

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 15th March 2018

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Recommendation: Conditional permission

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# REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

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### CH/2017/1956/FA

Case Officer: Adam Pegley  
Date Received: 20.10.2017  
Parish: Chalfont St Peter  
App Type: Full Application  
Proposal: Erection of a detached garage (retrospective)  
Location: 2 Leachcroft  
Chalfont St Peter  
Gerrards Cross  
Buckinghamshire  
SL9 9LG  
Applicant: Mr Michael Brosnan

Date Received:	20.10.2017	Decide by Date:	01.03.2018
Parish:	Chalfont St Peter	Ward:	Gold Hill

### SITE CONSTRAINTS

Article 4 Direction  
Adjacent to Unclassified Road  
Mineral Consultation Area  
Within 500m of SINC NC1

### SITE LOCATION

The application relates to semi-detached two storey dwelling located in Leachcroft, Chalfont St. Peter. This residential area is characterised by properties of varying styles, with leafy, spacious and open front gardens.

### THE APPLICATION

The application is for retrospective planning permission for the erection of a detached garage.

The garage is located within the front garden of the site, and is annotated on the plan as measuring 2.63m in height, 2.1m eaves height with a width of 2.85m and a depth of 4.61m.

### RELEVANT PLANNING HISTORY

None relevant.

### PARISH COUNCIL

Query vehicular access to garage.

### REPRESENTATIONS

None received at time of drafting report.

### CONSULTATIONS

None relevant.

## **POLICIES**

National Planning Policy Framework (NPPF).

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, H13, H14, H15, H17 H20, TR11 and TR16.

Residential extension and householder development SPD (Supplementary Planning Document) - September 2013.

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

## **EVALUATION**

### **Principle of development**

1. The development is within the built up area of Chalfont St Peter, wherein residential outbuildings may be considered acceptable, subject to complying with the relevant development plan policies. In particular, Local Plan Policy H20 relates to ancillary residential buildings and states that for planning permission to be granted, "The building would be modest in size and subordinate in scale to the existing dwelling house, and the principles in policies H13 to H17 would be complied with."

### **Design/character & appearance**

2. The building has been constructed of high quality materials, with natural wood panels and has a dual pitched green felt roof. However, by virtue of its significant size, position and eaves height it does immediately stand out when viewed from the street scene of Leachcroft. Whilst the applicant has cited the fact that a similar garage has been constructed at 15 Grove Lane, there is no record of planning permission being granted for this and located on an adjoining street with different character. There are very limited, if any, examples of similar detached garages or indeed outbuildings forward of the principal elevation within Leachcroft. As such, in its current form the development is considered to adversely impact on the street scene, appearing at odds and out of scale with its surroundings. This is contrary to Local Plan Policy H13(ii).

3. The building is approximately 13.11 sq.m and has a shallow pitch, with its high eaves height (relative to its overall height) contributing adversely to its impact on the locality. The development does not scale well with its surroundings in terms of its overall dimensions, which are not considered to be modest in size, and as such there is conflict with Local Plan Policies GC1 and H20.

### **Residential amenity**

4. Whilst the development is located on the boundary with the neighbouring property, it is some distance away from the neighbouring front wall. Given this distance, it is considered the amenities of neighbouring properties are not significantly adversely affected, such that an objection on those grounds could be sustained.

### **Parking/Highway implications**

5. The proposal has no adverse parking implications, having regard to the Council's standards.

### **Other matters**

6. The Parish Council comments querying the access to the garage are noted; presently there is an unusual arrangement in that the lawn would have to be driven over for cars to park in the garage. The Council has received concern about the use of the outbuilding and if it is to be used for business purposes. However, it is not considered an objection could be sustained on those grounds, and should concerns be raised as to

the use of the outbuilding an assessment would be made by the Council as to whether a subsequent material change of use (needing planning permission) has occurred.

### **Conclusions**

7. The development, whilst made from high quality materials, is not modest in size and is not considered a building which integrates well into the surrounding street scene. It is out of character for the locality and as such emerges as a strident development contrary to the policies (H13(ii), H20) of the local plan. As such, the officer's recommendation is for refusal.

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 was focused on seeking solutions to the issues arising from the development proposal. In this case, the Applicant/Agent was informed/advised 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.

### **FURTHER ACTION**

#### **Human Rights**

9. Rights protected by Articles 1 of the First Protocol and 8 of the Convention (the right to protection of property and the right to respect for private and family life) are qualified in terms of restrictions imposed in the public interest. The rights of the contravener should not automatically be favoured at the expense of adversely affecting the amenities of occupiers of neighbouring properties or amenities of the area generally.

10. When considering enforcement action, it is necessary to weigh up the harm to public amenity caused by the breach in relation to the impact upon the contravener. Such action has to be considered to be a balanced and proportionate interference with the landowner's right to respect for his home and right to peaceful enjoyment of his possessions. In this regard we are mindful that the taking of enforcement action must be proportionate and reasonable.

11. Given the serious harm identified in this report that is caused by the development, it is considered appropriate to pursue enforcement action as a mechanism for resolving the breach of planning control. It is acknowledged that to refuse planning permission for this development and to take enforcement action would represent an interference with the applicant's rights to the enjoyment of their possessions under Article 1 of the first Protocol of the Human Rights Act 1998 and rights to home and family life under Article 8, however it is necessary to balance such interference against the issues of wider public interest in respect of the significant harm identified as set out in this report. In this case it is considered that the harm to the issues of wider public interest as identified above outweigh the interference with the applicants rights under Article 8 and Article 1 of the First Protocol.

12. The right to a fair trial under Article 6 is protected through the established appeal procedure.

### **RECOMMENDATION: Refuse Permission with further action**

#### **For the following reasons:-**

1 The site is located within the built-up area wherein Local Plan Policy H20 allows for the development of ancillary residential outbuildings, provided they are modest in size and subordinate in scale to the existing dwelling house. By reason of the developments overall scale, location and eaves height, the development is not considered to integrate into the locality and does not relate well to its surroundings. It is also not considered modest in size, as such the development fails to comply with Policies GC1, H13 and H20 of the Adopted Chiltern District Local Plan 1997 (including Adopted Alterations May 2001 and July 2004)

Consolidated September 2007 & November 2011, Policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011), Policy H6 of The Chalfont St Peter Neighbourhood Plan 2013 - 2028 and the Residential Extensions and Householder Development SPD - Adopted 10 September 2013.

2 If the Committee refuses planning permission in light of the identified harm it is recommended that follow up action is taken in accordance with Central Government Guidance in para 207 of the National Planning Policy Framework (NPPF) and Chiltern District Council's Planning Enforcement Policy and the Planning Committee authorises the service of such Enforcement Notices in respect of the use 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 in consultation with the Head of Legal and Democratic Services and/or direct action to secure compliance with the Notice.

## CH/2017/2202/FA

Case Officer: Adam Pegley  
Date Received: 28.11.2017  
Parish: Great Missenden  
App Type: Full Application  
Proposal: Replacement summerhouse to rear of the property (Retrospective)  
Location: 7 Long Row  
Moat Lane  
Prestwood  
Buckinghamshire  
HP16 9BS  
Decide by Date: 12.03.2018  
Ward: Prestwood And Heath End  
Applicant: Mr N Plumridge

### SITE CONSTRAINTS

Article 4 Direction  
Area Special Advertisement Control  
Within Chilterns Area of Outstanding Natural Beauty  
Within Green Belt other than GB4 GB5

### CALL IN

Councillor Gladwin has requested this application be brought to Planning Committee should the officer's recommendation be for approval, citing concerns about the overall level of development on the site, and the impact of an enlarged sun room/shed.

### SITE LOCATION

The application site is located in Long Row, Prestwood, which is a narrow access road located off Moat Lane. The road consisted of a row of terraced cottages, with domestic outbuildings and gardens located on the other side of the access road. The site is within the Green Belt and Area of Outstanding Natural Beauty.

### THE APPLICATION

The application is for retrospective planning permission for a summerhouse to the rear of the property.

The summerhouse replaces a previous outbuilding in a similar location, is located at the rear of the domestic garden of No. 7, Long Row and measures 6 metres in width, 5.2 metres in depth and has a dual-pitched roof to a height of 4.1 metres. It has a footprint of 31.2 sq.m, and a total volume of 103 cu.m.

### RELEVANT PLANNING HISTORY

CH/1980/0411/FA - Erection of a two storey rear and first floor rear extensions to provide additional bedroom space. Conditional Permission. Implemented.

CH/2014/0247/FA - Detached outbuilding incorporating a garage, workshop, shed and greenhouse. Refused permission by virtue of its significant length and footprint, the resultant building would not be small and would constitute inappropriate development within the Green Belt. Furthermore, given its significant size and siting a large distance forward of the existing dwelling on an existing grass lawn, against the backdrop of trees and hedging, the proposed outbuilding would appear as a prominent and visually obtrusive feature in the landscape and would compete with the main dwelling, to the detriment of the openness of the Green Belt and the special landscape character and high scenic quality of the Chilterns Area of Outstanding Natural Beauty. No very special circumstances exist sufficient to outweigh the harm caused by the reason of its inappropriateness and any other harm.

CH/2014/1841/SA - Application for a Certificate of Lawfulness for a proposed operation relating to the erection of an outbuilding and associated gravel driveway. Refused permission but allowed on appeal.

CH/2016/0809/FA - Erection of outbuilding. Refused permission but allowed on appeal.

## **PARISH COUNCIL**

No objection.

## **REPRESENTATIONS**

1 letter of objection received from a neighbouring property stating the following (summarised):

- The outbuilding is overbearing and oversized, impacting on the AONB and Green Belt location
- Concern over the use of the outbuilding, which may be used for business purposes and not residential purposes
- The building replaces an old summerhouse/shed which was much smaller, and is not well screened
- Additional windows to the rear of the building or the roof would impact significantly on the privacy of existing properties, as would a change of use of the building

## **CONSULTATIONS**

None relevant.

## **POLICIES**

National Planning Policy Framework (NPPF).

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies: GC1, GC3, GB2, GB13, GB15, LSQ1 and TR16.

Residential extension and householder development SPD (Supplementary Planning Document) - September 2013.

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

## **EVALUATION**

### **Principle of development**

1. The application site is located within the open Green Belt and as such in accordance with Local Plan Policy GB15 the erection of an ancillary residential outbuilding within the curtilage of a dwelling can be considered acceptable where the building is relatively small in size and also subordinate in scale to the original dwellinghouse. Such developments will also be considered on their merits, principally of siting, design, external appearance, location in relation to the existing dwelling and its surroundings, and the impact on the landscape. The site also falls within the Chilterns Area of Outstanding Natural Beauty (AONB) where development should conserve, and where considered appropriate and practicable, enhance the special landscape character and high scenic quality of the AONB. All other relevant Development Plan Policies should also be complied with.

### **Design and whether inappropriate development in the Green Belt**

2. The detached outbuilding is currently in situ to the North-West of the main dwelling, located on the edge of the residential curtilage of the property. It is annotated to be used as a summerhouse with a smaller store section on the Western side of the building. The outbuilding the subject of this application replaces another outbuilding, now demolished, which measured 5.7 metres in width, 5.2 metres in depth and 3.2 metres in height, with a footprint of 29.6 sq.m and volume of 95 cu.m.

3. Paragraph 89 of the National Planning Policy Framework (NPPF) states that the construction of new buildings is inappropriate in the Green Belt. The replacement of a building may be an exception to this, provided the new building is in the same use or not materially larger than the one it replaces. In this case, the new outbuilding does have a similar footprint and volume to the previous. It is approximately 0.9 metres taller due to its pitched roof, however, it is not considered that this increase in height causes a significant increase on its impact within the Green Belt. As such, the outbuilding is not considered to be materially larger than the one it replaces. The outbuilding will be in the same use as the previous and is located in a similar location. As such, the development is not considered inappropriate development within the Green Belt.

4. Local Plan Policy GB15 states the construction of non-habitable buildings within domestic curtilages within the Green Belt may be acceptable provided they are small and subordinate in scale to the original dwelling. The Planning Inspector, when considering the appeal against the refusal of the now approved garage (see Planning application CH/2016/0809/FA), also on this site, gave limited weight to Local Plan Policy GB15 due to its potential deviation from the guidance given in the NPPF. However, it is considered that this outbuilding is subordinate in scale to the main dwelling. Whilst it is not considered small, it is not unduly large, having regard to the size and scale of outbuildings which can be built under "permitted development" rights. As such, it is not considered that an objection could be sustained with regard to the guidance given by Local Plan Policy GB15.

#### **Openness of the Green Belt**

5. The outbuilding is located within the garden forming part of 7 Long Row. The immediate surrounding character of the area is residential with a large number of outbuildings, many in similar size and scale to the application building, in adjoining gardens. The site is protected from the rest of the Green Belt and AONB by a dense wood block to the North East, which encloses the residential development and prevents further encroachment into the open Green Belt. This restricts the views of the development from the wider area and countryside; the outbuilding is very much situated within an area of residential character. The building also replaces one of a similar footprint, and whilst taller, given its location and screening from the wider countryside it is considered the impact on the openness of the Green Belt is minimal, and should be given limited weight.

#### **Impact on the AONB**

6. Local Plan Policy LSQ1 states that development within the AONB should conserve, and where possible enhance, the high landscape quality of the area. In this regard, the siting of the building within an area of residential gardens and numerous other outbuildings is significant as highlighted above. The wood block to the North East provides very good screening of the development from the open countryside beyond. The outbuilding is 4.1 metres in height with a dual-pitched roof, which is not considered excessively tall having regard to "permitted development" criteria which can allow dual-pitched outbuildings up to 4 metres in height. It is also an important consideration that an outbuilding did exist in this location previously, albeit 0.9m shorter and with a flat roof. The neighbouring outbuildings are also at a similar height and with similar roof forms. Given the above, it is not considered that the outbuilding would materially detract from or intrude upon the local landscape.

#### **Residential amenity**

7. The comments of the neighbouring property are noted. There are concerns about the outbuildings height and proximity to the boundary; it currently sits approximately 1.4m away from the boundary with the neighbouring property to the North. However, it is noted that bamboo screening has been planted and whilst not yet at substantial height, the development could be conditioned to retain such screening. Further, the development is some 37 metres away from the neighbouring property and is buffered somewhat from this by another outbuilding in the neighbouring garden. As such, whilst clearly the outbuilding is more visible than its

predecessor, it is not considered it has a significant adverse impact on neighbouring amenity as there is a large distance between it and the neighbouring dwelling.

8. The concerns regarding the use of the outbuilding are noted. The outbuilding would be required to be used for purposes incidental to the occupation of 7 Long Row as a residential dwelling. Should the outbuilding be used for independent residential accommodation, or materially change use to a business use, this would be unauthorised development and not covered within this application. Should concerns regarding the use of the outbuilding be raised subsequent to this application, the matter should be raised with the Council's planning enforcement department.

### **Other considerations**

9. In allowing the appeal for the approved outbuilding on the site, reference CH/2016/0809/FA, the Inspector conditioned the approval of that outbuilding on the grounds that the "permitted development" outbuilding as granted by CH/2014/1841/SA (also allowed on appeal) would not be constructed. It is understood that the applicant intends to implement this permission as the trench for the approved outbuilding has already been dug. As such, "permitted development" rights for further outbuildings on the site would be restricted. However, it is important to note that this development is not considered inappropriate within the Green Belt, and is of sound design and construction, in accordance with the provisions of the National Planning Policy Framework. As such the harm to the openness of the Green Belt by virtue of the increased height of development is considered to be relatively limited. It is considered that further outbuildings on the site should be restricted, by way of condition. The surrounding gardens also contain numerous outbuildings of similar size, scale and design. As such, any harm caused by the increase in height compared to the previous development is significantly mitigated by the fact it does replace an outbuilding with a similar footprint and the fact that the site is well protected from the open countryside by virtue of the wood block to the North East. Views into the site from Moat Lane are also well restricted. Given the character of the area, it is considered that the development does not significantly impact on the Green Belt or the core principles of such land and is of sound design, in accordance with the NPPF's core planning principles ("always seek to secure high quality design", paragraph 17).

### **Parking/Highway implications**

10. The development has no parking/highway implications, having regard to the Council's standards.

### **Conclusions**

11. The National Planning Policy Framework (NPPF) states (paragraph 9) that pursuing sustainable development involves seeking positive improvements in the quality of the build, natural and historic environment, including replacing poor design with better design. The development is of high quality and replaces an older outbuilding in a similar location. The Government attaches great importance to the design of the build environment (NPPF, paragraph 56). Given the limited planning and green belt harm identified, the officer's recommendation is for approval. The development should be subject to conditions, namely preventing the construction of further outbuildings under "permitted development" regulations, requiring screening along the rear boundary of the site and preventing the insertion of windows in the side and rear elevations and roof of the outbuilding to protect neighbouring amenity. A condition requiring the use to remain incidental to the occupation of 7 Long Row is not considered necessary as any material change of use above and beyond this would be unauthorised development not covered by this permission.

### **Working with the applicant**

12. 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**

13. 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 Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no building shall be constructed within the curtilage of the dwellinghouse other than that expressly authorised by this permission.

Reason: In order to prevent a proliferation of outbuildings within the curtilage of the dwellinghouse, which would result in harm to the openness of the Green Belt and the scenic landscape contrary to Local Plan Policies LSQ1, GB2 and GB15 of The Chiltern District Local Plan Adopted 1 September 1997 (Including alterations adopted 29 May 2011) Consolidated September 2007 & November 2011, and the National Planning Policy Framework.

2 The bamboo screening as shown on Dwg. No. 171127.2 received 28 November 2017 shall be retained in accordance with the approved details for as long as the outbuilding as approved remains in situ.

Reason: To assist in safeguarding the visual amenities of the locality and adjoining properties in accordance with Policy GC3 of The Chiltern District Local Plan Adopted 1 September 1997 (Including alterations adopted 29 May 2011) Consolidated September 2007 & November 2011.

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 shall be inserted or constructed at any time in either of the rear or flank elevations, or the roof slopes of those elevations, in the outbuilding hereby permitted.

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 2011) Consolidated September 2007 & November 2011.

4 AP01 Approved Plans

**The End**