a sustainable location where the principle of development is acceptable, for the reasons set out above, I conclude that the environmental harm to the character and appearance of the area would significantly and demonstrably outweigh the small amount of social, economic and environmental benefits that the development would contribute, namely, making an efficient use of previously-developed land, the removal of the neglected garage, separating the boundary of Roseberry from the pub garden and the provision of two additional dwellings suitable for small families.

Conclusion

15. I have found that the appeal proposal would be harmful to the character and appearance of the area. All representations have been taken into account, but no matters, including the benefits of additional housing 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

² Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

³ Chilterns Buildings Design Guide, The Chilterns Conservation Board, Published February 2010

⁴ National Planning Policy Framework, Communities and Local Government, March 2012



Appeal Decision

Site visit made on 2 January 2018

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

an Inspector appointed by the Secretary of State

Decision date: 29th January 2018

Appeal Ref: APP/X0415/D/17/3186867

Crawshays Cottage, Lee Clump Farm, Princes Lane, Lee Common, HP16 9NB

- 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 Drs Clara and Jamie Wilkinson against the decision of Chiltern District Council.
 - The application Ref CH/2017/0907/FA, dated 10 May 2017, was refused by notice dated 24 July 2017.
 - The development proposed is described on the decision notice as "Part single, part first floor and two storey front side rear extensions, replacement roof".
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The development description on the application form does not accurately describe the proposed development. I have therefore amended it to that shown on the decision notice and considered the scheme on this basis, and am satisfied that this has not prejudiced the interests of any party.
3. The appellants' and Council have confirmed that the decision was based on amended plans. 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 475S/EX/001, 475S/EX/002, 475S/TP/001/A, 475S/TP/002/B and the Architects Supporting Statement, Rev A 03/07/2017, and am satisfied that this has not prejudiced the interests of any party.
4. Although the Council has referred to Policy H11 of the Local Plan¹ in its reason for refusal, I have concluded that this is not applicable as it is aimed at protecting the character of an area, whereas the reason for refusal relates to the impact of the development on the living conditions of neighbouring occupiers.

Main issue

5. The Council has raised no concerns regarding:- (a) the design and scale of the extensions or their impact upon the character and appearance of the area; (b) the impact of the extensions upon the Green Belt; (c) highway and pedestrian

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

safety; and (d) the living conditions of neighbouring occupiers with specific regard to loss of light. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the proposed first floor side extension on the living conditions of neighbouring occupiers at Clump Barn, with specific regard to visual impact and loss of outlook.

Reasons

6. The appeal site contains a 2-storey detached house situated at the end of a private drive on the edge of the village and forms part of what was previously an agricultural farmyard which has since been converted for residential use. Although this complex contains a small number of dwellings that vary in scale and design, they are all constructed from red brick, flint and weatherboarding, which gives it a strong sense of cohesion.
7. The village is characterised by detached houses ranging in architectural style, scale and maturity, with a predominantly local material palette of red brick, flint, render and plain clay tiles. The site falls within the Green Belt and Chilterns Area of Outstanding Natural Beauty.
8. Clump Barn is positioned to the south of the appeal site and has a range of window and door openings to its west-facing front elevation, with those closest to Crawshays Cottage being a ground floor kitchen door, sidelight and window, and first floor bedroom skylight window. There are also two further windows to its first floor north-facing side elevation in close proximity, which are connected to two bedrooms.
9. The development would extend over the existing single storey side projection to Crawshays Cottage and substantially erode the gap at first floor level between it and Clump Barn. This would significantly increase the height and mass of the building immediately adjacent to the closest point of the latter. I have as a consequence concluded that it would appear visually intrusive, overbearing and oppressive to the occupants of Clump Barn when viewed from their front elevation kitchen door entrance, sidelight and window, and first floor side elevation bedroom windows. Whilst I recognise that the bedrooms have additional skylights to the front and rear which would be unaffected, I consider the side elevation windows to offer the primary source of outlook to these rooms. I also recognise that the kitchen may have an additional unaffected window to the east-facing rear elevation, but would not consider this to adequately mitigate the loss of outlook to the front of this room given the depth of the building.
10. The appellants' have stated that the impact to Clump Barn has primarily occurred as a result of previous alterations to this building. However, my consideration of the scheme must be based on current circumstances.
11. I recognise the appellants' frustrations regarding the final decision being contrary to the officer recommendation and pre-application advice, but planning decisions are often finely balanced and not based on a 'black and white' set of rules, but varying 'shades of grey'. Council Members are not therefore obliged to follow the recommendations of professional officers, provided they have sound planning reasons and grounds not to do so.

