

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 Application withdrawn.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