12. In view of the above, I have concluded that the development would be harmful to the living conditions of neighbouring occupiers at Clump Barn, with specific regard to visual impact and loss of outlook. The proposal would therefore fail to comply with Policy CS20 of the Core Strategy² and Policies GC1 and GC3 of the Local Plan, which collectively seek, amongst other things, to ensure that new development is compatible with nearby properties and safeguards the amenities of neighbouring occupiers.
13. The development would also fail to comply with Paragraph 17 (bullet point 4) of The Framework³, which states that planning should always seek to secure a good standard of amenity for existing occupants of buildings.
14. The appellants' state that the scheme would result in an improvement to the overall design of the building and the replacement of a poorly constructed front extension with little or no insulation. However, neither these benefits nor that of providing additional living accommodation for the appellant would significantly and demonstrably outweigh the harm I have identified and the scheme's conflict with the development plan.

Conclusion

15. I have found that the appeal proposal would be harmful to the living conditions of neighbouring occupiers at Clump Barn with regard to visual impact and loss of outlook. All representations have been taken into account, but no matters, including the benefits of the development 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

² Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

³ National Planning Policy Framework, Communities and Local Government, March 2012



Appeal Decision

Site visit made on 5 December 2017

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2018

Appeal Ref: APP/X0415/W/17/3182941

Little Southlands, Gold Hill North, Chalfont St Peter SL9 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Margo Lagler against Chiltern District Council
 - The application Ref CH/2017/1063/FA, is dated 6 June 2017.
 - The development proposed is the erection of one pair of semi-detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one pair of semi-detached dwellings at Little Southlands, Gold Hill North, Chalfont St Peter SL9 9JG in accordance with the terms of the application, Ref CH/2017/1063/FA, dated 6 June 2017, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are:
 - The effect of the development on the living conditions of the occupiers of the existing dwelling, Little Southlands, with particular regard to whether the dwellings would be overbearing or dominant; and
 - The effect of the development on highway safety with particular regard to the level of parking provided and visibility at the access.

Reasons

Living Conditions

3. The appeal site comprises the rearmost part of the existing residential garden serving Little Southlands. Little Southlands itself is a bungalow which fronts onto Gold Hill North, whereas the rear part of the garden fronts onto Orchard Grove. There is a significant rise in land levels from Gold Hill North to Orchard Grove with steps leading up through the garden at present. The proposed development would introduce one pair of semi-detached dwellings into the appeal site. The dwellings would front onto Orchard Grove, and although developed over three levels, the development would have a two-storey appearance to the front elevation onto Orchard Grove.
4. The Council have raised no concerns in relation to the impacts of the development on the living conditions of the adjoining occupiers on Orchard

Grove and have not objected to the overall design, scale or principle of the development, and I have no reason to disagree with this view. The Council have however raised concerns over the impact on the host property in terms of overbearing and visually dominant effects from the development.

5. Whilst the land levels are significantly higher adjacent to Orchard Grove than Gold Hill North, the proposed development would not result in a situation that would be dissimilar to the adjoining development, at Torbay, which sits high above the adjoining dwellings to the South. There is residential development fronting onto Orchard Grove adjacent to the site on both sides. The location of the proposed dwellings would allow for reasonably sized rear gardens which would adjoin the boundary of the rear garden of Little Southlands. This would serve to provide adequate separation between the proposed and existing dwellings and whilst the dwellings would sit above the existing garden and be visible from the dwelling and garden, the proposed landscaping and distances between the dwellings would ensure that the proposed development would not be unduly harmful in terms of the outlook from the existing property or its garden.
6. The proposed development would involve the loss of a number of trees from within the garden. Whilst these trees have some amenity value, they are not protected or considered to be high quality specimens. The proposal seeks to implement planting along the boundary between the existing and proposed rear gardens which would, in time, serve to soften the overall appearance of the rear of the dwellings and further reduce the visual impacts of the development on the occupiers of the existing dwelling.
7. For the above reasons, the proposed development would not result in undue harm to the living conditions of the occupiers of the existing dwelling. The proposal would therefore comply with Policy GC3 of the Chiltern District Local Plan Written Statement Adopted 1 September 1997 (alterations adopted 2001) consolidated September 2007 and November 2011 (Local Plan). This policy seeks to achieve good standards of amenity for the future occupiers of the development and protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.

Highway Safety and Parking

8. The development would utilise the existing access onto Orchard Grove with an additional access to be created to serve Plot 2. Orchard Grove has other existing accesses present and also is subject to on-street parking. The road itself is a 30mph speed limit and during my visit the few cars that were using Orchard Grove were travelling at low speeds. As such, whilst the visibility of the proposed second access may be impaired by the existing on street parking and the required visibility splays cannot be fully achieved as a result of third party land issues, the speeds of the vehicles and the presence of similar vehicular accesses would mean that this would not be unduly harmful to the highway safety of those using and accessing onto Orchard Grove.
9. The scheme proposes that 2 parking spaces for each property would be provided off-road, within the site. Policy TR16 of the Local Plan sets the required parking standards to be 3 spaces per dwelling where the gross floor area of the dwelling minus the garage is 120 m² or more. By providing 4 parking spaces, the Council considers that the proposed development would have a shortfall in two spaces. However, the Appellant has provided a

breakdown of the floor areas for each property which they state would total 118.25 m². This falls within the lower category in Policy TR16 which requires 2 spaces. Under the Appellant's calculations there would be no shortfall in parking provision.

10. The National Planning Policy Framework (the Framework) has a core principle of making the fullest possible use of public transport and alternatives to the use of the private car, and advises that parking standards should take into account of the accessibility of the development and the levels of car ownership (paragraph 39).
11. The appeal site is located within a reasonably short distance from the facilities and services available in Chalfont St Peter, which include a number of shops, public houses and leisure facilities. As such, walking and cycling would be viable options for accessing the local services. In the absence of clear evidence of a local parking issue I do not consider that the proposal would result in a material shortage in parking provision off road in this location. Nor has it been demonstrated to me that even if there was a material deficiency it would be likely to have a harmful effect on highway safety.
12. Even if I were to conclude that there would be a parking deficit of 2 spaces, in terms of the effect of the parking shortfall on the living conditions of nearby residents as a result of parking stress and inconvenience, there is little evidence provided by the Council as to how parking on the street could have a harmful effect on the existing residents. At my site visit I noted that there were a number of cars parked on the street, however this was not to a level that would indicate significant parking issues in the locality. There were also no parking restrictions in place in the vicinity of the site. In the absence of more clear evidence of a parking issue I consider that it has not been demonstrated that the proposal would materially harm the area in this regard.
13. For the above reasons, the development would broadly comply with Policies TR2, TR3, TR11 and TR16 of the Local Plan which require satisfactory access onto the existing highway network and standards of road safety for all users to be maintained or improved, and the provision of vehicle parking to be made as part of any development.

Conditions

14. The Council have requested a number of conditions which I have considered against the Planning Practice Guidance and amended or omitted where necessary. In addition to the standard time limit condition I have included a condition listing the approved plans as this provides certainty. A condition restricting permitted development for additional windows or dormers is necessary as the differing land levels represent exceptional circumstances to justify this condition. A condition for the provision of the parking areas prior to occupation is necessary in the interests of highway safety. I have not imposed a condition relating to the external materials as these are detailed on the submitted plans and are therefore secured by condition 2.
15. Although not requested by the Council the Appellant has indicated that she would be willing to accept a condition securing a landscaping scheme for the development. Whilst new planting is indicated on the plans a condition would secure the timings and specific plants and trees, and due to the removal of a

number of trees I consider this to be necessary in the interests of protecting the living conditions of existing occupiers and the visual character of the area.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

R Norman

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: Location Plan; Drawing Nos PL 110; PL 111; PL 112 and PL 113.
- 3) 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 windows/dormer windows other than those expressly authorised by this permission shall be inserted or constructed at any time at first floor level or above in the flank elevations of the dwellings hereby permitted.
- 4) No dwelling shall be occupied until space has been laid out within the site for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 5) No works to remove any trees or vegetation from the site shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping showing the location, specimens and number of trees and shrubs to be planted. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



Appeal Decision

Site visit made on 16 January 2018

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 29th January 2018

Appeal Ref: APP/X0415/D/17/3190166

51 Chessfield Park, Little Chalfont HP6 6RU

- 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 CC Oliveira against the decision of Chiltern District Council.
 - The application Ref CH/2017/1362/FA, dated 19 July 2017, was refused by notice dated 14 September 2017.
 - The development proposed is single storey side and rear extension, alterations to fenestration and front porch.
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Decision

1. The appeal is allowed and planning permission is granted for single storey side and rear extension, alterations to fenestration, and front porch at 51 Chessfield Park, Little Chalfont HP6 6RU in accordance with the terms of the application, Ref CH/2017/1362/FA, dated 19 July 2017, subject to the following 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: 1701-1 Rev A, 1701-02, 1701-03 Rev B, 1701-04 Rev B and 1701-05 Rev B.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) 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 additional windows shall be inserted or constructed at any time at ground floor level in the east flank elevations of the side and rear extension hereby permitted.

Procedural Matter

2. The Council's delegated report and appeal questionnaire indicated that the appeal site is within the Green Belt. Having sought clarification from the Council, it is evident that the Green Belt boundary runs east-west approximately halfway through the rear garden of the appeal site. The appeal property and proposed development are outside of the Green Belt and so there is no need to apply relevant local and national Green Belt policies in this instance.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of occupiers of 53 Chessfield Park with regards to outlook and light.

Reasons

4. The appeal property at 51 Chessfield Park is a detached house with a wide rear garden backing onto open countryside similar to nearby properties on this northern side of the road. The building line of these houses is angled from the road and many properties have deep single storey car ports and garages along the side boundary with the neighbouring property. This includes the appeal property and its neighbours at Nos 49 and 53 to the west and east respectively.
5. According to the appellant, the existing car port and garage at the appeal property extends around 7 metres from the rear wall of the property and around 10 metres beyond the rear elevation of No 53 due to the angled building line. The roof of the existing structure slopes gradually down to the rear to a height of 2.2 metres according to the Council.
6. The ground floor rear elevation of No 53 contains patio doors and what appears to be a kitchen window. There is also a patio and lawn near to the rear elevation. The existing car port and garage at the appeal property presents a long wall along the boundary with No 53, providing a sense of enclosure to the rear ground floor windows and the patio and lawn. The existing structure will also have some effect on light to these windows and external space, with some shadowing in the afternoon and evening depending on the time of year.
7. The proposed development includes replacing the car port and garage structure with a single storey side and rear extension. The flat roof of the extension along the boundary with No 53 would be taller than the existing sloping roof by between approximately 350mm and 650mm according to the appellant. The depth of the extension along the boundary would be around 2 metres shorter than the existing garage.
8. The extra height would increase the sense of enclosure and overshadowing near to the rear elevation and patio/lawn area of No 53, but the difference compared to the effects of the existing structure would be small. The impact would also be offset by the significant shortening of built form along the boundary, while materials would match the existing house. The width of the rear garden at No 53 and the open countryside beyond would continue to provide space for a reasonable level of outlook and light from the ground floor rear elevation windows and the patio and lawn area nearest the house. As such, the extension would not appear dominant, visually intrusive or overbearing or result in a considerable reduction in light when compared to the existing structure. Therefore, any effect on the living conditions of occupiers of No 53 would not be unacceptable.
9. The occupiers of No 53 have highlighted the negative impact on their right to light both within their property and in the rear garden and confirm that their property is more than 20 years old. However, the Planning Practice Guidance¹ states that planning is concerned with land use in the public interest, so that the protection of purely private interests such as such as the loss of private

¹ Reference ID: 21b-008-20140306

rights to light could not be material considerations. Any issues relating to rights to light would need to be addressed separately to the planning process.

10. In conclusion, the proposed extension would have an acceptable effect on the living conditions of occupiers of 53 Chessfield Park with regards to outlook and light. Therefore, it would accord with Policies GC1, GC3, H13 and H14 of the Chilterns District Local Plan 1997 (including alterations adopted 2001). Amongst other things, these policies seek to protect the amenities enjoyed by the occupants of existing neighbouring properties and avoid significant detriment to those amenities, an overbearing appearance, or significant loss of daylight to gardens and habitable rooms or kitchens. Moreover, Policy GC1 states that the scale and height of development and its siting and relationship should be in accordance with adjoining buildings.
11. The development would also follow the advice in the Residential Extensions and Householder Development Supplementary Planning Document 2013 which states that extensions should not dominate a neighbouring property, including its garden, or be visually intrusive or overbearing.

Conditions

12. Conditions setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. A condition requiring materials to match those used in the existing building is necessary to safeguard the character and appearance of the area. A condition controlling the insertion or construction of additional windows in the eastern flank elevation of the extension is necessary to safeguard the living conditions of occupiers of 53 Chessfield Park in terms of their privacy.

Conclusion

13. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR