



Planning Committee (CDC)

Thursday, 12 July 2018 at 6.30 pm

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

A G E N D A

Item

1 Evacuation Procedure

2 Apologies for Absence

3 Minutes (*To Follow*)

To approve the minutes of the Planning Committee held on 14 June 2018.

4 Declarations of Interest

5 Deferred Application - CH/2018/0247/FA

6 Items for Noting

- 6.1 New Planning and Enforcement Appeals
- 6.2 Appeal Decisions
- 6.3 Appeals Withdrawn
- 6.4 Consent Not Needed
- 6.5 Withdrawn Applications
- 6.6 Information Regarding Planning Applications to be Determined

7 Report on Main List of Applications (*Pages 1 - 54*)

Great Missenden

CH/2018/0243/FA Ward: Prestwood And Heath Page No: 2
End

Recommendation: Conditional Permission

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

Penn

CH/2018/0619/AV Ward: Penn And Coleshill Page No: 11
Recommendation: Conditional Consent

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

Chalfont St Peter

CH/2018/0776/FA Ward: Central Page No: 17
Recommendation: Conditional Permission

Noigls, 2 Chestnut Close, Chalfont St Peter, Buckinghamshire, SL9 0AE

8 Reports On Alleged Breaches Of Planning Control (*Pages 55 - 140*)

Chesham Bois

2016/00238/AB/1 Ward: Chesham Bois and Page No: 3
Weedon Hill

56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Chesham Bois

2016/00238/AB/2 Ward: Chesham Bois and Page No: 11
Weedon Hill

56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Chesham Bois

2017/00341/AB Ward: Ballinger Chesham Bois Page No: 16
and Weedon Hill

Land adjacent to 56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Great Missenden

2017/00058/AB Ward: Ballinger Prestwood and Page No: 22
Heath End

2 Wardes Close, Prestwood, Buckinghamshire, HP16 0SA ("the Land")

Little Missenden

2017/00127/AB Ward: Holmer Green Page No: 30

Bat and Ball Public House, Penfold Lane, Holmer Green, Buckinghamshire, HP15 6XW
("the Land")

Chalfont St Peter

2017/00232/AB Ward: Austenwood Page No: 38

Austenwood Cottage, 39 Austenway, Chalfont St Peter, Buckinghamshire, SL9 8NN ("the
Land")

Chesham Bois

2017/00242/AB Ward: Chesham Bois and Page No: 45
Weedon Hill

Green Park, Copperkins Lane, Amersham, Buckinghamshire, HP6 5SS ("the Land")

Great Missenden

2017/00314/AB Ward: Prestwood and Page No: 53
Heath End

Sellengers Round, 68 High Street, Prestwood, Buckinghamshire HP16 9EN

Little Missenden

2018/00001/AB Ward: Little Missenden Page No: 59

Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde
Heath, Buckinghamshire ("the Land")

Little Missenden

2017/00314/AB

Ward: Little Missenden

Page No: 66

Merryhill Farm, Windsor Lane, Little Kingshill, Buckinghamshire

Little Missenden

2018/00023/AB

Ward: Holmer Green

Page No: 72

2A Browns Road, Holmer Green, Buckinghamshire, HP15 2SL ("the Land")

Chalfont St Peter

EN/18/2036

Ward: Central

Page No: 80

Costa Coffee, 59 - 61 St Peters Court, High Street, Chalfont St Peter, Buckinghamshire, SL9 9QQ ("the Premises")

9 Exclusion of the Public (if required)

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

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

Date of next meeting – Thursday, 9 August 2018

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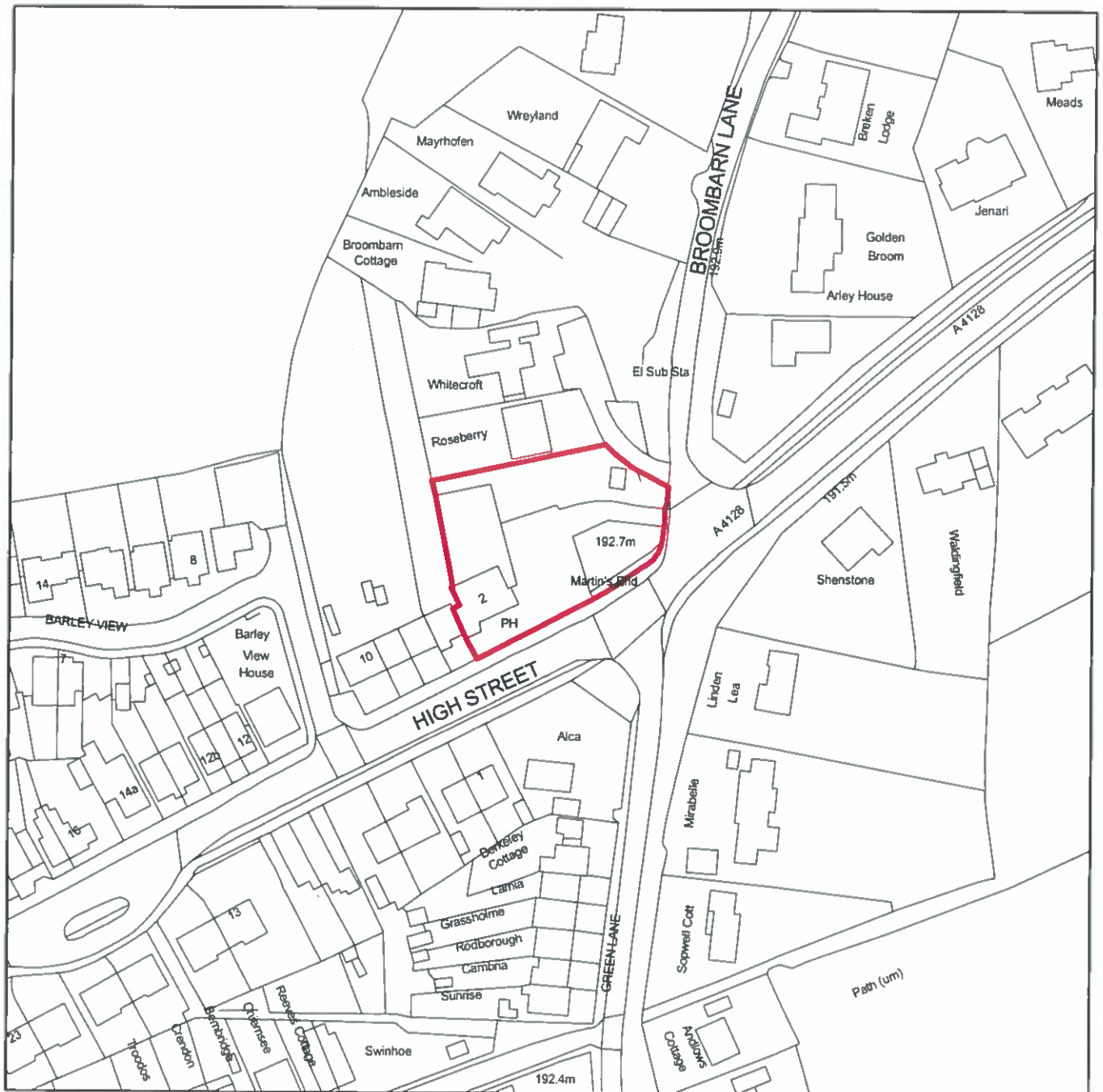
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CH/2018/0243/FA



CHILTERN
District Council

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



Scale: 1:1,250

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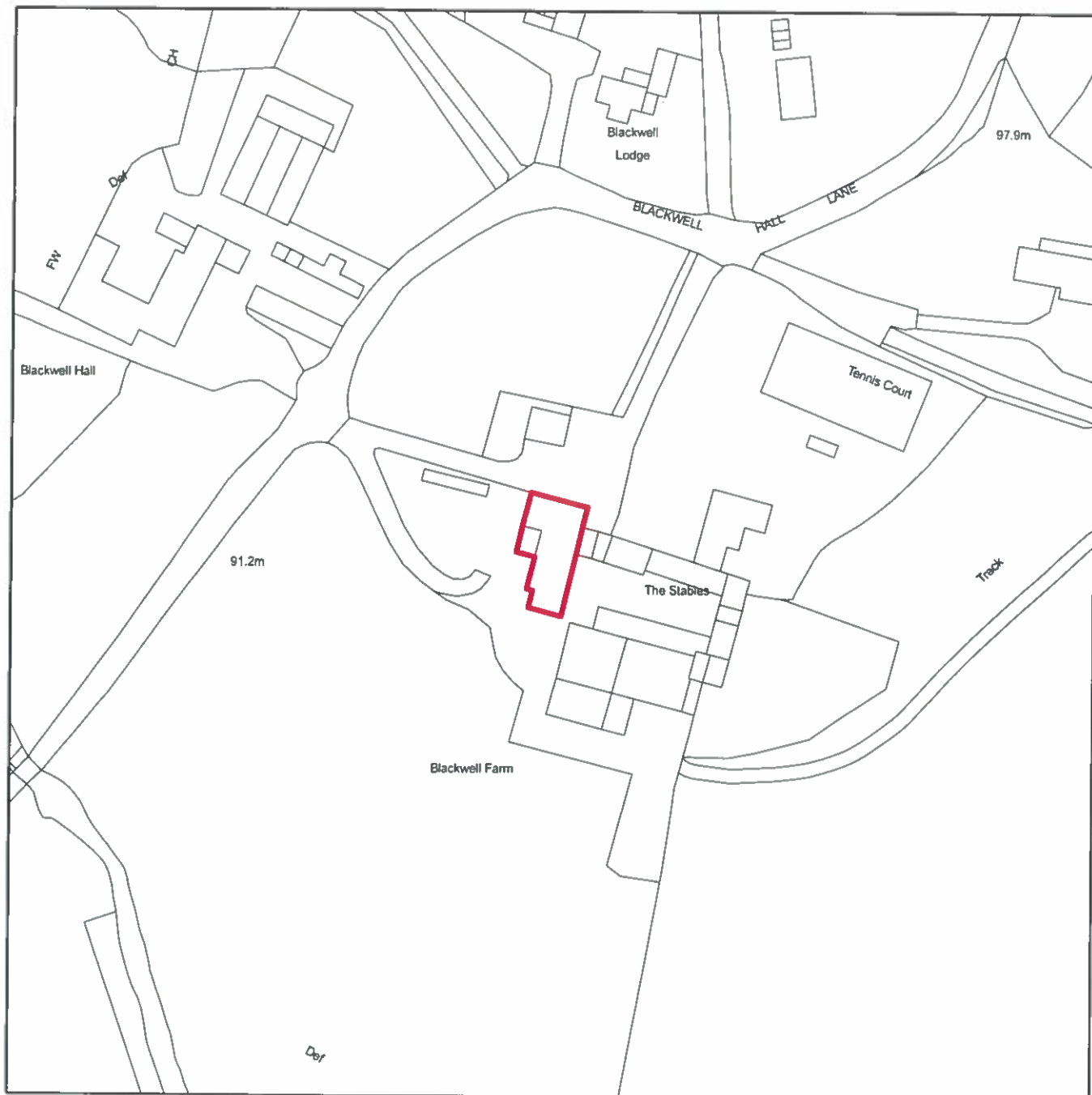
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| Organisation | Chiltern District Council |
| Department | Planning & Environment |
| Comments | |
| Date | |
| SLA Number | 100033578 2016 |

CH/2018/0247/FA



CHILTERN
District Council

The Great Barn, Blackwell Hall Lane, Latimer
Buckinghamshire HP5 1TN



Scale: 1:1,250

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| Date | |
| SLA Number | 100033578.2016 |

CH/2018/0619/AV



CHILTERN
District Council

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



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CH/2018/0776/FA



CHILTERN
District Council

Noigls, 2 Chestnut Close, Chalfont St Peter
Buckinghamshire SL9 0AE



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| Date | |
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PLANNING COMMITTEE – 12 July 2018

REPORT OF THE OFFICERS

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

AGENDA ITEM No. 5

5 DEFERRED APPLICATIONS

5.1 **CH/2018/0247/FA** (*Case Officer: Emma Showan*)

CHANGE OF USE TO A NURSERY (USE CLASS D1)

The Great Barn, Blackwell Hall Lane, Latimer

Matter for consideration

- 5.2 Additional information received following the decision at 14th June Planning Committee to defer the application pending more information in regards to highway safety and the requirements for nursery outdoor space provision.
- 5.3 Planning application CH/2018/0247/FA was considered by Members at the Planning Committee of 14th June 2018. (Committee Report is attached as **Appendix FP.01**).
- 5.4 Committee deferred its decision to allow Officers to consult with Buckinghamshire County Highways Authority on the usability and safety of the proposed access and to consult with Buckinghamshire Early Years Children's Services on the requirements for outdoor space.
- 5.5 The Highways Officer has provided additional comments in regards to the proposed access onto Blackwell Hall Lane (attached as **Appendix FP.02**). The comments confirm that the requisite visibility splays are achievable in both directions onto Blackwell Hall Lane, commensurate with Manual for Streets Guidance, and that the access point serving the site would allow for the simultaneous two-way flow of vehicles. In terms of the trip generation, the Highways Officer has confirmed that the existing office would have the potential to generate in the region of 38 vehicular movements (two-way) per day, with the proposed nursery having the potential to generate in the region of 97 vehicular movements (two-way) per day, resulting in an increase of 59 movements per day. Nonetheless, the Highways Officer has concluded that having assessed the planning application with a view to the requirements of the National Planning Policy Framework (NPPF), in particular Paragraph 32 which states that: 'development should only be prevented or refused on transport grounds where the residual cumulative impact of development is severe', then, in the Highway Officer's opinion, the increase in movements associated with the site is not considered to result in a severe impact.
- 5.6 The Highways Officer has also provided comments on the junction between Blackwell Hall Lane and Latimer Road (attached as **Appendix FP.03**). Although this is not within the application site, Members' expressed concern about the intensification of use of this junction. The Highways Officer has subsequently confirmed that adequate visibility splays are achievable from the junction of Latimer Road and Blackwell Hall Lane and that no collisions have been recorded at this junction. As such, the Highways Officer has raised no new objections to the proposal.
- 5.7 The Early Years Commissioning Manager at Children's Services, Buckinghamshire County Council has also confirmed the outdoor space requirements for a nursery (attached as

Appendix FP.04). It is stated that whilst there are no specific regulations relating to outside space, there is an expectation that children are able to 'free flow' between inside and outside spaces. It is confirmed that Ofsted could register a provider who does not have their own outside space providing there is evidence of how the children could 'access the outdoor environment' and the Early Years Commissioning Manager has stated that as a Local Authority, they would not recommend a nursery that could not provide any outdoor space.

- 5.8 The Applicant has confirmed (attached as **Appendix FP.05**) that although no formal playground will be provided, the intention is that the children will have the opportunity to undertake 'outdoor activities' whilst supervised in the over 200 acres of pasture land which surround the barn. The children would be supervised to explore the fields, woods and river area and the approach would be to take the children on regular 'outings' to explore their surroundings as opposed to having a formal 'free flow' system. The Applicant has also stated that they do not have a free flow system at their other existing nursery, Ashridge Day Nursery and this does not appear to have been an issue (although it is noted that this nursery is located in another District).

Conclusion

- 5.9 The Highways Authority has confirmed that they consider the access to be acceptable and that the residual cumulative impact of the development would not be severe, in line with the requirements contained in Manual for Streets Guidance and the NPPF. The Early Years Commissioning Manager has confirmed that there is no set standard for outdoor space provision for nurseries, although it would be unlikely that a nursery would be acceptable where there is no opportunity to access the outdoor environment. In respect of this, the Applicant has confirmed that they do not intend to have a formal outdoor playing area but rather the children would be supervised on regular 'outings' to explore their surroundings. The intention is to make the most of the pasture land and wood land surrounding the premises.
- 5.10 Given that no formal outdoor area is proposed and that the majority of the nursery's activities would take place within the Great Barn, it is not considered that the proposal would have a detrimental impact on the openness of the Green Belt or on the Chilterns Area of Outstanding Natural Beauty. It is noted that no additional hardstanding or play equipment would be erected as part of the application. In addition, it is not considered that the supervision of children on 'outings' on Green Belt land would result in a change of use of the land, as it would remain primarily in agricultural use. No new objections are therefore raised in regards to the principle of the change of use, the impact of the proposal on the Listed Building or the impact on neighbouring amenity. The Highways Authority has also confirmed that they consider the proposal to be acceptable given its impact on the local highway and the safety of the proposed access. As such, in light of the additional information, the Officer recommendation remains as per the previous report.

Recommendation

Conditional permission

1. C108A General Time Limit

2. The use of the nursery building hereby permitted shall only take place only between the hours of 7:00am and 19:00pm on Monday to Friday, and at no time during weekends or bank holidays.

Reason: To protect the amenities of neighbouring properties.

3. No external lighting shall be fixed to the buildings or installed within or around the site unless first agreed in writing by the Local Planning Authority.

Reason: In order to maintain the rural character of the locality.

4. The Nursery building hereby permitted shall only be used for nursery purposes and for no other purpose(s) [including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (As amended) or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification].

Reason: Other uses would have different operational and parking requirements and would need to be assessed in terms of preserving the character and appearance of the area and any impact on highway safety.

5. No part of the development shall be occupied until an amended scheme for parking and manoeuvring has been submitted to and approved in writing by the Local Planning Authority following consultation with the Highway Authority. The approved scheme shall be implemented prior to occupation of the development and shall thereafter be permanently maintained.

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.

6. No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the back line of footway and a point 45 metres along the back line of footway 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: To provide adequate intervisibility between the access and the existing public footway for the safety and convenience of pedestrians and users of the access.

7. Prior to commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority following consultation with the Highway Authority for a one-way system to include signage, lining and details of enforcement. The approved scheme shall be implemented prior to occupation of the development and shall thereafter be permanently maintained.

Reason: To minimise danger and inconvenience to users of the accesses and the adjoining highway.

8. Prior to occupation of the development a Travel Plan Statement shall be submitted to and agreed by the Local Planning Authority. The approved Travel Plan Statement shall be implemented upon first occupation of the development.

Reason: In order to influence modal choice and to reduce single occupancy private car journeys and comply with National and local transport policy.

9. This permission relates to the details shown on the approved plans as listed below:

- SITE PLAN
- MEZZANINE FLOOR LAYOUT
- GRD FLR Plan
- TQRQM18037205237178
- GREAT BARN LAND

Background papers: None

6 ITEMS FOR NOTING

6.1 NEW PLANNING AND ENFORCEMENT APPEALS

2014/00014/AB - Appeal against without planning permission, the material change of use of the Land from agriculture (sui generis) to equestrian (sui generis), the erection of a stable block, a hay barn and two field shelters, the construction of an associated concrete hardstanding and the formation of an associated hardcore hardstanding, Land on the north side of Timberley Lane, **Kings Ash**

CH/2017/1648/FA - Change of use of land to a mixed use as a residential caravan site for two gypsy families with a total of up to 3 caravans (including no more than one static caravan), and for the keeping of horses. Laying of hardstanding and provision of means of foul drainage (retrospective), OS Parcel 2814 opposite Tiles Farm, Asheridge Road, **Asheridge**

2017/00224/AB - Appeal against without planning permission the material change of use of the Land from agriculture to a sui generis mixed use for the keeping and grazing of horses and a residential caravan park for occupation by gypsies and travellers by the stationing of a mobile home and two touring caravans in residential occupation on the Land and integral to the Unauthorised Use the installation of lighting and operational development comprising the erection of close boarded fencing and gates, OS Parcel 2814 opposite Tiles Farm, Asheridge Road, **Asheridge**

2017/00224/AB - Appeal against without planning permission, operational development comprising of the laying of hardstanding and the construction of a timber pergola structure, OS Parcel 2814 opposite Tiles Farm, Asheridge Road, **Asheridge**

CH/2017/0999/VRC - Alterations, single storey side/rear extension and conversion of garage to elderly relative's annexe - Removal of Condition 3 of planning permission CH/1994/1274/FA, 7 Oxford Street, **Lee Common**

CH/2017/1524/AV - Temporary non-illuminated advert on hoarding (for temporary period expiring May 2018), The Grange (Former Holy Cross Convent), Gold Hill East, **Chalfont St Peter**

CH/2017/1552/FA - Redevelopment of site incorporating a two storey extension to each of two existing dwellings, construction of four additional dwellings with associated car ports, parking, landscaping and alterations to existing vehicular access, 274 & 274A Chartridge Lane, **Chesham**

CH/2017/1826/FA – Vehicular access and hardstanding for two cars, 78 Gladstone Road, **Chesham**

CH/2017/1956/FA – Erection of a detached garage (retrospective), 2 Leachcroft, **Chalfont St Peter**

CH/2017/2174/FA - Subdivision of the plot at No 6 Warrender Road and construction of two detached dwellings to the rear with a new vehicular access and parking, 6 Warrender Road, **Chesham**

CH/2017/2316/FA – Single storey side extension, 109 Latimer Road, **Chesham**

CH/2018/0083/FA - Demolition of garage and conservatory, erection of part single/part two storey side rear extension, hipped to gabled roof extensions with front and rear rooflights and rear dormer window to facilitate habitable accommodation in roofspace, Kingswood, 6 Batchelors Way, Amersham

6.2 APPEAL DECISIONS

CH/2016/0446/FA - Demolition of existing cottages and construction of single dwelling with associated landscaping, access and parking area, 1 and 2 Hawridge Vale Cottages, Hawridge Vale, **Hawridge**

Officer Recommendation: Refuse Permission

Appeal Decision: Appeal Dismissed (30.05.2018)

6.3 APPEALS WITHDRAWN

CH/2017/0171/FA - Demolition of three houses, a disused industrial building (Use Class B2) and 20 garages, removal of spoil and trees from the rear of the site. Redevelopment of the site to provide 45 residential dwellings (29 houses, six maisonettes and six flats) with associated landscaping, tree replacement, car parking and internal shared surface road. Change of use of the upper storeys of the Old Red Lion (62 High Street) from office to residential (4 x flats). Ground floor building line amendment to southern elevation of The Old Red Lion (700mm). Amendments to Forge Cottage on Missenden Mews to relocate the front door and parking space and provide private amenity space within the site, Land at the Rear of The Old Red Lion, High Street, **Great Missenden**

Officer Recommendation: Refuse Permission

Committee Decision: Refuse Permission

Appeal Withdrawn (29.05.2018)

6.4 CONSENT NOT NEEDED

CH/2018/0442/HB – Outbuilding-garage, Snells Farm, Snells Lane, **Little Chalfont**

6.5 WITHDRAWN APPLICATIONS

CH/2018/0404/FA - Erection of dwelling (Plot 1), Plot 1 Berton House, 30 Deanway, **Chalfont St Giles**

CH/2018/0405/FA - Erection of dwelling (Plot 2), Plot 2 Berton House, 30 Deanway, **Chalfont St Giles**

CH/2018/0406/FA – Erection of dwelling (Plot 3), Plot 3 Berton House, 30 Deanway, **Chalfont St Giles**

CH/2018/0647/FA - Two storey rear extension, alteration of existing vehicular access, 13 The Row, The Hill, **Winchmore Hill**

CH/2018/0715/HB - Repairs and the addition of buttresses to the brick boundary wall, St Mary's Church, Bury Lane, **Chesham**

CH/2018/0833/SA - Application for Certificate of Lawfulness for proposed single storey rear extension, 3 The Bramblings, **Little Chalfont**

6.6 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

7 REPORTS ON MAIN LIST OF APPLICATIONS

AGENDA ITEM No. 8

8 REPORTS ON ALLEGED BREACHES OF PLANNING CONTROL

AGENDA ITEM No. 9

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

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 12th July 2018

INDEX TO APPLICATIONS ON MAIN LIST OF REPORT

Great Missenden

CH/2018/0243/FA Ward: Prestwood And Heath End Page No: 2

Proposal: Demolition of existing single garage and erection of a pair of 3-bed semi-detached dwellings, together with associated access, parking, landscaping, bin and cycle storage

Recommendation: Conditional Permission

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

Penn

CH/2018/0619/AV Ward: Penn And Coleshill Page No: 11

Proposal: Display of advertisement boards to the southern side of football pitch

Recommendation: Conditional consent

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

Chalfont St Peter

CH/2018/0776/FA Ward: Central Page No: 17

Proposal: Front, side and rear extensions with raising of roof to provide first floor accommodation with front and rear dormers

Recommendation: Conditional Permission

Noigls, 2 Chestnut Close, Chalfont St Peter, Buckinghamshire, SL9 0AE

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Main List of Applications 12th July 2018

CH/2018/0243/FA

Case Officer: Lucy Wenzel
Date Received: 12.02.2018
Parish: Great Missenden
App Type: Full Application
Proposal: Demolition of existing single garage and erection of a pair of 3-bed semi-detached dwellings, together with associated access, parking, landscaping, bin and cycle storage
Location: Land at
The Green Man Public House
2 High Street
Prestwood
Buckinghamshire
HP16 9EB
Applicant: Punch Partnerships (PML) Limited

Decide by Date: 06.07.2018
Ward: Prestwood And Heath End

SITE CONSTRAINTS

Article 4 Direction
Adjacent to A and B Road
Adjacent to Unclassified Road
Within Chilterns Area of Outstanding Natural Beauty
A and B Roads
Within 500m of Site of Importance for Nature Conservation NC1
Townscape Character
Established Residential Area of Special Character

COMMITTEE CALL IN

Councillor Gladwin has called this application to Planning Committee should the recommendation be for approval.

SITE LOCATION

The application site is located on the western side of Broombar Lane, to the north of The Green Man Public House on the northern side of the High Street in Prestwood. The site currently consists of part of the beer garden of the pub and a single garage.

The site is within the Chilterns Area of Outstanding Natural Beauty (AONB).

THE APPLICATION

This application seeks planning permission to demolish the existing garage and erect a pair of semi-detached houses. New access will be taken from an existing access point off Broombar Lane.

The proposed building measures a maximum depth of 11.1 metres, width of 11 metres, ridge height of 8 metres and eaves height of 5.3 metres.

The proposed materials are red multi-stock facing brickwork with plain clay vertical hanging tile above. The roof will be constructed from plain clay tile.

Each dwelling has a kitchen/dining room, living room and W/C on the ground floor; and 3 bedrooms, family bathroom and en-suite on the first floor. Each dwelling also has two designated car parking spaces to the front.

RELEVANT PLANNING HISTORY

CH/2017/0838/FA - Demolition of existing single garage and erection of a pair of semi-detached houses served by access from Broombar Lane - conditional permission.

This application was subsequently overturned at Committee with members refusing the application on the grounds of the overdevelopment of the site which would result in a cramped and visually intrusive form of development. Therefore, the development would adversely affect the character and appearance of the street scene.

The application was appealed by the applicant but was dismissed by the Inspector on the grounds that the proposal would be harmful to the character and appearance of the area.

PARISH COUNCIL

No objection.

REPRESENTATIONS

Six letters of objection have been received from neighbouring occupiers. The comments are summarised below:

- The road is within the Chilterns AONB and therefore any development should be in sympathy with the existing.
- The development would be intrusive into the countryside.
- There is no additional room for visitor parking on site and there is insufficient turning room.
- There are a number of mature, established trees whose removal would have a negative impact on the neighbourhood in general.
- The proposed development is not in alignment with the rest of the street.
- The development will see the removal of some of the pub garden.
- Was previously refused and the application has not significantly changed.

CONSULTATIONS

Chiltern and South Bucks Fire Fighting Access

I can confirm that the proposals as shown meet the requirements of the Building Regulations for Fire Brigade access.

Chiltern and South Bucks District Tree Officer

The application includes an Arboricultural Implications Assessment and Method Statement as well as a Topographical Survey.

Under the previous applications, which had poor plans, I had assumed that the boundary of the site coincided with the existing boundary of the car park. However it is now clear that the current proposal would involve the loss of part of the existing car park as well as parts of the existing beer garden.

The proposed dwellings are in similar position to the previous applications and the proposals for the rear of the site are similar. A spruce about 12m in height and some smaller trees including a goat willow about 8m in height and a purple-leaved plum about 6m in height would be lost at the rear of the proposed houses but none of these is considered to be important. A Robinia (false acacia) about 18m in height is shown on the plan to be retained close to The Green Man at the edge of the car park and should not be affected by the proposal.

However the proposals for the area in front of the dwellings is now different with the trees shown retained. The group of sycamores with some ash about 18m in height immediately in front of the building is now shown to be retained but this would create a poor relationship with the building. One sycamore would have branches extending into the building requiring some trimming and it seems likely that this tree would be lost. The other trees would dominate the building and would be likely to cause concerns to future occupiers about light, debris and safety.

The application proposes a parking area for house 1 (H1) largely on the site of the existing garage using no-dig construction with the retention of the ash, holly and hazel towards the road. However the proposal does not show no-dig construction for the pedestrian access to H1.

The most important tree in the immediate vicinity is a large ash about 20m in height on the corner of Broombar Lane with the existing access to Roseberry and Whitecroft, just outside the application. This tree is shown to be retained and should not be affected by the proposed development. However there is some decay at the base of the tree.

I have some concerns about the relationship of the group of sycamore and ash at the front of the site with the proposed building but these trees are not of particularly high quality. Nonetheless they are fairly prominent in the street scene and they do contribute to the character of the area. I would not object to the application provided there is adequate protection for the retained trees including the measures proposed in the tree report. However no-dig construction for the pedestrian access to H1 would also be necessary.

Amended plans were sought to reduce the potential impact on existing trees sited to the front of the plot and additional comments were as such received from the Tree Officer.

Revised plans have now been submitted including the Proposed Site Layout Rev P4 and a revised Tree Protection Plan Eco 3. These show the proposed semi-detached houses moved back on the site by just over a metre so that the front elevation is now more in line with the adjacent property Rosebury. This would improve the relationship of the proposed building with the group of sycamores and ash (G8) in front of the proposed building, and reduce the likely pressure for future tree work. However the trees would still be fairly close and dominant, and may still cause concern to future residents.

The slight change in position would have little effect on the Robinia T1. I note that the Tree Protection Plan still does not show no-dig construction for the pedestrian path to the dwelling H1.

In summary, the revised plans are a slight improvement from a tree point of view but the building is still closer than ideal to the trees.

Buckinghamshire County Council Highway Authority

I note that the Highway Authority has provided previous comments for this site, most recently for application no. CH/2017/0838/FA, which in a response dated 6th June 2017, the Highway Authority had no objection subject to conditions. Having reviewed the submitted documents, I would not consider this application to materially differ from a highways perspective. Therefore I will reiterate my comments below.

"High Street is an unclassified road subject to a speed limit of 30mph. The application seeks planning permission for the demolition of the existing single garage and the erection of a pair of semi-detached houses in its place.

When considering trip generation, I would expect each dwelling to generate between 4-6 daily vehicular movements, two-way. Therefore the overall development would have the potential to generate between 8-12 daily vehicular movements, two-way. I am satisfied that these additional vehicle movements can be accommodated within the local highway network.

Both dwellings are to be served by an existing access off Broombarne Lane which currently serves two dwellings. I note that the application site boundary does not include the private access drive. Whilst not a planning reason for refusal, the applicant will need to demonstrate that a legal right of access is achievable.

As this access is to be subject to an intensification in use, it is imperative to ensure that the access is safe and suitable to accommodate additional traffic movements. In accordance with guidance contained within Manual for Streets, visibility splays of 2.4m x 43m are required in both directions commensurate with a 30mph speed limit. I am satisfied that these visibility splays can be achieved within the public maintained highway or within land owned by the applicant.

The access point serving the existing two dwellings measures in the region of 5m for the initial section of the site, before narrowing down to 3.2m at a pinch point with the existing tree at the site entrance. Normally, the Highway Authority would require an access width measuring 4.8m when considering access points serving over 3 dwellings. However, given the short distance from the proposed access point to the public highway, I do not believe that I could reasonably insist upon this access width being provided in this instance. However, the access will need to be upgraded to an adequate construction in order to prevent vehicles from dragging loose materials onto the public highway in this location.

Whilst I trust you will determine the adequacy of the parking provision, I can confirm that the four proposed parking spaces will not have an adverse impact on highway safety and convenience, are of adequate dimensions and would allow for adequate space within the site for vehicles to turn and egress in a forward gear."

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

POLICIES

National Planning Policy Framework (NPPF)

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, H3, H11, H12, LSQ1, CSF2, TR2, TR11 and TR16.

Sustainable Construction and Renewable Energy Supplementary Planning Document - Adopted 25 February 2015.

EVALUATION

Principle of development

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 Local 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 within the AONB, where development should conserve or enhance the scenic beauty of the rural landscape.

2. In addition, Policy CS2 of the Core Strategy states that the Council will facilitate limited development in the built up areas of villages excluded from the Green Belt, including Prestwood.

3. The previous application was refused at Planning Committee and dismissed at appeal. There were no objections to the principle of the proposal, as the community facility would not be lost. The Local Planning Authority's refusal stated that:

"The proposed development would result in two houses being shoehorned into the plot, resulting in minimal space around the building, extensive hardstanding and pressure to remove trees around the site. By virtue of its layout and scale, the proposal would represent an overdevelopment of the site, resulting in a cramped and visually intrusive form of development which would adversely affect the character and appearance of the street scene and would relate poorly to the spacious character of the neighbouring Established Residential Area of Special Character along Broombar Lane to the north. This is contrary to Policies GC1 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and Policy CS20 of the Core Strategy for Chiltern District - adopted November 2011."

However, the Appeal Inspector did not agree with elements of this refusal. He stated that, "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." As such the concerns relating to the shoehorned nature of the development and the minimal space around the building were not upheld by the Inspector and these cannot be reintroduced under the current proposal. A pair of semi-detached dwellings is therefore acceptable on the site, subject to addressing the Inspector's detailed concerns.

4. The Appeal Inspector's concerns related to several specific issues. He stated:

"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.

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.

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."

So the Inspector's concerns related specifically to the potential loss of large trees, the inadequate space available for soft landscaping, particularly new trees capable of replacing those lost (this point will obviously be addressed if the existing trees are to be retained), and the stark appearance of the close-boarded fence.

Design/character & appearance

5. In relation to the first of the Appeal Inspector's concerns, the original submitted layout was set closer to the group of sycamore with some ash located immediately to the front of the proposed principal building line. On the plans, these were shown to be retained and therefore the extending branches off of the trees would create a poor relationship with the proposed dwellings, would dominate the building and would be likely to cause concerns to future residents about light, debris and safety. The Appeal Inspector stated:

"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."

In light of these comments a revised layout was requested and subsequently submitted which has relocated the proposed dwellings further to the west of the plot. This has provided increased separation from the retained trees sited to the front of the plot and reduces potential concerns that these trees would adversely affect the proposed development. The District Tree Officer has commented that the repositioning of the dwellings within the plot has improved the relationship with the group of sycamore and ash. In response to the Appeal Inspector's comments that there could be a potential loss of these trees, given that the revised layout locates the dwellings further to the west, the increased separation reduces this potential and as such the concerns raised by the Appeal Inspector are considered to be overcome.

6. In relation to the Appeal Inspector's second concern, having consideration for the revised submitted plans; there is now more space for soft landscaping at the front of the site as a result of the repositioning of the dwellings further to the west. The improved distance between the group of existing large trees and the principal elevations of the proposed dwellings achieves a larger area for soft landscaping to be accommodated and provides increased spacing to be able to maintain and enable maturity of new trees should they be planted. As such this concern identified by the Appeal Inspector is also considered to be overcome.

7. The third point made by the Inspector was in relation to the 1.8 metre high close-boarded fencing to be erected along the southern boundary. This boundary line which is in direct view from the High Street and upon entrance into Prestwood from Great Missenden is now proposed to be demarcated by a 1.8 metre brick wall and a 0.9 metre timber post and rail fence. The brick wall will face onto the gravel car park of the Public House, whilst the post and rail fence will border an area of lawn associated with the Public House. The "stark contrast" as stated by the Inspector that the 1.8 m fence would create is considered to be reduced. Although the proposed brick wall will be of identical height to the previous proposed fencing it is considered to break up the length of fencing and mimics the flank elevation of the dwellings. It will reflect the public facing

brick/flint boundary treatments of the Public House and Nos 4 to 10 High Street, as identified by the Appeal Inspector.

Neighbouring amenity

8. No objections were previously raised by the Council or the Appeal Inspector in relation to the impact of the scheme on the amenities of neighbouring properties. No flank elevation windows are proposed under this scheme and the siting of the dwellings is in identical positioning to those previously proposed. Whilst comments from neighbouring residents are again noted, as no previous concerns were raised and the scheme does not affect neighbouring amenity levels in a materially different way to the previous scheme, it is considered that no harm will arise to neighbouring amenities.

Parking/highways implications

9. No objections were previously raised by the Council or the Appeal Inspector in relation to parking or access. There are two car parking spaces provided for each dwelling which complies with the standards set out in Policy TR16 of the Local Plan. The Highways Authority were again consulted on the application and they concluded that the proposed spaces would not have an adverse impact on highway safety and convenience, are of adequate dimensions and there is sufficient manoeuvring space for vehicles to turn within the site and exit in a forward gear. The Highway Authority also raised no objection to the increase in vehicular movements and state that these can easily be accommodated within the local highway network.

10. Access is to be taken from the existing driveway currently serving two dwellings (Roseberry and Whitecroft). As such, a new vehicular access to a public road will not be formed, as the access to the site would come off a private drive. The proposal will result in two additional dwellings using this driveway and as there will be some intensification, increased visibility splays are required onto Broombar Lane. As with the previous scheme, the Highway Authority states that these can be achieved within the public maintained highway or within land owned by the applicant. As such, it is reasonable to impose a condition to require these visibility splays to be provided and maintained, if permission is forthcoming.

Affordable Housing

11. 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 5 units or less in the AONB, which have a gross floor space of less than 1,000 square metres. This applies to the current scheme and is more up to date guidance than Policy CS8, therefore it has to take precedence. As before, no affordable housing contribution is therefore required.

Working with the applicant

12. 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, 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 C108A General Time Limit

2 Before any construction work commences, details of the materials to be used for the external construction of the development hereby permitted, including the surface materials for the pedestrian access, shall be made available 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, LSQ1 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 and CS22 of the Core Strategy for Chiltern District (Adopted November 2011).

3 Prior to the commencement of any works on site, detailed plans showing the existing ground levels and the proposed slab and finished floor levels of the dwellings 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 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, 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.

4 Prior to the occupation of the development minimum vehicular visibility splays of 43m from 2.4m back from the edge of the carriageway from both sides of the existing access onto Broombar Lane shall be provided in accordance with the approved plans and the visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.

Reason: To provide adequate visibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access.

5 Prior to occupation of the development, space shall be laid out within the site for parking for cars, loading and manoeuvring, in accordance with the approved plans. This area shall be permanently maintained for this purpose.

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.

6 Prior to the first occupation of the development, the access shall be designed and constructed in accordance with the approved plans.

Reason: To minimise danger and inconvenience to highway users; in accordance with Policy TR2 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).

7 Prior to the occupation of the dwellings hereby permitted, the boundary treatments shown on the approved plans shall be installed and shall thereafter retained in situ.

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.

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 windows or roof lights other than those shown on the approved plans, shall be inserted or constructed at any time at first floor level or above in either flank elevation of the roof or of the dwellings 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 2001) consolidated September 2007 and November 2011.

9 The development hereby approved shall be implemented in accordance with the tree and hedge protection measures described in the Arboricultural Implications Assessment and Method Statement Ref 181008 - AIA dated 12 February 2018 by Ecourban Ltd Arboricultural Consultancy and the revised Tree Protection Plan ECO 3 submitted on 7 June 2018. This shall include the use of tree protection fencing, ground protection measures and no-dig construction in accordance with these documents. In addition no-dig construction shall be used for the pedestrian access path to the dwelling H1.

Reason: To ensure that the existing established trees and hedgerows in and around the site that are to be retained, including their roots, do not suffer significant damage during building operations, in accordance with Policy GC4 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

10 No tree or hedge shown to be retained on the revised Tree Protection Plan ECO 3 submitted on 7 June 2018 by Ecourban Ltd Arboricultural Consultancy shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation of the development hereby approved without the prior approval in writing of the Local Planning Authority. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree or hedge shall be planted of such size and species as shall be agreed in writing by the Local Planning Authority. Furthermore, the existing soil levels within the root protection areas of the retained trees and hedges shall not be altered.

Reason: To ensure the retention of the existing established trees and hedgerows within the site that are in sound condition and of good amenity and wildlife value, in accordance with Policy GC4 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

11 AP01 Approved Plans

CH/2018/0619/AV

Case Officer: Emma Showan
Date Received: **03.04.2018** Decide by Date: **09.07.2018**
Parish: **Penn** Ward: **Penn And Coleshill**
App Type: Advert
Proposal: **Display of advertisement boards to the southern side of football pitch**
Location: **Penn and Tylers Green Football Club**
Elm Road
Penn
Buckinghamshire
HP10 8LG
Applicant: **Penn and Tylers Green Football Club**

SITE CONSTRAINTS

Article 4 Direction
Adjacent Conservation Areas
Adjacent to A and B Road
Area of Special Advertising 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
Biodiversity Opportunity Areas
Conservation Area
Within Green Belt other than GB4 GB5
Public footpath/bridleway
A and B Roads
Within 500m of Site of Importance to Nature Conservation NC1
Townscape Character
Adjoining Public Amenity Open Space
Public Amenity Open Space
Established Residential Area of Special Character

CALL IN

Councillor Burton has requested that this application be determined by the Planning Committee if the Officer recommendation is for approval.

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 advertisement boards to the southern side of the football pitch.

The advertisement boards would have a maximum width of 2 metres and height of 0.75 metres. They would be affixed to the existing fencing.

RELEVANT PLANNING HISTORY

CH/2017/1958/FA - Erection of six retractable floodlight columns and lamps to light a football pitch plus an associated control cabinet, refused permission.

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

Concern - we are concerned about the proliferation of signage. If approval is granted, it should be on the condition that all other advertising signage is removed. Advertising signs should be taken down in May, June, July and August. Signs displayed should be restricted to the south side of the pitch to protect views into and out of the Green Belt/AONB.

REPRESENTATIONS

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

- No justification for a large number of advertising boards on permanent display in the AONB
- The 2012 application for perimeter fencing was granted subject to a condition that the fencing will be of a post and single bar design and that no changes would be made to its external appearance
- It would be inequitable for retrospective planning permission to be granted for something that has previously been barred
- The applicant has a history of ignoring planning conditions
- Previous advertisement boards were only displayed during matches
- There is activity at the club at weekends, evenings and during the school holidays which impacts on the local residents' amenities
- Advertisements would be prominent and alien in the locality
- The boards would have a detrimental impact on the view of residents who look onto the club
- There is no indication that there will be any further limit on development at the site
- Piecemeal destruction of the Green Belt, AONB and conservation area
- The fact that the boards are required for income is not of consequence
- Visually obtrusive
- Hoardings are visible from public footpaths
- Other means of generating revenue
- Hoardings should be limited to a period when a league or cup game is being played on the pitch
- Local residents wouldn't be able to erect an advertisement hoarding so why should the football club?
- Breach of previous planning condition

CONSULTATIONS

Buckinghamshire County Highways Authority: The proposed development is for a sign on the south side of Penn and Tylers Green Football Club. The sign faces into the pitch, would not be lit and is considered unlikely to be visible from the public highway due to the residential properties on Elm Road. Therefore the Highway Authority has no objections or conditions to add.

POLICIES

National Planning Policy Framework (NPPF), 2012.

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

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

EVALUATION

Principle of development

1. The application site is located in the open Green Belt wherein proposals for advertisements are acceptable in principle provided they do not have an adverse effect on local amenities or public safety, in accordance with the NPPF. 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.

2. It is also noted planning permission was granted in 2012 for the levelling of ground to facilitate repositioning of the existing football pitch with dug outs, surrounding fencing and the relocation of existing storage container. This application was granted permission on the basis of a number of conditions, including one which specifically referred to the fencing. This condition stated: 'The perimeter fencing surrounding the relocated football pitch shall be of a post and single bar design as shown on the additional information

received on 2 May 2012. No change shall be made to the external appearance of the fencing and no additional bars shall be added to the fencing at any time.' The reason for its inclusion was to ensure that the Local Planning Authority can properly consider whether any future proposals would be detrimental to the Area of Outstanding Natural Beauty or the openness of the Green Belt. As this condition concerns the perimeter fencing upon which it is proposed to affix advertisement boards, it is of relevance in the assessment of this application.

Design/character & appearance

3. The application proposes the erection of advertisement boards along the fencing of the southern side of the football pitch. The boards would have a maximum height of 0.75 metres and width of 2 metres and would be of varying colours dependent on the advertiser. They would face into the pitch. The rear of the boards (facing away from the pitch) would be painted dark green. The boards would not exceed the height of the existing fence and they would only be located along the southern side of the football pitch, where they would face into the pitch and towards the club house.

4. It is noted that a number of representations have been received raising concern that the proposed advertisements would be out of character with the Conservation Area, the Green Belt and the Chilterns AONB. Taking these in turn, the low height and location of the proposed advertisements is such that they would not be located within the Conservation Area itself and nor would they be visible from the public highway or from within the Conservation Area. They would primarily be visible from the football club itself and from views from the dwellings backing onto the football pitch. Accordingly the advertisements are not considered to impede on views of the Conservation Area. In terms of the impact on the Green Belt, the proposed advertisement boards would not lead to an increase in the height of the existing fencing, as approved under planning permission reference CH/2012/0306/FA. The advertisements are only proposed to be sited along one side of the football pitch (and this could be secured by way of condition) so the proposal is not considered to be overly intrusive in terms of views into the Green Belt. Furthermore, the advertisements would be confined to the southern fence of the football pitch and it is not considered that their impact would be detrimental to the openness of the Green Belt, especially as they would be no taller than the existing fence which has been erected to surround the pitch. They would not introduce additional built form in this location. Finally, in regards to the impact of the proposal on the AONB, again, given the modest size of the advertisements and the fact that the use of the advertising boards is linked to the sport and recreation use on site, it is considered that they would be acceptable. The signs would clearly appear to be associated with the sporting club and it is not considered that they would impede on views of the open countryside given that they would face towards the club house, would be modest in size, and would be erected on existing fencing.

Residential amenity

5. The proposed signage would not in and of itself have a detrimental impact on neighbouring amenity given that it would be erected on existing fencing and would be unlit. A number of neighbours are concerned that the erection of signage would impede on their views of the existing countryside and AONB. However, the right to a view is not a planning consideration and given that the advertisements would not result in an increase to the height of the existing fencing, it is not considered that the advertisements would be detrimental to neighbouring amenities. Concerns in regards to the fact that the sports club is used at weekends, evenings and in school holidays are not considerations relevant to this application and neither can this application be recommended for refusal on the basis that the Club has put in repeated applications for development on the site resulting in neighbouring concerns of 'creeping development'. This application can only assess the proposed erection of advertisement boards and not the impact of any future development on site which would be subject to future planning applications.

Parking/Highway implications

6. Given the nature of the proposal, there are not considered to be any adverse parking implications and the Highways Officer too has confirmed that there would not be a detrimental impact on the local highway.

Working with the applicant

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

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

RECOMMENDATION: Conditional consent

Subject to the following conditions:-

1 This consent is granted for a limited period of five years from the date of this decision notice. At the expiration of this period the advertisement hereby permitted shall be removed from the site, unless a further consent has already been obtained from the Local Planning Authority for its retention.

Reason : To enable the Local Planning Authority to review the effect of this advertisement on its setting in the light of changing circumstances, and to comply with the provisions of Regulation 14 (7) of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

2 The following standard conditions contained in Schedule 2 to the above mentioned Regulations:-

(1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

(2) No advertisement shall be sited or displayed so as to -

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

(3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

(4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

(5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In the interests of amenity and highway safety.

3 The proposed advertisement boards shall be erected along the southern side of the football pitch, in accordance with the approved plans. They shall not be erected along the north, east or west fencing.

Reason: In order that the Local Planning Authority can properly consider whether any future proposals would be detrimental to the Area of Outstanding Natural Beauty or the openness of the Green Belt.

4 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990, no external or internal lighting shall be incorporated within the proposed advertisements hereby permitted without first receiving approval in writing by the Local Planning Authority.

Reason: To ensure that the amenities of the neighbouring properties are not harmed and to ensure that there is no detrimental impact upon the openness and rural character of the Green Belt.

CH/2018/0776/FA

Case Officer: Murtaza Poptani
Date Received: 27.04.2018
Parish: Chalfont St Peter
App Type: Full Application
Proposal: Front, side and rear extensions with raising of roof to provide first floor accommodation with front and rear dormers
Location: Noigls
2 Chestnut Close
Chalfont St Peter
Buckinghamshire
SL9 0AE
Applicant: Mr R Messias

Decide by Date: 22.06.2018
Ward: Central

SITE CONSTRAINTS

Article 4 Direction
Mineral Consultation Area
Northolt Safeguard zone
Townscape Character
Established Residential Area of Special Character (ERASC)

CALL IN

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

SITE LOCATION

The application site accommodates a detached bungalow located to the south-eastern corner of the cul-de-sac of Chestnut Close. It is situated within a large near rectangular shaped curtilage and benefits from off road parking to the front driveway. The site is flanked by a detached bungalow of similar architectural appearance to the west, detached bungalows along Joiners Lane to the north and two storey detached dwellings to the south and south-east. The site is situated within a built-up area of Chalfont St Peter and is also within an Established Residential Area of Special Character.

THE APPLICATION

The application proposes the erection of front, side and rear extensions with the raising of the roof to provide first floor accommodation, with front and rear dormers. The front element of the extension would measure a maximum of 8.5 metres in width and 2.8 metres in depth and the rear element would measure 8 metres in width and 5.7 metres in depth. Both of these extensions would be set under a new roof extending over the property, with a maximum height of 6.8 metres. Pitched roof dormers would be erected to the front and rear roof slopes along with gabled features. The extension to the north-eastern flank elevation would measure 2.1 metres in width, 5 metres in depth and 5.9 metres in height.

RELEVANT PLANNING HISTORY

None in connection with this application.

PARISH COUNCIL

No objections.

REPRESENTATIONS

Seven letters of representation received which are summarised as follows:

- There are covenants on the bungalows in Chestnut Close that they should remain bungalows [Officer Note: this is not a planning consideration].
- The resultant house will be overbearing to us compared with a single storey bungalow on the site as the increased footprint with its added height would impact us directly.
- The proposed dwelling is out of character with existing dwellings in this ERASC area.
- The increased roof height and enlarged footprint with additional stories will dominate the adjacent bungalow at No 3.
- The frontage building line to the existing road should be generally maintained and the general height of buildings in the vicinity of the application site in the Established Residential Area of Special Character should not be exceeded.
- I object to the plans for Noigs currently submitted because the size of the resultant house will affect the amenity of our main habitable room. There would be a raised roofline and the new roof would be some 6.5 metres nearer to our property than exists currently.
- The overbearing appearance would provide identifiable harm to our main habitable room.
- There would be a loss of privacy from the upper floor glazing to both the front and rear elevations.
- The proposed materials would be out of keeping.

Rebuttal letters have also been submitted by the applicants and their agent.

CONSULTATIONS

None relevant.

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 Supplementary Planning Document (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 an Established Residential Area of Special Character 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. As aforementioned, the application site is flanked by a detached bungalow of similar architectural appearance to the west, detached bungalows along Joiners Lane to the north and two storey detached dwellings to the south and south-east. The application property is a detached bungalow with a centrally pitched gable ended roof and gable projections to the front and rear elevations. The application proposes front, side and rear extensions and a first floor extension over the existing dwelling in the form of a replacement centrally pitched gable ended roof, with a hipped and gable section to the rear, gable feature to the front and dormers to the front and rear elevations. The resultant dwelling would keep a simple design similar to the neighbouring dwellings within the locality which are also characterised by pitched roofs and dormers to their respective elevations. Importantly, the low eaves level would be retained, and the chalet appearance of the extended dwelling would not appear markedly out of character with other bungalows, as the overall scale would be similar. The side elevations of the resultant dwelling would be set at a comparable distance from the side boundaries at first floor level as the other nearby dwellings. Taking into account the design of the resultant dwelling, it is considered that it would integrate acceptably with the variety of properties in the vicinity of the application site. The dwelling is situated to the south-eastern corner of the cul-de-sac, is set back from the highway boundary and is not particularly prominent from surrounding public vistas. In addition, given that space would be retained around the dwelling it is considered that the resultant dwelling would not appear unduly cramped within its plot. The dormers to the front and rear elevations would be modest in size and would not dominate the respective elevations. The proposal would continue to maintain a partial bungalow appearance which would be reflective of neighbouring properties and it is considered that by virtue of its siting and design, the resultant dwelling would not appear as an unduly prominent or visually obtrusive feature within the street scene, such that it would not detract from the character and appearance of the locality and this part of the Established Residential Area of Special Character. No objections are therefore raised with regard to Local Plan Policies GC1, H13, H14, H15, H16, H17, H18 and Core Strategy Policy CS20.

Residential amenity

3. Policy GC2 states that the design and layout of proposed buildings and extensions to existing buildings enables adjoining land or buildings to be protected from significant loss of sunlight and that sufficient sunlight and daylight reaches into, between and around proposed buildings and extensions to existing buildings. In association with the assessment of potential loss of light and overshadowing, guidance within the Building Research Establishment (BRE) Report "Site layout planning for daylight and sunlight: a guide to good practice" (2011) is utilised as a standard for assessing acceptable levels of visual amenity with concern to loss of light.

4. With regards to the adjacent dwelling to the west at No. 3 Chestnut Close, the depth of the existing dwelling would remain unchanged along the shared boundary. The rear extension would have a projection of 1 metre beyond the existing dwelling and would be sited 6.5 metres from the shared side boundary, which is a significant separation. In accordance with BRE Report guidance, a 45 degree line was drawn from the mid-point of the closest rear facing patio doors of this neighbouring property towards the proposed rear and first floor extension and it would not be intersected, thus showing no material loss of light or overshadowing would occur. In addition, the low eaves height along the flank of the application dwelling (2.3 metres) would remain, and the increase in ridge height would be set some way away from the neighbouring dwelling and would only be 1 metre higher than the existing ridge. Given the identified sufficient separation distance from the extension, coupled with the low eaves and sloping roof, away from the boundary, it would not possible to substantiate an objection regarding the impact on the amenities of this neighbouring property.

5. With regards to the property to the south-east at Hartwell in Winkers Close, this property benefits from a garden area spanning around the northern, western and southern sides of the dwelling. It is acknowledged

that the proposed rear element of the extension would be visible from the north-western rear part of the neighbouring garden, due to the angled relationship between the properties, however, this neighbouring dwelling has a significant garden area to the south-west which would remain largely unaffected by the proposed extensions. The enlarged application dwelling would still retain a low chalet bungalow appearance, with low eaves and a ridge only around 1 metre taller than the existing highest ridge. Furthermore, the main windows to this dwelling are situated on the south-western elevation facing away from the application site. The dwelling to the north at No. 1 Chestnut Close is in excess of 40 metres away from the front elevation of the application dwelling and the dwelling at No. 44 Joiners Lane is in excess of 30 metres away, such that the proposed works would not appear overbearing or intrusive when viewed from this significant distance. The properties to the rear at Beechlawn and Hathersage are sited a satisfactory distance away such that they would not be adversely affected by the proposed development. No objections are therefore raised with regards to Policies GC3, H13(i) and H14.

Parking/Highway implications

6. The proposal will increase the floor area of the dwelling from less than 120sqm to more than 120sqm, and therefore the parking standard for the dwelling would increase from 2 to 3 spaces. The hardstanding area and garage to the front has sufficient space to accommodate several cars; in excess of three, therefore no objections can be raised on parking grounds. The proposal therefore complies with Policies TR11 and TR16.

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 has considered the submitted 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 Before any construction work commences, named types or details of the roofing materials to be used for the external construction of the new roof hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details. Furthermore, the facing materials to be used for the external walls of the extensions hereby permitted shall be of a similar appearance to those used for the existing dwelling.

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

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

Classification: OFFICIAL

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 or roofslopes of the extensions hereby permitted.

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

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The End

Classification: OFFICIAL

CH/2018/0247/FA

| | | | |
|----------------|---|-----------------|-------------------------------------|
| Case Officer: | Emma Showan | Decide by Date: | 11.06.2018 |
| Date Received: | 12.02.2018 | Ward: | Ashley Green Latimer And Chenies |
| Parish: | Latimer & Ley Hill | | |
| App Type: | Full Application | | |
| Proposal: | Change of use to a nursery (Use Class D1) | | |
| Location: | The Great Barn Blackwell Hall Lane Latimer Buckinghamshire HP5 1TN | | |
| Applicant: | Ashridge Care Ltd | | |

SITE CONSTRAINTS

Article 4 Direction
 Area Special Advertisement Control
 Within Chilterns Area of Outstanding Natural Beauty (AONB)
 Biodiversity Opportunity Areas
 Bovingdon Technical Radar Zone
 Critical Drainage Area
 Within Green Belt other than GB4 GB5
 Listed Building
 Within 500m of Site of Importance for Nature Conservation NC1

CALL IN

Councillor Garth has requested that this application be determined by the Planning Committee if the Officer's recommendation is for approval.

SITE LOCATION

This application relates to The Great Barn at Blackwell Farm. Blackwell Farm is located in the open Green Belt and Chilterns Area of Outstanding Natural Beauty outside of Latimer. The Great Barn forms part of the farm complex but was converted to office use (Use Class B1) in 2003 and has remained in this use since then, although the premises are currently vacant. The complex is accessed off Blackwell Hall Lane which serves a number of other farms and barns, in addition to some residential dwellings. The Barn is also a Grade II Listed Building.

THE APPLICATION

This application proposes the change of use of the existing barn from an office (Use Class B1) to a nursery (Use Class D1).

No external changes are proposed.

A supporting statement has been submitted by the applicant in response to neighbouring concerns. It is summarised as follows:

- The proposed nursery will allow for 40 children to attend between the ages of 3 months to 5 years

- There is sufficient parking within the existing area allocated to The Great Barn and extensive hard standing surrounding the Barn to accommodate additional vehicles
- The traffic flow will be a one way system to prevent traffic from backing up onto Blackwell Lane
- The previous tenants had desk space for over 26 employees and over 800 visiting field based staff with no detrimental impact on parking or Blackwell Hall Lane
- There have been no reported traffic accidents in the last 5 years
- Old McDonalds Day Nursery in Latimer is located adjacent to an unclassified road and was granted planning for 60 children and 25 staff
- The arrival and departure times of parents dropping children will be staggered
- There is no application for the construction of a formal play area nor change of use of any of the agricultural land
- There are a number of day nurseries located within a farm setting; Old McDonalds Nursery, Bovingdon; Monkey Puzzle Day Nursery, Potten End; Mead Open Farm Day Nursery, Leighton Buzzard

A supporting statement has been submitted by the owner of The Great Barn which is summarised as follows:

- Since last July, there has been no interest, save from the current applicant, for use of the barn as an office
- The government is encouraging farm diversification and the generation of employment in rural areas and there is no other use for The Great Barn forthcoming
- The latest tenant was a care service provider with 26 permanent employees and 856 other employed members of staff. On the minimal assumption that these care service providers came to the office once a month, this would equate to 43 employee visits per day, so there would have been an average of nearly 70 employees coming to the Barn every day. The day nursery expects 35 cars dropping off and collecting children plus 14 staff, i.e. 84 visits per day which is an increase of 20%
- There are passing places and the increased vehicle capacity is within the capacity of the lane
- There have been no accidents along this stretch of Blackwell Hall Lane in the last 19 years
- There is extensive parking available around the Barn, with a possible layout of 24 parking spaces and 5 drop off spaces on existing hardstanding. These spaces conform to the Council's standards
- The Great Barn is 90 metres away from Blackwell Hall and 120 metres from Higher Blackwell. Under application CH/2012/0832/FA for a similar proposal it was considered that the proposal would not result in undue disturbance to neighbours, even though a dwelling was only 34 metres away
- There are no plans to cease agricultural production on any land in connection with this application

RELEVANT PLANNING HISTORY

CH/2003/2079/HB - Retention of internal alterations (amendment to Listed Building Consent 00/745/CH), unconditional consent).

CH/2000/0745/HB - Internal and external alterations to barn, conditional consent.

CH/2000/0744/FA - External alterations and change of use of barn to office, conditional permission.

PARISH COUNCIL

In respect of this particular application, Latimer and Ley Hill Parish Council would ask Chiltern District Council Planning Department to take account of the following comments which reflect concerns raised by local residents to the Parish Council:

- The proposed nursery will bring more traffic into the rural lanes of Latimer/Ley Hill which are already very busy
- The vast majority, if not all the clients will be from outside the Parish
- Latimer already has a nursery - Old MacDonald's Nursery

- The applicant needs to be able to demonstrate that the parking currently available is adequate for all traffic at peak times, i.e. dropping off and picking up. The Old MacDonald's Nursery at Latimer often has over 30 cars in the car park at peak times
- The approach via Blackwell Hall Lane is narrow, especially from Ley Hill and not really suited for increased traffic. Can we suggest no right turn out of the entrance to try and prevent traffic going up Blackwell Hall Lane towards Ley Hill?
- The junction of Blackwell Hall Lane and Latimer Road is not suited to increased traffic. The Latimer Road is very busy at peak times which is going to coincide very much with the peak times with the nursery. Visibility from Blackwell Hall Lane when turning onto the Latimer Road is poor from the right (from Chesham) and will be an accident waiting to happen
- As most of the clients will come from Chesham, it would be better for a site in Chesham to be found. This would help to reduce the amount of traffic on already overcrowded lanes in the surrounding Parishes

REPRESENTATIONS

Nine letters of objection from four parties have been received which have been summarised as follows:

- No information is provided as to the proposed number of children
- Blackwell Hall Lane is not a sustainable location; there is no pavement access
- It is stated that there are 15 parking spaces but there is no plan to show these and the barn currently only has planning permission for 8 spaces
- The parking arrangements are ill thought out and under provided
- Visibility is deficient in both directions
- Concerns about the accesses onto Blackwell Hall Lane and Latimer Road
- National speed limit along Blackwell Hall Lane
- Concern over lack of passing places and intensification of traffic
- Increase in traffic to and from the site
- Change of use of surrounding land to accommodate outdoor play space
- Noise and disturbance and disruption
- Changes to the integrity of the Listed building
- Inappropriate development
- The location of a nursery adjacent to a cattle farm is not a suitable location for a nursery
- No internal/external changes are proposed but toilet facilities etc. would need to be accommodated
- There have been a number of accidents at the T-junction between Blackwell Hall Lane and Latimer Road
- The offices have been successfully rented out since being completed
- There have been two major incidents involving farm machinery catching fire
- The proposal will change the atmosphere of Blackwell Hall Lane completely
- There are many other sites available in the locality that are better suited and closer to where children live, rather than generating traffic movements/exhaust pollution/energy use
- Lack of notification
- A report undertaken by ADL Traffic Engineering Limited has also been submitted

CONSULTATIONS

Buckinghamshire County Highways Officer: 'I write further to my comments dated the 12th April 2018, in which the Highway Authority had recommended the refusal of the application on the basis of inadequate visibility splays and the unsustainable nature of the site. Since these comments were submitted to the Local Planning Authority, the applicant has engaged in further discussions in order to overcome these concerns. The following comments consider the additional information submitted and should be read in conjunction with my original comments.'

An amended site location plan has been submitted to the Local Planning Authority, which shows that the adjacent fields either side of the proposed access point are within the control of the applicant. Further to this, speed survey information has been submitted to the Highway Authority which demonstrates 85th percentile speeds of 31mph in both directions on Blackwell Hall Lane, which would equate to visibility splays of 2.4m x 45m in both directions. I am confident that these visibility splays are achievable from the proposed access point in correlation with the amended site location plan submitted by the applicant.

In terms of the access width, I note that at the junction with Blackwell Hall Lane, the access width would measure in excess of 4.8m, which I can confirm is acceptable and would allow for the simultaneous two-way flow of vehicles in this location. However, within the site, I note that the access would measure in the region of 2.4m - 3.2m. Whilst I note that the applicant proposes to utilise a one-way system for the development, the Highway Authority would require an access width of at least 3.2m for the entirety of the access to allow for vehicles to utilise the access road effectively. The Highway Authority would also require details of the enforcement of the one-way system to be submitted, which I note could be dealt with by way of condition.

From the submitted site plan, I note that 29 parking spaces are provided to serve the site, with 5 of these designated for use as a pick-up/drop-off area. You have informed me that this level of parking is sufficient; however I would have concerns with both the arrangement and dimensions of the parking spaces provided. An amended arrangement will need to be provided, however I am satisfied that this could be dealt with by way of condition.

Concerns remain however regarding the sustainability of the site. From the proposed nursery, it is in excess of 500m to the nearest bus stop. As the recommended maximum walking distance to a public transport access point is a 400m/5 minute walk, the development site is therefore considered to be in a comparatively unsustainable location from a public transport accessibility perspective. Proposals for development generally need to be well connected to non-car modes of travel in order to meet the overarching sustainable development principles set out in the National Planning Policy Framework. This particular site is detached from the existing urban areas and is in a location that does not have pedestrian footways, cycle or public transport access. Paragraph 35 of the NPPF states that "developments should be located... to... have access to high quality public transport facilities". A development which does not provide any pedestrian footway links, cycle links or access to public transport is therefore in direct contradiction to the aims of the NPPF.

Mindful of the above, I must recommend the refusal of this application.'

Historic Building Officer: Comments to be reported verbally at the Planning Committee meeting.

POLICIES

National Planning Policy Framework (NPPF), 2012.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS16, CS19, CS20 and CS22.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated 2007 & November 2011: Saved Policies GC1, GC3, GB2, GB22A, LSQ1, LB4, TR2, TR3, TR11 and TR16.

EVALUATION

Principle of development

1. The application site is located within the open Green Belt and within the Chilterns Area of Outstanding Natural Beauty. Most development in the Green Belt is inappropriate and there is a general presumption against such development. However, in accordance with the provisions of the NPPF and Local Plan Policy GB2,

certain forms of development may be considered acceptable and this includes the change of use of existing permanent and substantial buildings, in accordance with Policy GB29.

2. Policy GB29 sets out that the re-use of buildings in the Green Belt for commercial, industrial, recreational or other uses (except residential uses) will be permitted provided that: it does not result in employment generation on a significant scale; it does not conflict with Policy GB24 (concerning the loss of community facilities) or Policy H9 (concerning the loss of residential buildings and land); and it is not inappropriate development.

3. Based on the above, it is not considered that the proposal would result in employment generation on a significant scale. The existing use of The Great Barn is B1 offices and the previous tenant of the premises had desk space for over 26 permanent employees and over 800 visiting field based staff (who would also visit the premises on occasion). In contrast, the proposed nursery would employ 14 staff and would accommodate 40 children across the day. This is not considered to be employment generation on a significant scale. In addition, the proposed change of use would not concern the loss of a community facility and nor would it concern the loss of residential buildings or land.

4. In regards as to whether the proposal would constitute inappropriate development, a number of criteria must be complied with. In this instance, the building has been substantially complete and has existed for many years prior to this application being made. The building is of permanent and substantial construction and would not require new building work to make the building suitable for its new use. The building was renovated to accommodate the change of use to offices. Furthermore, it should be demonstrated that the proposed use would not have a materially greater impact than the existing use on the openness of the Green Belt and the purposes of including land in it. In this respect, no extensions are proposed or are required in connection with the proposed use, there is no outdoor playing areas/play equipment proposed so there is no requirement of the proposed use outside of the building and there is no proposal for additional parking areas or the creation of additional hardstanding. Accordingly, it is not considered that the change of use would result in a greater impact on the Green Belt than the existing use. Furthermore, it is noted that Core Strategy Policy CS19 states that the Council will seek to develop a sustainable rural economy by supporting proposals for agricultural diversification where this will benefit the local community and allowing existing, lawful, suitably constructed buildings in the Green Belt to be re-used for commercial purposes in cases where this complies with other policies. Although the proposed nursery is not in a sustainable location, away from public transport links and walking distance from only a very small number of dwellings, the building is existing and therefore the proposal would make use of previously developed land. As such, no objections are raised to the principle of the proposed change of use.

5. It is also noted that The Great Barn is a Listed Building and so, in accordance with Policy LB4, it must be demonstrated that the existing use cannot reasonably be continued and the change of use should also have no adverse impact on the special architectural or historic interest of the building.

6. The site is also located within the Chilterns Area of Outstanding Natural Beauty (AONB) so any development should conserve, and where considered appropriate and practicable, enhance the special landscape character and high scenic quality of the AONB.

Design/character & appearance

7. The proposed change of use would not require any external alterations to the existing building, and nor is any additional hardstanding or external play equipment proposed within this application. The change of use is not therefore considered to have a detrimental impact on the character of the area, beyond the existing use of the Barn as office space. Furthermore, Local Plan Policy LB4 states that the change of use should not be approved unless it can be reasonably demonstrated that the existing use cannot be continued. In this respect,

the submitted supporting statement made by the owner of the premises states that The Great Barn has remained vacant since June 2017, when the previous tenant went into administration. Since then, estate agents have been appointed but there has been no interest from any prospective tenant for use of the premises as an office. This is supported by a statement from commercial property consultants Chandler Garvey who have confirmed that of two interested parties (a children's nursery operator and office users), only the nursery operator has remained interested as the office users withdrew their interest as the broadband was not sufficient for their needs. The consultant is also of the opinion that the premises are not suitable for office use for a number of reasons, including; economic uncertainty; broadband speed; no shops or local facilities; no public transport; and the open plan layout is not ideal for a lot of office users. Alongside this, as no internal or external alterations are proposed as part of the change of use, it is considered that the proposal would not have an adverse impact on the character of the Listed Building and would comply with the provisions of Local Plan Policy LB4.

Residential amenity

8. The nearest dwelling is Blackwell Hall, opposite the application site, however approximately 85 metres separate The Great Barn from this property. Other residential properties are located at a greater distance from the farm. Subject to a condition restricting operation to the hours set out on the application form (0700-1900 Monday to Friday, closed Saturdays, Sundays and Bank Holidays), it is considered that the proposal would not result in undue disturbance to neighbouring residents.

Parking/Highway implications

9. The Council's parking standards for a nursery school are one space per classroom, plus provision for delivering and collecting children by car. The transport statement states that the number of on-site parking spaces would be 24 spaces, plus 5 drop off spaces, although this is disputed by residents as being too high. Nonetheless, supporting information and a parking plan from the applicant (which has been assessed by the Highways Authority) has confirmed that the existing area of hardstanding outside of The Great Barn can accommodate these parking spaces and there is additional parking provision within the farm that can be utilised. As the proposed nursery will have 5 separate spaces/play areas within the building, the parking requirement for the building would be 5 spaces, in addition to providing adequate space for parents delivering and collecting their children. As in excess of 20 spaces are to be provided, this is considered to be sufficient to meet the needs of the staff and of parents, in line with Development Plan Policy TR16.

10. The County Highways Officer has also assessed the proposal in relation to the visibility splays, the width of the access and the impact of the proposal on the local highway network. The Officer is confident that the required visibility splays can be achieved while the provision of further details of the enforcement of the one way system and the layout of the parking area can be secured by way of condition. Although the Highways Officer has raised concern in regards to the sustainability of the location, given that the premises are already in office use (and not in agricultural use), and have been for a period in excess of 17 years, it is considered that a reason for refusal based on the lack of sustainability could not be substantiated at appeal.

Conclusions

11. The application site consists of a Grade II Listed barn which is currently in office use (Use Class B1). It is proposed to change the use to a nursery. The barn has already been renovated and would not require any external alterations in order to accommodate the change of use. In addition, no other extensions, change of use of agricultural land or additional hardstanding etc. are proposed and so it is not considered that the proposal would have an adverse impact on either the openness of the Green Belt, the setting of the Listed Building or the character of the area. The Highways Authority has assessed the proposal and has confirmed that both the access to the site and the proposed parking provision is adequate, subject to conditions. Meanwhile, given the history of the building and the fact that it has not been in agricultural use for a period of

17 years, it is not considered that a refusal based on lack of sustainability could be substantiated at appeal. Accordingly, the application is recommended for conditional approval.

Working with the applicant

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

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 The use of the nursery building hereby permitted shall only take place only between the hours of 7:00am and 19:00pm on Monday to Friday, and at no time during weekends or bank holidays.
Reason: To protect the amenities of neighbouring properties.
- 3 No external lighting shall be fixed to the buildings or installed within or around the site unless first agreed in writing by the Local Planning Authority.
Reason: In order to maintain the rural character of the locality.
- 4 The Nursery building hereby permitted shall only be used for nursery purposes and for no other purpose(s) [including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (As amended) or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification].
Reason: Other uses would have different operational and parking requirements and would need to be assessed in terms of preserving the character and appearance of the area and any impact on highway safety.
- 5 No playing of musical instruments or operation of sound amplification equipment for the playing of live or recorded music shall take place at any time within the nursery building hereby permitted or within its curtilage.
Reason: To safeguard the amenities and quiet enjoyment of neighbouring properties.
- 6 No part of the development shall be occupied until an amended scheme for parking and manoeuvring has been submitted to and approved in writing by the Local Planning Authority following consultation with the Highway Authority. The approved scheme shall be implemented prior to occupation of the development and shall thereafter be permanently maintained.
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.

7 No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the back line of footway and a point 45 metres along the back line of footway 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: To provide adequate intervisibility between the access and the existing public footway for the safety and convenience of pedestrians and users of the access.

8 Prior to commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority following consultation with the Highway Authority for a one-way system to include signage, lining and details of enforcement. The approved scheme shall be implemented prior to occupation of the development and shall thereafter be permanently maintained.

Reason: To minimise danger and inconvenience to users of the accesses and the adjoining highway.

9 Prior to occupation of the development a Travel Plan Statement shall be submitted to and agreed by the Local Planning Authority. The approved Travel Plan Statement shall be implemented upon first occupation of the development.

Reason: In order to influence modal choice and to reduce single occupancy private car journeys and comply with National and local transport policy.

10 AP01 Approved Plans

From: Higgs, Tristan [mailto:thiggs@buckscc.gov.uk]
Sent: 18 June 2018 10:31
To: Emma Showan
Cc: Hemmings, Claire
Subject: RE: CH/2018/0247/FA - The Great Barn, Blackwell Hall Lane, Latimer [OFFICIAL]

Hi Emma,

Thanks for the email below.

With regard to the visibility at the access point, as part of the proposals, the Highway Authority had asked for an amended location plan to show the extent of land under the ownership of the applicant, and for a speed survey to be undertaken to show the true speed of vehicles travelling along Blackwell Hall Lane. This information was submitted to the Highway Authority, which demonstrated that the applicant has ownership of adjoining fields along Blackwell Hall Lane and that 85th percentile speeds of 31mph take place along Blackwell Hall Lane. As this is the case, visibility splays of 2.4m x 45m are applicable in both directions onto Blackwell Hall Lane, commensurate with current Manual for Streets guidance. These splays are achievable in both directions from the proposed access point due to the extent of land under the ownership of the applicant on either side of the access point. Further to this, the access point serving the site would measure 4.8m, which I can confirm is acceptable, and would allow for the simultaneous two-way flow of vehicles in this location.

Within my original consultation response, I had outlined the trip generation that both the existing and proposed uses would have the potential to generate, using data obtained from the TRICS[®] database. The existing office would have the potential to generate in the region of 38 vehicular movements (two-way) per day, with the proposed nursery having the potential to generate in the region of 97 vehicular movements (two-way) per day, resulting in an increase of 59 movements per day. As you will be aware, the Highway Authority have to assess planning applications with a view to the requirements of the NPPF. Paragraph 32 of the NPPF states that *'development should only be prevented or refused on transport grounds where the residual cumulative impact of the development is severe.'* I do not consider that the increase in movements associated with this particular site to result in a severe impact when taking into consideration the requirements of the NPPF.

I trust that this information has been of assistance, however if you require any further clarification, please do not hesitate to contact me.

Many thanks,

Tristan Higgs
Highways Development Management Officer
Transport Economy Environment

Tel: 01494 586620

E-mail: thiggs@buckscc.gov.uk

Buckinghamshire County Council, County Hall, Walton Street, Aylesbury, Bucks, HP20 1UA

Visit our Website: www.buckscc.gov.uk

From: Higgs, Tristan [mailto:thiggs@buckscc.gov.uk]
Sent: 27 June 2018 13:55
To: Emma Showan
Subject: RE: CH/2018/0247/FA - The Great Barn, Blackwell Hall Lane, Latimer [OFFICIAL]

Hi Emma,

Apologies for the delay.

Having assessed the proposals, I can confirm that adequate visibility splays are achievable from the junction of Latimer Road/Blackwell Hall Lane. Having reviewed the accident records for this stretch of road, I can also confirm that there have been no collisions recorded at the junction.

Hope this helps,

Tristan Higgs
Highways Development Management Officer
Transport Economy Environment

Tel: 01494 586620

E-mail: thiggs@buckscc.gov.uk

Buckinghamshire County Council, County Hall, Walton Street, Aylesbury, Bucks, HP20 1UA

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From:Terry, Alison
Sent:15 Jun 2018 15:07:08 +0100
To:Emma Showan
Cc:Ames, Dinah;Perry, Clare
Subject:FW: Nursery outdoor space requirements [OFFICIAL]

Good afternoon Emma

Steve has forwarded your e mail to me for a response.

Whilst there is rule about internal space within a nursery which relates to the number of children which can be accommodated in an given premises, there are no specific regulations relating to outside space. That said there is an expectation that the children are able to 'free flow' between the inside and outside space with an emphasis on spending as much time outside as possible. The space requirements therefore should be sufficient, as far as possible, to enable a significant number of the children on site at any one time to be outside. This will obviously depend also on the ages of the children as if there were to be a lot of babies this might reduce the space necessary to meet this recommendation. Technically Ofsted would register a provider who did not have their own outside space providing they could evidence how the children could 'access the outdoor environment' but as a local authority we would not recommend it.

If you have any further queries please come back to me.

Kind regards

Ali

Alison (Ali) Terry

Early Years Commissioning Manager

Children's Services
Buckinghamshire County Council
4th Floor, County Hall,

Walton St,

Aylesbury, Bucks,

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From: Chainani, Stephen
Sent: 15 June 2018 12:33
To: Ames, Dinah; Terry, Alison
Cc: Campbell-Balcombe, Paula
Subject: FW: Nursery outdoor space requirements [OFFICIAL]

Hi Di/Ali

Any comments on the email below?

Kind Regards

Steve

From: Emma Showan [mailto:eshowan@chiltern.gov.uk]
Sent: 15 June 2018 11:45
To: Chainani, Stephen
Subject: Nursery outdoor space requirements [OFFICIAL]

Morning Stephen,

Ben Robinson has passed on your email address as someone who might know the answer or who might know who the best person at Bucks Education is to contact. We have a planning application (CH/2018/0247/FA) for the conversion of a barn (currently in office use but located on a farm) to a nursery. Are there standards for the amount of outdoor space that needs to be provided for a nursery? Is there even a requirement for outdoor space to be provided? If you/someone at Bucks ed. could confirm that'd be great. It's something that are Councillors are asking us about!

Many thanks for your help,

Best wishes, Emma

Emma Showan

Senior Planning Officer

Chiltern and South Bucks District Councils

King George V House

King George V Road

Amersham

HP6 5AW

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From:chris
Sent:18 Jun 2018 13:48:43 +0100
To:Emma Showan
Cc:DBriggs [REDACTED]
Subject:Re: Nursery outdoor space requirements [OFFICIAL]
Importance:Normal

Hi Emma,

That is good news from Tristan . I have attached below my original response to the question of outside space raised by Mr & Mrs Rubens consultant.

Response – The statutory framework for the early years foundation stage provides the following guidance

“Providers must provide access to an outdoor play area or, if that is not possible, ensure that outdoor activities are planned and taken on a daily basis (unless circumstances make this inappropriate, for example unsafe weather conditions).”

The great barn is surrounded by over 200 acres of pasture land and the children will have the opportunity to undertake “outdoor activities” exploring their natural surroundings under supervision. The farm setting provides an ideal location for the children to connect with the countryside and explore nature without having to resort to formal play areas.

As stated Ofsted do not require formal outside space set aside for the sole use of the nursery. One of the prime reasons we are interested in the Barn is the location that allows access to the fields surrounding it. The children are supervised to explore the fields, woods and river area when the cattle are not in residence . We do not operate a free flow system within our existing nursery nor will we propose this at The Barn. It is not an Ofsted requirement.

A large number of nurserys take their children on regular "outings" to explore the local parks, woods etc, this is exactly how we will approach it at The Great Barn , only all of that will be on our doorstep and directly accessible .

I hope this answers the question, but please don't hesitate to ask if you need further clarification .

Kind Regards

Chris

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Emma Showan

Date: 18/06/2018 12:51 (GMT+00:00)

To: [REDACTED]

Cc: "DBriggs [REDACTED]"

Subject: Nursery outdoor space requirements [OFFICIAL]

Hello Chris and David,

In light of the additional info requested by the Planning Committee, Tristan has come back from highways with support in terms of the impact of the proposal on the highway which is good news. Please see attached.

In terms of the Cllr's other area of concern regarding nursery outdoor space requirements, I've received the following response from Ali at Bucks Education:

Whilst there is rule about internal space within a nursery which relates to the number of children which can be accommodated in an given premises, there are no specific regulations relating to outside space. That said there is an expectation that the children are able to 'free flow' between the inside and outside space with an emphasis on spending as much time outside as possible. The space requirements therefore should be sufficient, as far as possible, to enable a significant number of the children on site at any one time to be outside. This will obviously depend also on the ages of the children as if there were to be a lot of babies this might reduce the space necessary to meet this recommendation. Technically Ofsted would register a provider who did not have their own outside space providing they could evidence how the children could 'access the outdoor environment' but as a local authority we would not recommend it.

With this in mind, would you be able to provide some info as to whether you are planning to utilise any outdoor space as part of the nursery, and if so, where would this be/how would this work/would you be fencing off an area?

If you could confirm, that'd be great.

Best wishes, Emma

Emma Showan

Senior Planning Officer

Chiltern and South Bucks District Councils

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🌐: www.chiltern.gov.uk/planning



Appeal Decision

Site visit made on 9 May 2018

by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2018

Appeal Ref: APP/X0415/W/17/3190313

**Hawkridge Vale Cottages, Hawkridge Vale, Buckinghamshire, Hawridge
HP5 2UG**

- 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 D Roberts against the decision of Chiltern District Council.
 - The application Ref CH/2016/0446/FA, dated 10 March 2016, was refused by notice dated 25 August 2017.
 - The development proposed is the demolition of existing cottages and the construction of a single replacement dwelling to include landscaping works.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Planning permission was granted for 2 two-storey extensions to the side of the appeal building in April 2018. A previous planning permission for a similar development had expired just previously to this. This new planning permission has been taken into account in this decision.

Main Issues

3. The site is within the Green Belt and so the main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - The openness of the Green Belt;
 - The character and appearance of the area, having regard to the Chilterns Area of Outstanding Natural Beauty;
 - The setting of listed buildings;
 - Protected Species, with reference to bats; and
 - If the proposal is inappropriate development, 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 it.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate unless, they involve the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. Policy GB7 of the Chiltern District Local Plan (LP) 1997 (with alterations 2001) indicates that the rebuilding or replacement of an existing habitable dwelling would be acceptable in principle providing the new dwelling is not materially larger than the dwelling to be demolished. In this policy, account is taken of any 'permitted development' extensions under the Town and Country Planning (General Permitted Development) Order 1995 (now 2017) that could have been built onto the existing dwelling.
5. The planning history indicates two separate dwellings but a certificate of lawfulness was granted for the building's use as a single dwellinghouse. The Council has indicated the proposed dwelling would represent an 11% increase in internal floorspace compared to that of the original dwellings, taking into account 'permitted development' extensions. This has been disputed because planning permission has been recently granted for 2 two storey side extensions to the dwelling in March 2015. Taking this into account, the Appellant indicates that the proposed dwelling would be smaller in floorspace and volume than the existing dwelling with implemented extensions, both through 'permitted development' and the granting of planning permission. However, LP policy GB7 only refers to taking into account 'permitted development' extensions.
6. Crucially, the existing dwelling is approximately 8m in width at two storey level and the proposal would result in an increase in width at two storey level by approximately 5.7m. The proposed dwelling would also be approximately 0.6m higher than the existing dwelling. Therefore, the proposed building would be materially larger than the one it replaces and would not comply with the exception under the Framework or LP policy GB7.
7. Another Framework exception to inappropriate development is stated as limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. LP policy GB2 states that planning permission will be refused for inappropriate development in the Green Belt, but may be given to limited infilling within designated areas. By reason of being materially larger, the proposal would have a greater impact on the openness of the Green Belt and thus this Framework exception would not apply. The proposal would also be contrary to LP policy GB2 because it is not within any of the designated areas.
8. The pre-dating of the LP and its GB policies before the Framework is not a grounds in itself to indicate a lack of consistency. LP policy GB2 does detail infilling as an exception but does not detail the full circumstances of the corresponding exception within the Framework. In terms of LP policy GB7, the Framework does not define "not materially larger" and in the absence of any, the detail provided within LP policy cannot be considered inconsistent. Nevertheless, the LP GB7 policy requirement on new dwellings being no more intrusive in the environment than the one to be replaced does not reflect the Framework exception policy that focusses on size.

9. There have been no other exceptions to inappropriate development brought to my attention and there is no reason to consider any other exceptions relevant. Consequently, the proposed replacement dwelling would represent inappropriate development under the Framework and conflict with LP policies GB2 and GB7. For the reasons indicated, the weight to the policy conflict should be reduced due to partial inconsistency with the Framework and I shall return to this matter in my conclusions at the end of this decision.

Openness of the Green Belt

10. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open: the essential characteristics of Green Belts are their openness and their permanence. The existing dwelling would be replaced with a dwelling that is larger in size taking into account the greater extent of first floor accommodation. The effect of this would be an adverse loss of openness of the Green Belt, albeit small in isolation. However, the Framework states that substantial weight should be given to any harm to the Green Belt.

Character and appearance of the area

11. The existing dwelling comprises a modest two storey frontage with a rear two storey addition under a lean-to type of roof. There are further single storey elements to side and rear. The dwelling is constructed with flint and brick, with a frontage containing plank doors and small-pane windows for each former residential unit, and chimneys. This design, construction and articulation of built form results in an attractive rural cottage dwelling of humble character and appearance. Furthermore, it is located within a small group of buildings, some converted from agricultural uses, which are located within a valley. On the sloping sides and floor of this valley, there is woodland, scrub, and fields. As such, there is a distinctive rural and landscape quality to the area.
12. The proposed dwelling would take the form of a two storey rectangular form with roof over which would be dominating by reason of its extensive built frontage width lacking any significant visual articulation or relief. This effect would be emphasised by regularly spaced sash windows and a centrally located entrance door which would give rise to a formal and imposing 'Georgian' frontage style design. Furthermore, the original chimneys of the cottage would be replaced by smaller chimneys giving less architectural interest. Together with the increased size, scale and bulk, this would give rise to an overbearing development out of place within its rural context.
13. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper, to seek to promote or reinforce local distinctiveness which is evident here by reason of the rural context of the site.
14. The Framework states great weight should be given to the conservation of AONBs in relation to their landscape and scenic beauty. The replacement dwelling would be visible from Stoney Lane and Pound Lane, as well as from the surrounding vicinity. Therefore, there would be an adverse impact upon the landscape and scenic beauty of the Chilterns AONB.

15. The dwelling would be constructed with local wood-fired bricks and traditional timber windows, but these aspects of the proposal would not address the fundamental issues of increased size and formal design. For all these reasons, the development would harm the character and appearance of the area, including the landscape and scenic beauty of the Chilterns AONB and would conflict with LP policies GC1 and LSQ1 and Core Strategy for Chiltern District (CS) 2011 policies CS20 and CS22.

Setting of listed buildings

16. The existing dwelling, comprising the cottages, dates from the early nineteenth century. It fronts onto Stoney Lane and beyond this Vale Farm, a eighteenth century farmstead, which comprises a farmhouse with attached outbuilding and boundary wall, a building known as Bancroft with attached range, and Threshers Barn and attached Granary, all grade II listed buildings.
17. The compact layout of the farmstead, with numerous functions and barns in close proximity to one another, is likely to be influenced by growth of model farms in the seventeenth/eighteenth centuries where wealthy landowners sought more efficient farming techniques to maximise revenue from their land. The principal building is the two storey farmhouse constructed of red brick with tile roof which is located beyond lower status ancillary buildings including Bancroft and associated range.
18. In contrast to the farmhouse, the other buildings have limited brick in their construction, timber-framing, flint and weatherboarding. Despite conversion of ancillary buildings to residential uses within the farmstead, their relationship to one another and the farmhouse can still be appreciated from the surrounding area including farmland which would have provided income for the farmstead. For these reasons, the listed farmstead is of considerable value and significance.
19. Given ownership details on a Tithe Map and proximity of chalk pits to the south, there is no evidence that the appeal building, the former cottages, served the farmstead. Nevertheless, Bancroft and associated range buildings lie adjacent to Stoney Lane and back onto the appeal site, the other side of the lane. The farmstead's location within a rural context also provides an important basis to its appreciation and the existing appeal building and the appeal site visually contribute to this. The use of materials, including flint, with some brick, also provides a degree of conformity and visual cohesion with the ancillary listed buildings.
20. The replacement dwelling would be a dominant feature in views along Stoney Lane and from nearby parts of Pound Lane by reason of size, scale, bulk and the 'Georgian' design. It would be on higher land compared to the listed farmstead. For all these reasons, the development would visually overwhelm and challenge the lower scale and simpler designed ancillary listed buildings of the farmstead and the group's hierarchy. By reason of this harm to the setting of Vale Farm and its significance, the proposal would conflict with LP policy LB2 and CS policy CS4.
21. As paragraph 132 of the Framework makes clear, when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special

regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.

22. The harm identified above would be less than substantial and it is necessary in line with paragraph 134 of the Framework that the identified harm is weighed against the public benefits of the proposal. A family-sized dwelling meeting modern day living and energy efficient requirements would be provided. Off-site parking would replace unsightly on-street vehicle parking on Stoney Lane. Nevertheless, such benefits would be small by virtue of the single dwelling scale nature of the proposal. The harm to the listed building's significance would be considerable for the reasons indicated and applying the balance in paragraph 134, I consider that such harm would be of a scale that would outweigh the scheme's benefits.
23. In a past appeal, an Inspector considered 2 two storey extensions to the appeal building and concluded the proposed development would not harm the setting of the listed buildings. However, there are considerable differences between this appeal proposal and that before me in terms of design, notably the two storey frontage. In any case, every proposal must be considered on its own particular planning merits.

Protected Species

24. The Appellant's Bat Inspection Report found the presence of high quality foraging habitats and the presence of a large number of potential access points and roosting features within the appeal building. Along with a couple of bat signs within the building, it was concluded that bats have a least occasionally roosted within it and that further surveys are recommended.
25. Circular 06/2005 states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Based on the Inspection Report and conclusions, the likelihood of protected species being present on the site cannot be ruled out and there is a risk that they could be adversely affected by the proposed development given its nature. Without further survey work and assessment, it is not possible to assess whether mitigation is possible for this scheme by way of a planning condition. In line with the Circular, exceptional circumstances do not therefore exist to allow for a condition requiring further surveys.
26. For all these reasons, there would harm to protected species and biodiversity and would conflict with CS policy CS4 and CS24.

Other considerations

27. Planning permission has been granted for 2 two storey extensions to the sides of the existing appeal building. The proposal would be smaller in floorspace and volume than the existing dwelling with implemented planning permission and 'permitted development' extensions. However, the approved plans show two storey side extensions stepped back from the front of the original buildings which would have lower height roofs. In contrast, the proposal would result in a continuous frontage elevation with no articulation in form of step backs and lower height roof elements, and an imposing 'Georgian' style design. Thus, there are considerable differences between the proposal and the permitted

scheme and the potential fallback position would be better than the appeal proposal in terms of effect on character and appearance, the AONB and the setting of listed buildings.

28. The proposal would result in family accommodation, better parking arrangements and a more energy efficient residence. Such benefits would be small by reason of the single dwelling scale nature of the proposal.

Conclusion

29. The proposal is inappropriate development in the Green Belt which is by definition harmful. Although small in isolation, there is an adverse loss of openness in the Green Belt. The Framework establishes substantial weight should be given to any harm to the Green Belt. There is harm to the character and appearance of the area, including landscape and scenic beauty of the Chilterns AONB and the significance of heritage assets. Only small weight can be given to benefits arising from the provision of modern family accommodation, improved parking and energy efficiency. Therefore, very special circumstances do not exist because the harm to the Green Belt, by reason of inappropriateness, and other harm, is not clearly outweighed by other considerations.
30. In terms of development plan policy, the harm to the Green Belt results in conflict with LP policies GB2 and GB7. The harm to character and appearance, including the AONB, results in conflict with LP policies GC1 and LSQ1 and CS policies CS20 and CS22, whilst the harm to the setting of listed buildings, results in conflict with LP policy LB2 and CS policy CS4. Additionally, the harm to protected species results in conflict with CS policy CS4 and CS24.
31. Reduced weight is given to the conflicts of the proposal with GB policies but the proposal is clearly contrary to the development plan as a whole given other policy conflicts. There are no material considerations of merit in favour of the proposal given the conflict of the proposal with national policy on Green Belts.
32. For the above reasons, having regard to all other matters raised, including support, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 12th July 2018

INDEX TO REPORTS ON ALLEGED BREACHES OF PLANNING CONTROL

Chesham Bois

2016/00238/AB/1 Ward: Chesham Bois and Weedon Hill Page No: 3

Alleged breach: Without planning permission, the construction of a single storey rear extension.

56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Chesham Bois

2016/00238/AB/2 Ward: Chesham Bois and Weedon Hill Page No: 11

Alleged breach: Without planning permission, the breach of Condition 2 of planning permission AM/46/50 (agricultural occupancy condition)

56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Chesham Bois

2017/00341/AB Ward: Ballinger Chesham Bois and Weedon Hill Page No: 16

Alleged breach: Without planning permission, the construction of hardstanding and extension of the residential use associated with No. 56 Copperkins Lane into open Green Belt

Land adjacent to 56 Copperkins Lane, Amersham, Buckinghamshire HP6 5RA

Great Missenden

2017/00058/AB Ward: Ballinger Prestwood and Heath End Page No: 22

Alleged breach: Without planning permission, the erection of a Fence on the Land.

2 Wardes Close, Prestwood, Buckinghamshire, HP16 0SA ("the Land")

Little Missenden

2017/00127/AB Ward: Holmer Green Page No: 30

Alleged breach: Without planning permission, the erection of a fence.

Bat and Ball Public House, Penfold Lane, Holmer Green, Buckinghamshire, HP15 6XW ("the Land")

Chalfont St Peter

2017/00232/AB Ward: Austenwood Page No: 38

Alleged breach: Without planning permission, the erection of a wall on the Land.

Austenwood Cottage, 39 Austenway, Chalfont St Peter, Buckinghamshire, SL9 8NN ("the Land")

Chesham Bois

2017/00242/AB Ward: Chesham Bois and Page No: 45
Weedon Hill

Alleged breach: Without planning permission, the material change of use of the Land from a mixed use of agriculture and residential use accommodating no more than eight (8) Gypsy & Traveller pitches to use as a Gypsy & Traveller site comprising the laying of hardstanding and the stationing of additional mobile homes resulting in material increase in number of pitches on the Land

Green Park, Copperkins Lane, Amersham, Buckinghamshire, HP6 5SS ("the Land")

Great Missenden

2017/00314/AB Ward: Prestwood and Page No: 53
Heath End

Alleged breach: Without planning permission, the erection of a fence on the Land.

Sellengers Round, 68 High Street, Prestwood, Buckinghamshire HP16 9EN

Little Missenden

2018/00001/AB Ward: Little Missenden Page No: 59

Alleged breach: Without planning permission, the material change of use of the land to residential by the stationing of a caravan in residential occupation.

Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde Heath, Buckinghamshire ("the Land")

Little Missenden

2017/00314/AB Ward: Little Missenden Page No: 66

Alleged breach: Without planning permission, the erection of a Fence on the Land

Merryhill Farm, Windsor Lane, Little Kingshill, Buckinghamshire

Little Missenden

2018/00023/AB Ward: Holmer Green Page No: 72

Alleged breach: Without planning permission, a material change of use of the Land from amenity land to residential.

2A Browns Road, Holmer Green, Buckinghamshire, HP15 2SL ("the Land")

Chalfont St Peter

EN/18/2036 Ward: Central Page No: 80

Alleged breach: Breach of Condition 2 of Planning Permission CH/2017/0904/FA (delivery outside of hours).

Costa Coffee, 59 - 61 St Peters Court, High Street, Chalfont St Peter, Buckinghamshire, SL9 9QQ ("the Premises")

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Alleged Breaches of Planning Control 12 July 2018

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - 2016/00238/AB/1</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Chesham Bois And Weedon Hill</i> |
| SITE ADDRESS: | <i>56 Copperkins Lane Amersham Buckinghamshire HP6 5RA</i> |
| BREACH: | Without planning permission, the construction of a single storey rear extension |

1.0 INTRODUCTION & SUMMARY

- 1.1 The site is a residential dwelling situated in Copperkins Lane, located within the Metropolitan Green Belt and Chiltern's Area of Outstanding Natural Beauty.
- 1.2 A single storey rear extension (the subject of this report) has been constructed to the rear of the property without planning permission.

2.0 MAIN ISSUES

- 2.1 Consideration of why the unauthorised extension is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

- 3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal of the unauthorised single storey rear extension, as it is contrary to relevant planning policy.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012.

Local Policies

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

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

Adopted Council Enforcement Plan.

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2017/0860/FA - Single storey rear extension to garage (retrospective). Application withdrawn.

6.0 BACKGROUND INFORMATION

6.1 Planning permission is required for this single storey rear extension, yet no application has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers who have recorded their findings as part of enforcement case 2016/00238/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The extension measures 8.7 metres in depth, 5 metres in width and is single storey with a flat roof to a height of 2.8 metres.

The Main Issues

- Impact on the openness of the Green Belt
- Whether the development preserves and/or enhances the scenic quality of the Area of Outstanding Natural Beauty
- 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.

8.1 Impact on the openness of the Green Belt

The site is located within the Metropolitan Green Belt. Paragraph 89 and 90 of the National Planning Policy Framework identify development within the Green Belt which is and is not inappropriate. In relation to extensions, paragraph 89 includes the following an exception to inappropriate development, *"the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"*.

8.2 The unauthorised extension extends some 8.7 metres in depth beyond the rear of the dwelling into the open Green Belt and fields beyond. This has resulted in a significant adverse impact on the openness of the Green Belt by not respecting the provisions of the Framework and including a disproportionate addition over and above the size of the original building. Consequently, the single storey rear extension would constitute inappropriate development which, by definition, is harmful to the Green Belt.

8.3 Local Plan Policy GB13 is clear. Extensions to dwellings will be permitted, but only providing that they are *subordinate to the size and scale of the original dwelling* and *are not intrusive in the landscape*. The intent of this policy is to re-inforce the Council's policy to control the size and scale of extensions to dwellings in the open countryside, in order to achieve consistency with the function of the Green Belt by keeping land open. Therefore, only limited extensions will be permitted to existing dwellings. It cannot be considered that this is a "limited" extension, which at 8.7m in depth goes significantly above

and beyond the "permitted development" allowance for larger home extensions. The extension represents a significant and substantial increase in floor space and as such is not considered subordinate or modest in size. Observation of the plans and photograph of the extension (see Appendix A and B at the end of this report) show a clear alteration to the character of the dwelling by virtue of the extension, which clearly dominates the existing dwelling. As such, the rural appearance of the area has been adversely affected.

- 8.4 Policy LSQ1 is the Chiltern District Local Plan's principal policy in the Area of Outstanding Natural Beauty and states "*the primary objective [with the AONB] is to conserve and enhance the natural beauty of the landscape.*" Development inconsistent with this objective will be refused. Key criteria in order to assess whether development achieves this objective include its design and scale. In this case, as outlined above the extension is considered disproportionately large and out of scale with the remainder of the dwelling. As such, the development does not preserve or enhance the natural beauty of the area and develops the urban environment further into open countryside. The extension is therefore contrary to Local Plan Policies GC1 (design) and LSQ1.
- 8.5 In summary, the unauthorised extension is inappropriate development which would harm the openness of the Green Belt. Objection is also raised to the development on its size, scale and resultant adverse impact on the scenic character and beauty of the Area of Outstanding Beauty. The Framework advises that substantial weight should be given to any harm to the Green Belt and great weight should be given to conserving landscape and scenic beauty in the AONB.
- 8.6 No planning permission has been submitted for the development (planning application CH/2017/0860/FA was withdrawn and despite planning enforcement advising the applicant a further application must be submitted or formal enforcement action would be considered, none have been forthcoming) and no very special circumstances necessary to justify the development exist. The proposal, therefore, conflicts with paragraphs 87 to 89 and paragraph 115 of the National Planning Policy Framework and Local Plan policies GB13 and LSQ1.

9.0 **HUMAN RIGHTS ACT**

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 **EQUALITY IMPACT ASSESSMENT**

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

- 10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant

protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 **EXPEDIENCY**

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

12 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

13.0 **CONCLUSIONS**

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Three (3)** months:

Requirements:

- i. Demolish unauthorised the single storey rear extension in its entirety (as shown outlined in blue on the attached plan) and remove any resultant debris from the works from the Land.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The unauthorised extension has resulted in a disproportionate addition to the original dwelling, is out of scale and extends into open Green Belt land to the rear of the property, such that it would constitute inappropriate development. The extension represents a substantial increase on residential floor space and is not modest and indeed dominates the rear of the existing dwelling through its size and substantial depth.

The unauthorised development is therefore contrary to Policies GC1, GB13 and LSQ1 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and guidance contained in the National Planning Policy Framework.

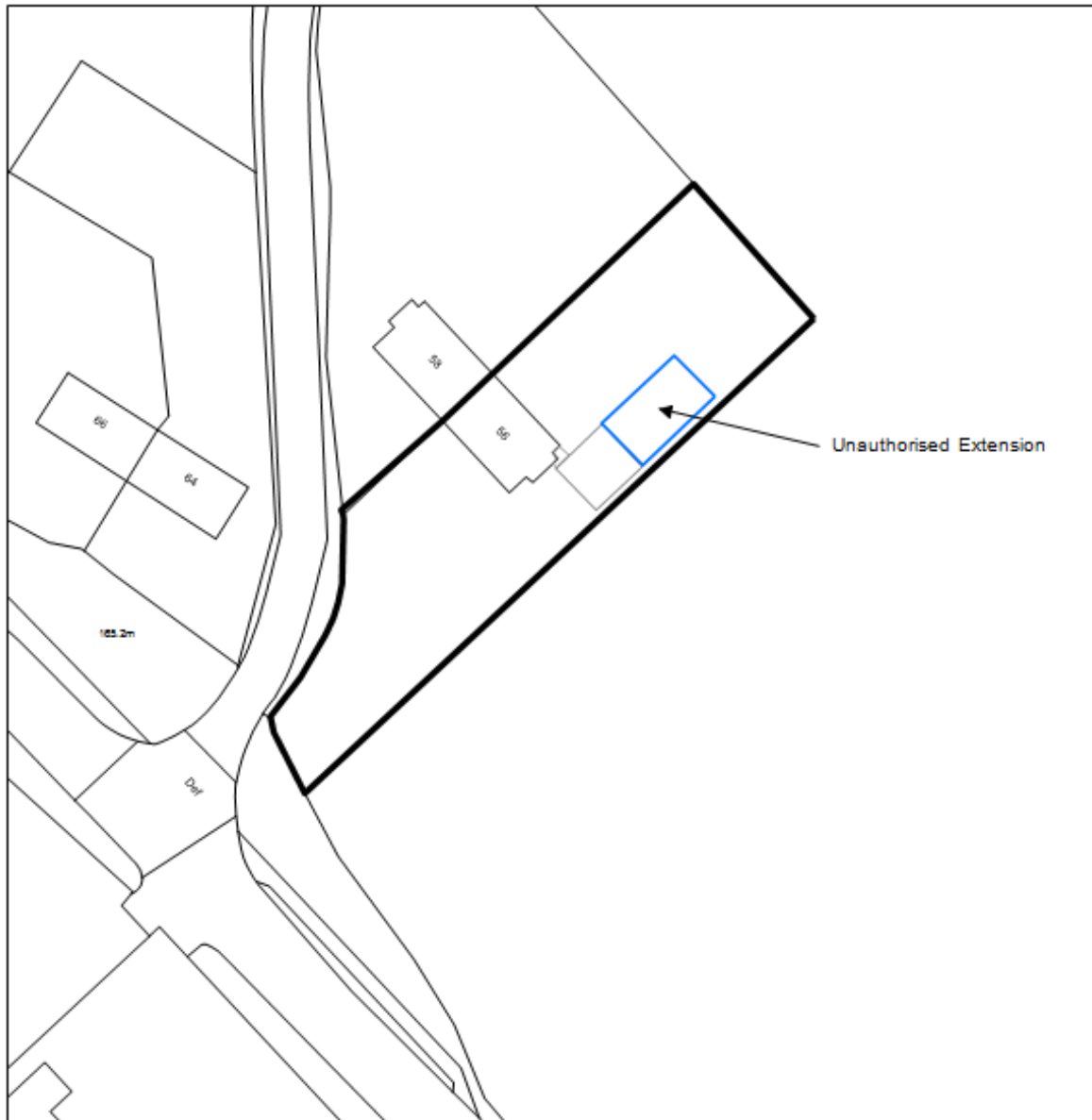
The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

Mr Imran Arshad, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA
The Owner, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA
The Occupier, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

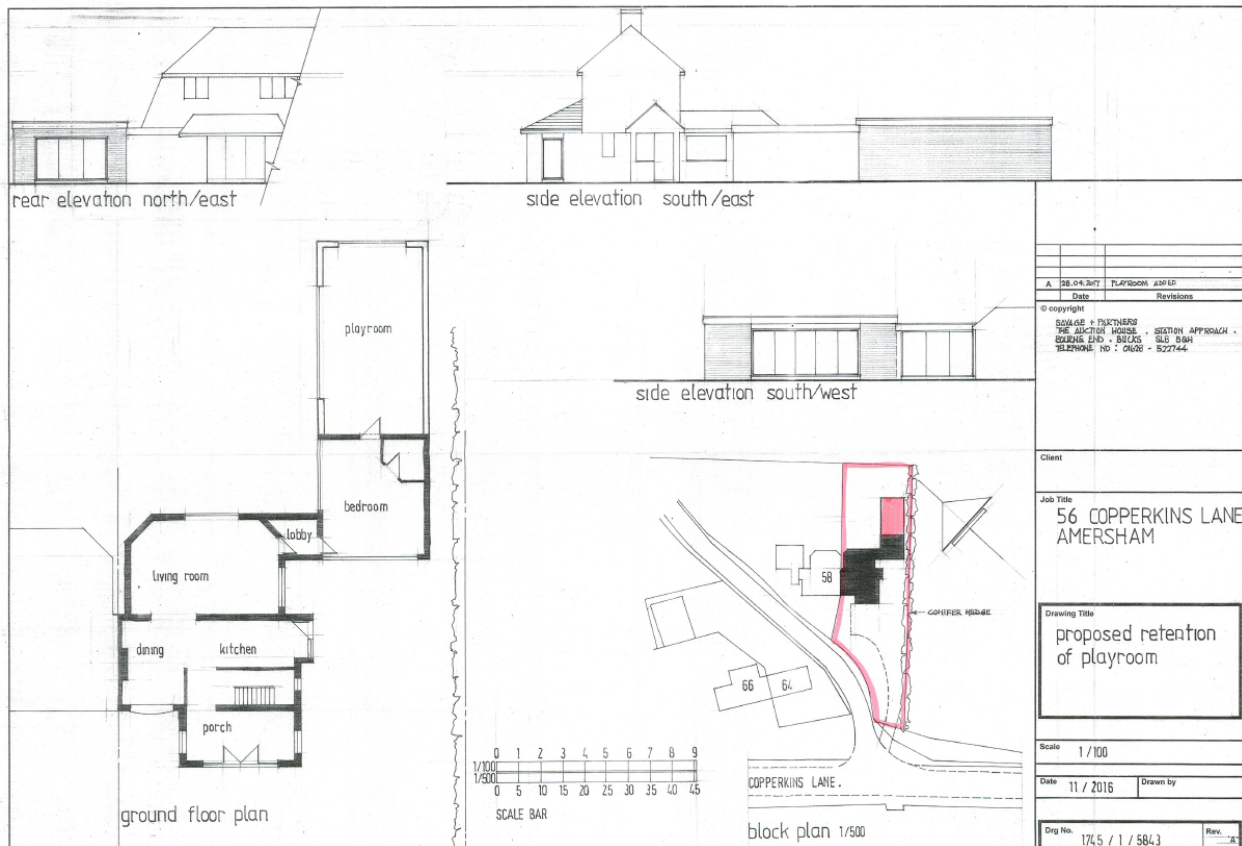
2016/00238/AB - Enforcement Notice 1

56 Copperkins Lane, Amersham,
Buckinghamshire, HP6 5RA



1:500





Signed:
Steve Bambrick – Director of Services

Dated:

Signed:
Joanna Swift – Head of Legal and Democratic Services

Dated:

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - 2016/00238/AB/2</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Chesham Bois and Weedon Hill</i> |
| SITE ADDRESS: | <i>56 Copperkins Lane Amersham Buckinghamshire HP6 5RA</i> |
| BREACH: | Without planning permission, the breach of Condition 2 of planning permission AM/46/50 (agricultural occupancy condition) |

1.0 INTRODUCTION & SUMMARY

1.1 The site is a residential dwelling situated in Copperkins Lane, located within the Metropolitan Green Belt and Chiltern’s Area of Outstanding Natural Beauty.

1.2 The dwelling is being occupied in breach of condition 2 of planning permission AM/46/50, which restricts the occupation of the dwelling to only persons employed in agriculture or forestry.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised breach of condition is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal of the unauthorised single storey rear extension.

4.0 RELEVANT POLICIES

National and Regional Policies

National Planning Policy Framework (NPPF), 2012.

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2017/1363/EU - Application for a Certificate of Lawfulness for an existing use of the dwelling without compliance with condition 2 of planning permission AM/46/50 restricting the occupation of the dwelling to persons employed in agriculture or forestry. Certificate Refused.

6.0 BACKGROUND INFORMATION

6.1 The occupation of the dwelling in breach of the agricultural tie is unauthorised. The application for a Certificate of Lawfulness, reference CH/2017/1363/EU (applied for on the grounds the occupants of the dwelling have been in breach of the condition for over 10 years) was refused on 22nd November 2017 and no appeal has been forthcoming. This breach of condition has been witnessed by Council officers who have

recorded their findings as part of enforcement case 2016/00238/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the occupation of the dwelling, in breach of the agricultural occupancy condition, is acceptable in accordance with planning policy.

8.1 Impact on the openness of the Green Belt

The site is located within the Metropolitan Green Belt. Paragraph 89 and 90 of the National Planning Policy Framework identify development within the Green Belt which is and is not inappropriate. It is not considered the use of the dwelling in breach of the agricultural occupancy condition would cause objection on inappropriateness or impact on the openness of the Green Belt, as there is no physical change.

8.2 However, Local Plan Policy GB20 includes clear provisions for the retention of a dwelling in the Green Belt without compliance with an agricultural occupancy condition. The policy states "*The Council will only grant planning permission for the occupation of a dwelling in the Green Belt without compliance with an agricultural occupancy condition where it can be convincingly demonstrated to the Council that there is no current or longer term requirement for an agricultural worker's dwelling in that particular holding.*" In order to establish this need, the policy outlines two clear considerations – regard to the number of planning applications in the last 5 years for new agricultural dwellings within a 5 mile radius, and that a marketing exercise is carried out for at least 2 years prior to any application, clearly showing a lack of demand for a dwelling with an agricultural occupancy condition in the area.

8.3 In relation to the marketing exercise, this has not been done. It was noted the property was purchased by its current owner at a rate reflective of the restrictive condition, and as such it clear to assume due diligence was made and the owner was aware of the condition. Therefore, given the house was purchased with the condition, the requirements of GB20 (ii) have not been met. Furthermore, there have been 3 applications within a 5 mile radius for permanent or temporary agricultural worker dwellings in the past five years. Whilst this is not a significant demand, it shows there is still a demand for them, and a lack of dwellings with such a condition could necessitate further development in the Green Belt.

8.4 In summary, given the above it is clear the applicant has not "*convincingly demonstrated*" there is no current or long term requirement for agricultural workers dwellings in the area and the guidance in the policy relating to a marketing exercise has not been followed. The proposal is therefore considered harmful to the District's stock of agricultural worker dwellings and against Local Plan Policy.

8.5 No planning permission has been submitted for the development (whilst a Certificate of Lawfulness application reference CH/2017/1363/EU was refused, with no appeal forthcoming). The proposal, therefore, conflicts with Local Plan policy GB20 and planning harm has been identified through this conflict.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of

these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 **EQUALITY IMPACT ASSESSMENT**

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 **EXPEDIENCY**

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming

but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Twelve (12)** months:

Requirements:

i Cease the occupation of 56 Copperkins Lane in breach of the agricultural occupancy condition 2 of planning permission AM/46/50.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 10 years.

The Council has a clear policy for retention of a dwelling in the Green Belt without compliance with an agricultural occupancy condition, and the requirements of this policy have not been met. It has not been "convincingly demonstrated" that there is no current or long term requirement for agricultural worker's dwellings in the area. The proposal is therefore considered harmful to the District's stock of agricultural worker dwellings and against Local Plan Policy.

The breach of agricultural occupancy condition 2 of planning permission AM/46/50 is therefore contrary to Policy GB20 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

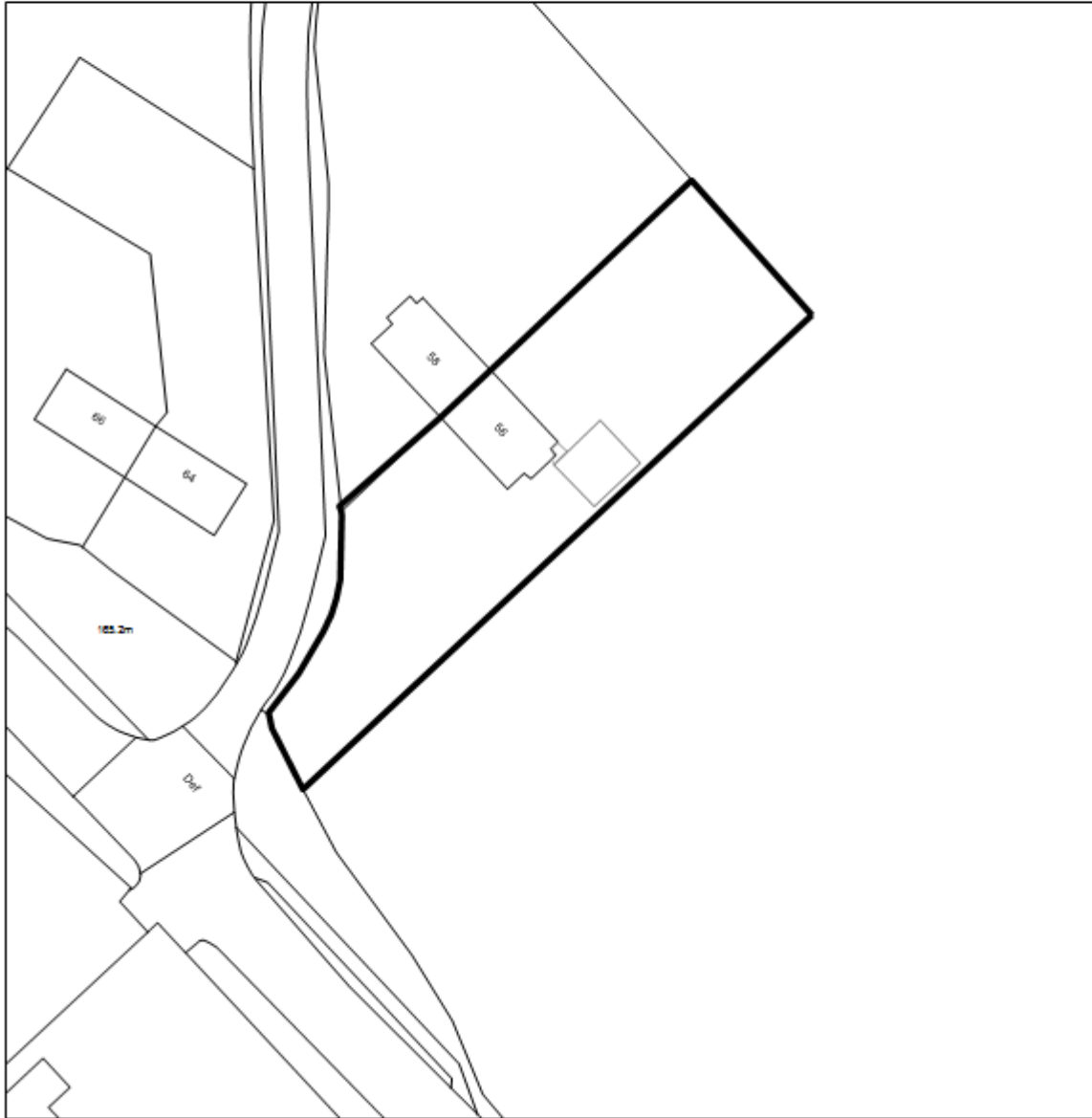
Mr Imran Arshad, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

The Owner, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

The Occupier, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

2017/00341/AB - Enforcement Notice 2

56 Copperkins Lane, Amersham,
Buckinghamshire, HP6 5RA



1:500

Signed:
Steve Bambrick – Director of Services

Dated:

Signed:
Joanna Swift – Head of Legal and Democratic Services

Dated:

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - 2017/00341/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Chesham Bois and Weedon Hill</i> |
| SITE ADDRESS: | <i>Land Adjacent to 56 Copperkins Lane Amersham Buckinghamshire HP6 5RA</i> |
| BREACH: | Without planning permission, the construction of hardstanding and extension of the residential use associated with No. 56 Copperkins Lane into open Green Belt. |

1.0 INTRODUCTION & SUMMARY

1.1 The site is a small residential field located on the east side of No. 56 Copperkins Lane, located within the Metropolitan Green Belt and Chiltern’s Area of Outstanding Natural Beauty.

1.2 An area of hardstanding (the subject of this report) has been constructed on the land adjacent to No. 56 Copperkins lane, and is currently being used as a turning space. The hardstanding is unauthorised, requires planning permission and also represents the unauthorised change of use of the Land adjoining No. 56 Copperkins Lane to residential use without planning permission.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal of the hardstanding and ceasing the residential use of Green Belt agricultural land, as it is contrary to policy.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 None.

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the hardstanding and change of use of the field to residential use is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers who have recorded their findings as part of

enforcement case 2017/00341/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Impact on the openness of the Green Belt
- Whether the development preserves and/or enhances the scenic quality of the Area of Outstanding Natural Beauty
- 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.

8.1 Impact on the openness of the Green Belt

The site is located within the Metropolitan Green Belt. Paragraph 89 and 90 of the National Planning Policy Framework identify development within the Green Belt which is and is not inappropriate. Changes of use are not covered by these exceptions.

8.2 The unauthorised change of use has resulted in the encroachment of an adjoining field being used for residential purposes; namely the use of the hardstanding as a turning circle. This directly conflicts with one of the purposes of the Green Belt which is to safeguard the countryside from encroachment, because of this the development results in a loss of rural character and appearance for the area. Consequently, it is inappropriate development which, by definition, is harmful to the Green Belt.

8.3 The unauthorised change of use of this Land is facilitated by the creation of an area of hardstanding approximately 8m by 5m, which has resulted in the urbanisation of this strip of agricultural land and blurs the boundary between Green Belt field and the residential use at 56 Copperkins Lane. Due to its scale and location on the Land, the unauthorised development can clearly be seen from multiple vantages. Notwithstanding this visual intrusion, it is considered this development materially and significantly reduces the openness of the Green Belt by the fact it is replacing open field.

8.4 Local Plan ("the Plan") policy sets out criteria for the extension of residential curtilages in the Green Belt in Local Plan Policy GB16. The requirements for the policy are clear. It states that "*planning permission will not be granted for the extension of an existing residential curtilage onto land in the Green Belt that is in non-residential use*". The reason for this is that it clearly conflicts with the purposes of Green Belt policy and does not protect the countryside from encroachment. It contributes to a loss of rural character and appearance, particularly in this part of Copperkins Lane. The hardstanding which is facilitating the unauthorised residential use would not benefit from "permitted development" rights, given it is outside the curtilage of the dwelling house and is not being used for agricultural purposes whatsoever.

8.5 Policy LSQ1 is the Chiltern District Local Plan's principal policy in the Area of Outstanding Natural Beauty (AONB) and states "*the primary objective [with the AONB] is to conserve and enhance the natural beauty of the landscape.*" Development inconsistent with this objective will be refused. The hardstanding is clearly visible in the locality and is not sympathetic to the natural environment, nor is it considered harmonious with the open fields behind. As such, objections are also raised to the development with regard to the impact on the AONB as well as the Green Belt.

8.6 In summary, the unauthorised development is inappropriate development, which would harm the openness of the Green Belt. There is also a lack of harmonisation with the scenic character and beauty of the Area of Outstanding Beauty. The Framework advises that substantial weight should be given to any harm to the Green Belt and great weight should be given to conserving landscape and scenic beauty in the AONB.

8.7 No planning permission has been submitted for the development and no very special circumstances necessary to justify the development exist. The proposal, therefore, conflicts with paragraphs 87 to 89 and paragraph 115 of the National Planning Policy Framework and Local Plan policies GB16 and LSQ1.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Two (2)** months:

Requirements:

- i Cease the use of the Land (as shown outlined in black on the plan) for residential purposes
- ii Remove the hardstanding as shown outlined in blue on the plan from the Land, including all associated materials therefrom and restore the Land to its former condition.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 10 years.

The unauthorised change of use has resulted in the encroachment of an adjoining field being used for residential purposes; namely the use of the new hardstanding as a turning circle. This directly conflicts with one of the purposes of the Green Belt which is to safeguard the countryside from encroachment, a loss of rural character and appearance. The unauthorised change of use of this Land is facilitated by operational development consisting of the creation of an area of hardstanding approximately 8m by 5m, which has resulted in the urbanisation of this strip of land and blurs the boundary between Green Belt field and the neighbouring residential use.

The unauthorised development is therefore contrary to Policies GB16 and LSQ1 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and guidance contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

Mr Imran Arshad, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

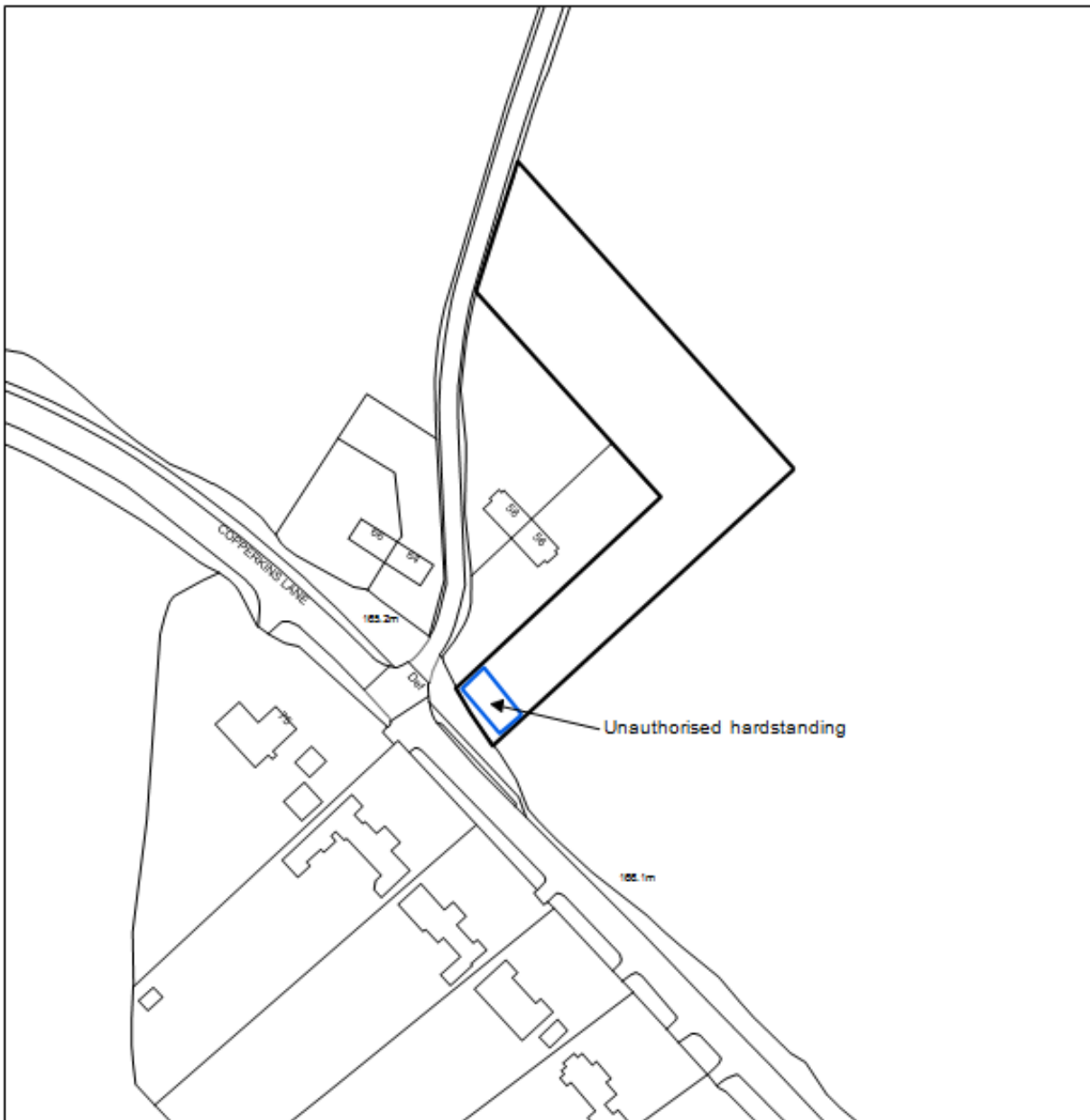
The Owner, Land Adjacent to 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

The Occupier, Land Adjacent to 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

The Owner, 56 Copperkins Lane, Amersham, Buckinghamshire, HP6 5RA

2017/00341/AB - Enforcement Notice

Land Adjacent to 56 Copperkins Lane, Amersham,
Buckinghamshire, HP6 5RA



1:500

Appendix A



Signed:
Steve Bambrick – Director of Services

Dated:

Signed:
Joanna Swift – Head of Legal and Democratic Services

Dated:

| | |
|-----------------------------|---|
| SUBJECT: | <i>Planning Enforcement Report - 2017/00058/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Prestwood and Heath End</i> |
| SITE ADDRESS: | <i>2 Wardes Close Prestwood Buckinghamshire HP16 0SA (“the Land”)</i> |
| BREACH: | Without planning permission, the erection of a Fence on the Land. |

1.0 INTRODUCTION & SUMMARY

1.1 The Land comprises a detached dwelling with associated access onto Wardes Close.

1.2 A fence has been erected where the boundary of the Land meets Wardes close and Wren Road, adjacent to the highway, in excess of 1m in height when measured from highest adjacent ground level.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2017/1600/FA - Erection of attached two storey dwelling, with 2 metre timber fencing to boundary. *Refused Permission.*

- (1) Harm to the character and appearance of the area.
- (2) Harm to the amenities of the area due to the dwelling being dominant and overbearing.
- (3) The provision of rear amenity space being inadequate.

5.2 CH/2014/0872/FA - Boundary fence to replace existing wall.

A fence has been erected but not in the correct location.

5.3 CH/1976/0780/DE - Proposed residential development comprising 329 dwelling units, estate roads, garages, car parking spaces and ancillary works. *Conditional Permission*.

Condition 3 grassed areas, brick walls and fences to be in accordance with Drg. No 360/85.

Condition 4 PD rights removed for the erection of extensions, fences and walls.

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the development is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00058/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the fence is "permitted development".
- Effect of the unauthorised development on the character and appearance of the area in conjunction with quality of design.

8.1 *Whether the fence is "permitted development".*

No planning permission has been sought from or granted by the Council for the wall, and the therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

8.2 Class A permits a gate, fence, wall or other means of enclosure adjacent to a highway used by vehicular traffic. However, other than in the case of schools the permission is limited by virtue of A.1 (a)(ii) to fencing that does not exceed 1 metre in height above ground level.

The key issue therefore is whether the fencing is "adjacent" or not to the highway. 9. The meaning of the word "adjacent" is not defined in the GPDO or in the Act, and therefore the Council relies on its literal meaning. "Adjacent" is defined in the dictionary as meaning being near or close to, next to, or contiguous. "Contiguous" is so defined as sharing a boundary or touching each other physically, or continuous. However, the case law has established that the meaning of "adjacent" in the context of the GPDO does not mean "contiguous" or "abutting". It is clear from this that a wall does not have to adjoin a highway to be "adjacent" to it; it is a matter of judgement, and of fact and degree in each case, as to whether a fence is perceived to define the boundary of a property from the highway edge, and hence whether it is "adjacent" to the highway.

8.3 When viewed in the context of the street scene the wall appears as forming the boundary of the Land with the highway. Given its height and stark, opaque appearance when contrasted against the more open areas of surrounding countryside, the viewer's eye is immediately drawn to it, and so even to a casual observer it would be perceived as being a boundary separating the Land from the highway. As a matter of fact and degree, the fencing is "adjacent" to the highway and, as such, it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control.

8.4 *Effect of the unauthorised development on the character and appearance of the area.*

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The wall, due to its height, length, colour and position adjacent to the footway, is a visually prominent addition where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form. As such, it presents a visually jarring addition to the street scene, in context. Moreover, the position of the wall prevents the strip of land now enclosed from performing an amenity role within the development which is harmful to the character and appearance of the area.

8.5 Amenity land features are an attractive and fundamental addition to the streetscape and influence the make-up of its character which is why permission for the enclosure of such land into gardens or indeed other uses is not usually given. Those approved schemes that do erode amenity land are unusually conditioned to include substantial soft landscaping to mitigate the loss by softening the edges of built development. However, here, by virtue of the built mass that runs along the edge of the Land adjacent to Wardes Close and Wren Road, built at the point where the pavement ends, offers no opportunity for any soft landscaping to reduce the harsh visual impact caused by the unauthorised development. Due to its height, mass and scale in conjunction with its situational relationship in context, the wall predominates to the detriment of the area in which it is located. Whilst one would reasonably expect to see a wall in such a location, the fact that there is no (soft) material-interruption between the highway and the wall, as it has been built hard to existing highway that surrounds the Land, the unauthorised development offers a visually intrusive and therefore unwelcome departure from the established rhythm and form of wider contextual development, thus detracting from its overall appearance and legibility, increasing the impact of the built form and creating a perceived addition in density of the area.

8.6 It is clear that the Land has changed in character from public amenity land to residential due to the presence of residential paraphernalia present on the Land.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 **EXPEDIENCY**

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is perhaps likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 **CONCLUSIONS**

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Three (3)** months:

Requirements:

i Remove the close boarded fence (as shown in the Photographs at Appendix 'A') of this notice from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The erection of the fence on the Land has resulted in the loss of an area of soft-landscaping and, by virtue of its design and location on the Land; it presents an overly dominant and visually oppressive addition to the street scene. The loss of the amenity land in conjunction with the poor quality of the design of the fence detracts from the character and visual interest of wider public realm.

Classification: OFFICIAL

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1 of the Chiltern Local Plan 1999 and polices contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

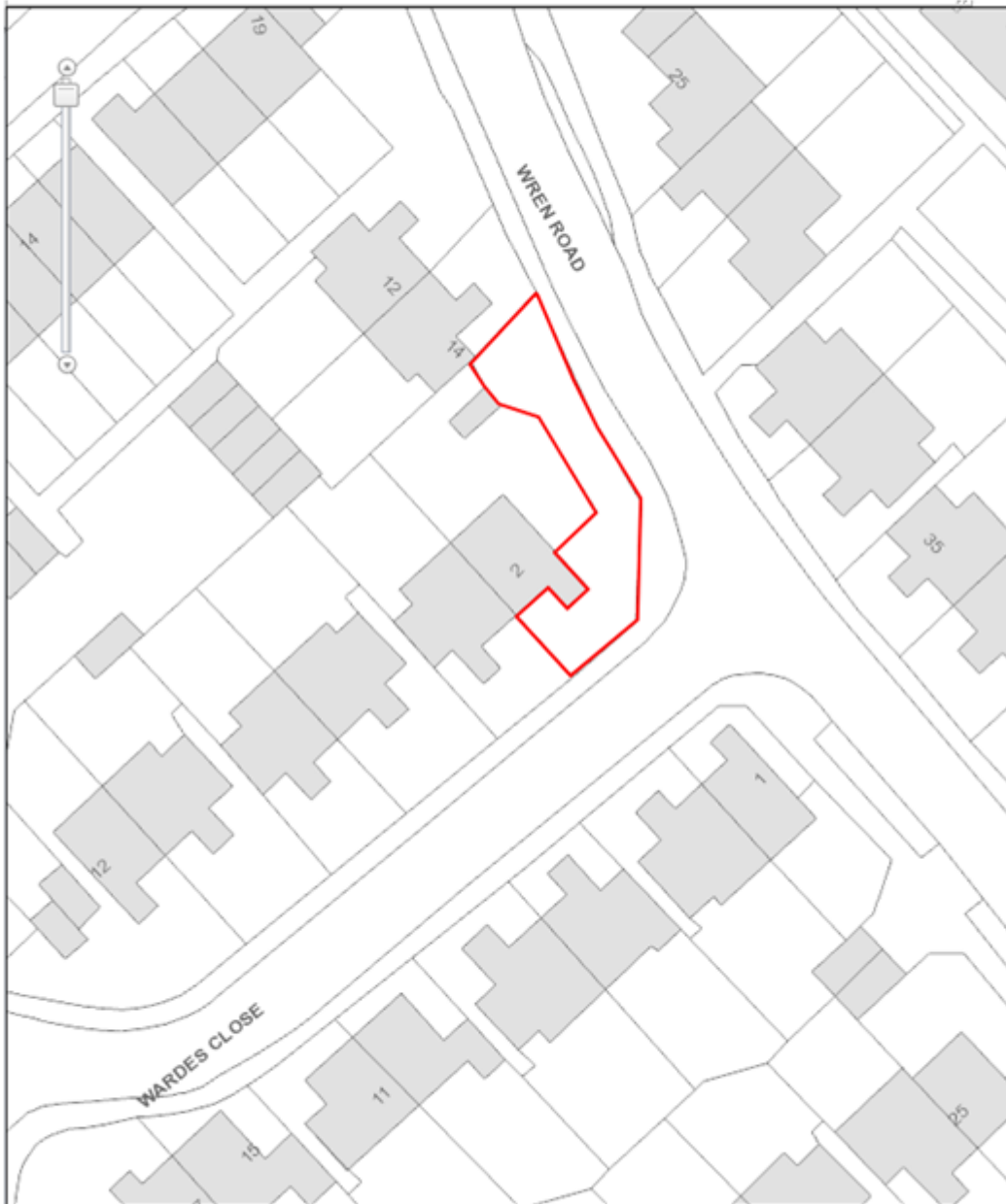
Copies of the notice should be served on:

The Owner(s)/Occupier(s) - 2 Wardes Close, Prestwood, Buckinghamshire, HP16 0SA

Classification: OFFICIAL

Location Plan

2 Wardes Close, Prestwood, Buckinghamshire, HP16 0SA



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Appendix A





Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - 2017/00127/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Holmer Green</i> |
| SITE ADDRESS: | <i>Bat and Ball Public House Penfold Lane Holmer Green Buckinghamshire HP15 6XW (“the Land”)</i> |
| BREACH: | Without planning permission, the erection of a fence. |

1.0 INTRODUCTION & SUMMARY

- 1.1 The Land comprises a Public House fronting onto both Penfold Land & Sheepcote Dell Road.
- 1.3 Erection of close-boarded fencing in excess of 1m adjacent to highway

2.0 MAIN ISSUES

- 2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

- 3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

- 5.1 Nothing relevant.

6.0 BACKGROUND INFORMATION

- 6.1 Planning permission for the development is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been

witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00127/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the fencing is "permitted development".
- Effect of the unauthorised development on the character and appearance of the area in conjunction with quality of design.

8.1 Whether the fencing is "permitted development".

No planning permission has been sought from or granted by the Council for the fencing, and the therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

8.2 Class A permits a gate, fence, wall or other means of enclosure adjacent to a highway used by vehicular traffic. However, other than in the case of schools the permission is limited by virtue of A.1 (a)(ii) to fencing that does not exceed 1 metre in height above ground level.

The key issue therefore is whether the fencing is "adjacent" or not to the highway. 9. The meaning of the word "adjacent" is not defined in the GPDO or in the Act, and therefore the Council relies on its literal meaning. "Adjacent" is defined in the dictionary as meaning being near or close to, next to, or contiguous. "Contiguous" is so defined as sharing a boundary or touching each other physically, or continuous. However, the case law has established that the meaning of "adjacent" in the context of the GPDO does not mean "contiguous" or "abutting". It is clear from this that a fence does not have to adjoin a highway to be "adjacent" to it; it is a matter of judgement, and of fact and degree in each case, as to whether a fence is perceived to define the boundary of a property from the highway edge, and hence whether it is "adjacent" to the highway.

8.3 When viewed in the context of the street scene the fencing appears as forming the boundary of the Land with the highway. Given its height and stark appearance when contrasted against the more open areas of surrounding countryside, the viewer's eye is immediately drawn to it, and so even to a casual observer it would be perceived as being a boundary fence separating the Land from the highway. As a matter of fact and degree, the fencing is "adjacent" to the highway and, as such, it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control.

8.4 Effect of the unauthorised development on the character and appearance of the area.

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The fence, due to its height, length and position adjacent to the footway, is visually prominent on approach along The Common and Sheepcote Lane from both directions where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form. As such it presents a visually jarring addition to the street scene, in context. Moreover, the position of the fence prevents the strip of land now enclosed from performing an amenity role within the development which is harmful to the character and appearance of the area.

8.5 Amenity land features are an attractive and fundamental addition to the streetscape and influence the make-up of its character which is why permission for the enclosure of such land into gardens or indeed other

uses is not usually given. Those approved schemes that do erode amenity land are unusually conditioned to include substantial soft landscaping to mitigate the loss by softening the edges of built development. However, here, by virtue of the mass of fencing that runs the edge of the of the Land adjacent to Sheepcote Lane, built at the point where the pavement ends, offers no opportunity for any soft landscaping to reduce the harsh visual impact caused by the unauthorised development. Due to its height, mass and scale in conjunction with its situational relationship in context, the fence predominates to the detriment of the area in which it is located. Moreover, its presence draws the eye away from the attractive architectural features of the parent property on the Land. Whilst such fencing can reasonably expect to be seen in such a location, the fact that there is no (soft) material-interruption between the highway and the fence, as it has been built hard to existing highway that surrounds the Land, the unauthorised development offers a visually intrusive and therefore unwelcome departure from the established rhythm and form of the contextual development, thus detracting from its overall appearance and legibility, increasing the impact of the built form and creating a perceived addition in density of the area.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is perhaps likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 **CONCLUSIONS**

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Two (2)** months:

Requirements:

i Remove the fencing as shown in the approximate position 'A' to 'B' to 'C' on the Plan (and shown in the Photograph at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The erecting of the fencing on the Land has resulted in the loss of an area of soft-landscaping and, by virtue of its design and location on the Land; it presents an overly dominant and visually oppressive addition to the street scene. The loss of the amenity land in conjunction with the addition of the fencing detracts from the character and visual interest of wider public realm.

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1 of the Chiltern Local Plan 1999 and policies contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner(s)/Occupier(s) - Bat and Ball Public House, Penfold Lane, Holmer Green, Buckinghamshire, HP15 6XW.

Classification: OFFICIAL

The Company Secretary - Bat and Ball Public House, Penfold Lane, Holmer Green, Buckinghamshire, HP15 6XW.

The Company Secretary - WESTSIDE ESTATES LIMITED (Co. Regn. No. 4982596) of Sixth Floor, Holborn Hall, 100 Grays Inn Road, London WC1V 8BZ.

MICHAEL CRAIG JACKSON - Bat & Ball, Penfold Lane, Holmer Green, High Wycombe, Buckinghamshire HP15 6XW.

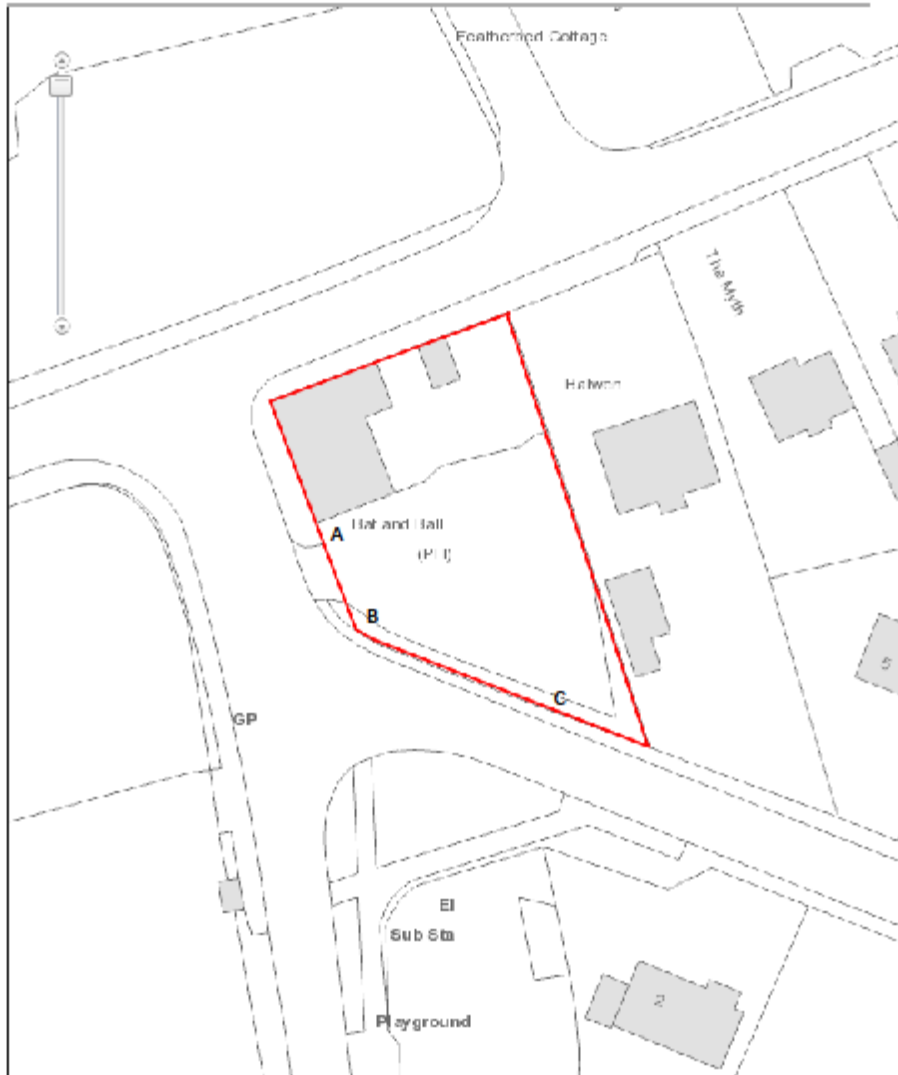
YVONNE PATRICIA JACKSON - Bat & Ball, Penfold Lane, Holmer Green, High Wycombe, Buckinghamshire HP15 6XW.

Classification: OFFICIAL

Classification: OFFICIAL-SENSITIVE

Location Plan

Bat and Ball Public House, Penfold Lane, Holmer Green, Buckinghamshire, HP15 6XW



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Classification: OFFICIAL-SENSITIVE



Classification: OFFICIAL

Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

Classification: OFFICIAL

| | |
|-----------------------------|---|
| SUBJECT: | <i>Planning Enforcement Report - 2017/00232/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Suleman Uddin</i> |
| WARD: | <i>Austenwood</i> |
| SITE ADDRESS: | <i>Austenwood Cottage 39 Austenway Chalfont St Peter Buckinghamshire SL9 8NN (“the Land”)</i> |
| BREACH: | Without planning permission, the erection of a wall on the Land. |

1.0 INTRODUCTION & SUMMARY

1.1 The Land comprises a detached dwelling with associated access onto Austenway.

1.2 A wall has been erected where the boundary of the Land meets Austenwood Lane, adjacent to the highway, in excess of 1m in height when measured from highest adjacent ground level.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 Nothing relevant.

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the development is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been

witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00232/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the wall is "permitted development".
- Effect of the unauthorised development on the character and appearance of the area in conjunction with quality of design.

8.1 Whether the wall is "permitted development".

No planning permission has been sought from or granted by the Council for the wall, and the therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

8.2 Class A permits a gate, fence, wall or other means of enclosure adjacent to a highway used by vehicular traffic. However, other than in the case of schools the permission is limited by virtue of A.1 (a)(ii) to fencing that does not exceed 1 metre in height above ground level.

The key issue therefore is whether the fencing is "adjacent" or not to the highway. 9. The meaning of the word "adjacent" is not defined in the GPDO or in the Act, and therefore the Council relies on its literal meaning. "Adjacent" is defined in the dictionary as meaning being near or close to, next to, or contiguous. "Contiguous" is so defined as sharing a boundary or touching each other physically, or continuous. However, the case law has established that the meaning of "adjacent" in the context of the GPDO does not mean "contiguous" or "abutting". It is clear from this that a wall does not have to adjoin a highway to be "adjacent" to it; it is a matter of judgement, and of fact and degree in each case, as to whether a fence is perceived to define the boundary of a property from the highway edge, and hence whether it is "adjacent" to the highway.

8.3 When viewed in the context of the street scene the wall appears as forming the boundary of the Land with the highway. Given its height and stark, opaque appearance when contrasted against the more open areas of surrounding countryside, the viewer's eye is immediately drawn to it, and so even to a casual observer it would be perceived as being a boundary separating the Land from the highway. As a matter of fact and degree, the fencing is "adjacent" to the highway and, as such, it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control.

8.4 The Council realise that the wall replaces a wall that occupied a similar location on the Land previously. However, it appears that in terms of its height massing and scale and the materials used in its construction the new wall is not a 'replacement' for the purposes of the GPDO but is considered new development.

8.4 Effect of the unauthorised development on the character and appearance of the area.

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The wall, due to its height, length, colour and position adjacent to the footway, is a visually prominent addition where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form. As such, it presents a visually jarring addition to the street scene, in context. Moreover, the position of the wall prevents the strip of land now enclosed from

performing an amenity role within the development which is harmful to the character and appearance of the area.

8.5 Amenity land features are an attractive and fundamental addition to the streetscape and influence the make-up of its character which is why permission for the enclosure of such land into gardens or indeed other uses is not usually given. Those approved schemes that do erode amenity land are unusually conditioned to include substantial soft landscaping to mitigate the loss by softening the edges of built development. However, here, by virtue of the built mass that runs along the edge of the of the Land adjacent to Austenwood Lane , built at the point where the pavement ends, offers no opportunity for any soft landscaping to reduce the harsh visual impact caused by the unauthorised development. Due to its height, mass and scale in conjunction with its situational relationship in context, the wall predominates to the detriment of the area in which it is located. Moreover, its presence draws the eye away from the more attractive architectural features of the parent property on the Land. Whilst an effort has been made to integrate the wall and reinforce its relationship to the parent property by painting it the same colour, this does nothing to reduce its visual impact. Whilst one would reasonably expect to see a wall in such a location, the fact that there is no (soft) material-interruption between the highway and the wall, as it has been built hard to existing highway that surrounds the Land, the unauthorised development offers a visually intrusive and therefore unwelcome departure from the established rhythm and form of wider contextual development, thus detracting from its overall appearance and legibility, increasing the impact of the built form and creating a perceived addition in density of the area.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is perhaps likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Three (3)** months:

Requirements:

i Remove the wall as shown in the approximate position 'A' to 'B' on the Plan (and shown in the Photograph at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The erection of the wall on the Land has resulted in the loss of an area of soft-landscaping and, by virtue of its design and location on the Land; it presents an overly dominant and visually oppressive addition to the street scene. The loss of the amenity land in conjunction with the poor quality of the design of the wall detracts from the character and visual interest of wider public realm.

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1 of the Chiltern Local Plan 1999 and polices contained in the National Planning Policy Framework.

Classification: OFFICIAL

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner(s)/Occupier(s) - Austenwood Cottage, 39 Austenway, Chalfont St Peter, Buckinghamshire, SL9 8NN

Classification: OFFICIAL

2017/00232/AB

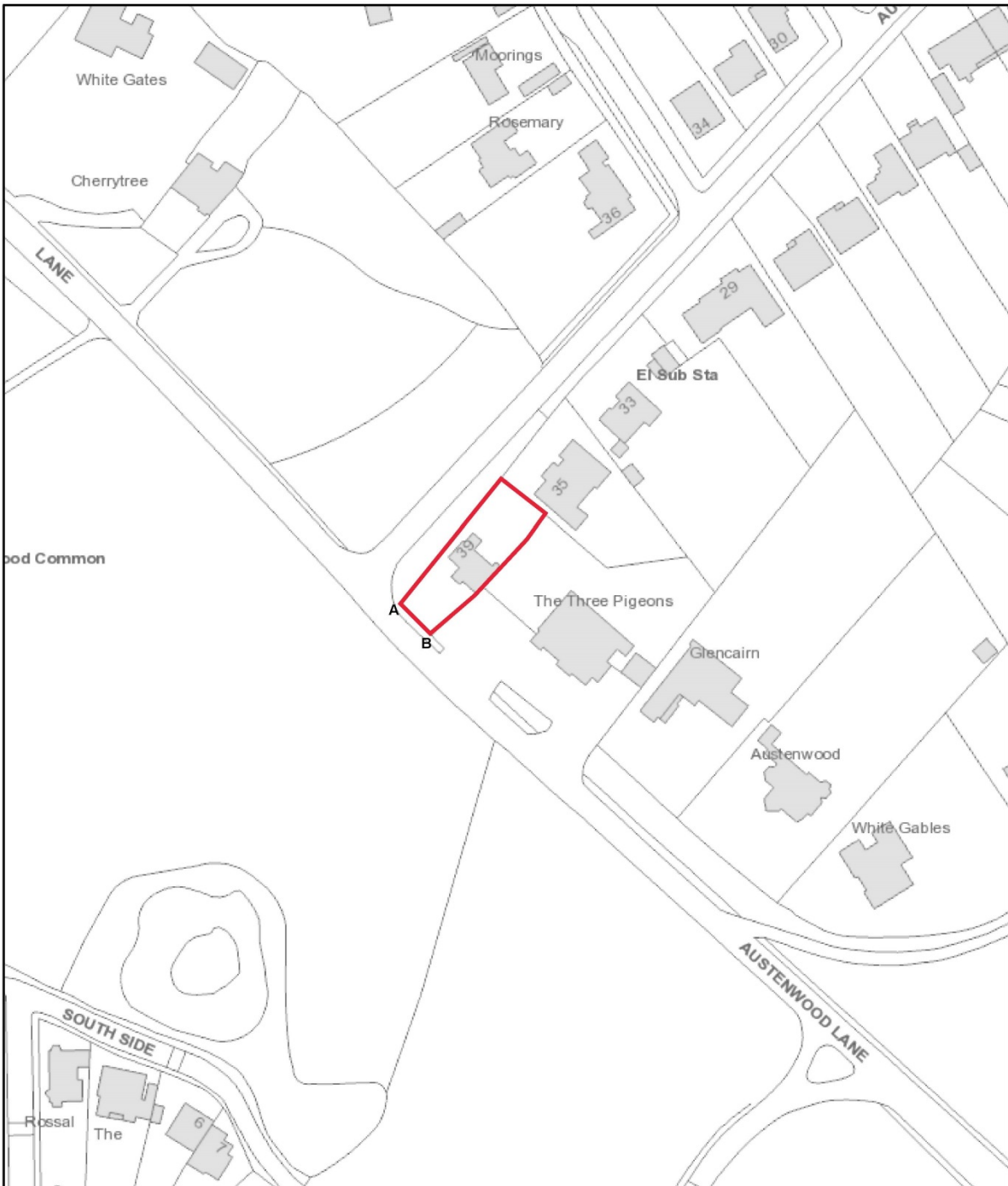
Austenwood Cottage
39 Austenway
Chalfont St Peter
Buckinghamshire
SL9 8NN



Enforcement Notice Plan

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0 5 10 20 30 40
Meters



Appendix A



Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - 2017/0242/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Kirstie Elliot</i> |
| WARD: | <i>Chesham Bois & Weedon Hill</i> |
| SITE ADDRESS: | <i>Green Park Copperkins Lane Amersham Buckinghamshire HP6 5SS (“the Land”)</i> |
| BREACH: | Without planning permission, the material change of use of the Land from a mixed use of agriculture and residential use accommodating no more than eight (8) Gypsy & Traveller pitches to use as a Gypsy & Traveller site comprising the laying of hardstanding and the stationing of additional mobile homes resulting in material increase in number of pitches on the Land |

1.0 INTRODUCTION & SUMMARY

1.1 The majority of the Land enjoys an approved use for eight gypsy and traveller pitches with associated amenity blocks, hardstanding and access to Copperkins Lane. However the recognised boundaries of the Land have been extended into the countryside surrounding the site with the addition of more hardstanding and extra static and mobile caravans. The number of static caravans has been increased to 24 in all (at the point of the most recent visit) and are interspersed between the recognised site and the encroachment.

1.2 The Land is located within the Metropolitan Green Belt and within Chiltern AONB.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance..

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Local Government Planning Policy for Traveller Sites 2015 (PPTS)

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 CH/2015/1702/EU – Application for Certificate of Lawfulness for an existing use of the site for eight Gypsy & Traveller pitches with associated amenity blocks, hardstanding and access from Copperkins Lane for more than 10 years – Approved on 6th Nov 2015

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the activity described above is required, yet no application to regularise the activity has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00242/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

8.1 The Main Issues

Change of use through intensification and alteration of land character .

Whether the development is inappropriate development

The effect of the development on the openness of the Green Belt

The effect of the development on visual amenities, the landscape character of the area and whether the development is sustainable

The existing level of local provision and need for traveller sites

The degree of compliance with locally specific policy criteria for assessment of traveller sites

Totality of the harm to the Green Belt and any other harm, are clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the developments

8.2 Development has taken place that is defined as is inappropriate development in the Green Belt within the terms of the National Planning Policy Framework (the Framework). By definition inappropriate development is harmful to the Green Belt.

8.3 The certificate of lawfulness (2015/1702/EU) clearly grants approval on the Land for "gypsy caravan site for the stationing of caravans/mobile homes for residential purposes on 8 pitches", it is the Council's position that it is lawful for the site to be used for the stationing of 16 caravans (a pitch being recognised as a static and a mobile-caravan) for residential use. Such controls are reflected in the caravan site licence which has been issued for 16 caravans on the Land.

8.4 The definition of a "caravan site", for purposes of planning control, can be found in s29(1) of the Caravan Sites and Control of Development Act 1960 which in turn refers to s1(4) of the same Act. A caravan site is defined as "land on which a caravan is stationed for purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed." It may be noted that the definition can apply to land used for the stationing of no more than one caravan. By virtue of s336 of the 1990 Act, this definition is transposed into the 1990 Act. The land surrounding the original site, as defined by the map attached to the certificate of lawfulness has been encroached and expanded on by the laying of hard standing

and the inclusion of mobile and static caravans. Thus, using the aforesaid definition, what has been established on the wider Land (now included and indicated on the notice plan), is a caravan site. This not appropriate use of Land the reasons for which will be discussed later in this report.

8.5 The Council contends that the increase in the number of caravans on the Land in conjunction with further unauthorised development in respect of additional hardstanding, amounts to a material change of use by way of intensification coupled with an alteration in land character, as part of the Land was outside of the boundary as shown delineated on the certificate of lawfulness plan. Therefore, this in turn and in the round amounts to development requiring planning permission. The Council point to the case of *John Childs v FSS and Test Valley DC [2005] EWHC 2369 (Admin)* as the authority for the view that an increase in the number of caravans on land beyond that certified by a certificate of lawfulness is capable of constituting a material change of use. In the case of Childs, the certified use was for the siting of 4 caravans but the Inspector faced appeals in respect of a refusal to grant a certificate in respect of increases to 8, 15, 30 and 50 caravans. The Inspector concluded that a material change of use occurred with an increase to as few as 8 caravans. An increase, of itself, does not automatically give rise to such a change of use; the increase has to be such that there is a change in the character of the use of the land.

8.6 The test attribute to the change in character is addressed later in the report and does not rely on intensification alone to include in the affirmative that there has been a definite change in land character.

8.7 The Land occupies a relatively modest plot within the Metropolitan Green Belt outside the settlement boundary of Amersham. It is bounded to the south by Copperkins Lane and surrounded by agricultural land from all other aspects

8.8 The site has been further developed to include a large area of gravel hardstanding and additional static and touring caravans. The further development of the site has eroded the open countryside and reduced the open green gap and thus the openness of the Green Belt. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. Bullet point 2 of paragraph 90 of the Framework provides that engineering operations (of which the laying of hardstanding would generally fall to be considered) is not inappropriate development provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Given the amount of development that has taken place on the previously open and undeveloped aspects of the plot of land, the development has a significant adverse impact on the openness of the Green Belt and the encroachment into the countryside of urbanising features.

8.9 Whilst hidden from wider view, in general terms, the site presents itself as a dense and forbidding enclosure that is out of keeping with the predominantly rural and undeveloped area in which it is located. There are substantial buildings on the nearby residential fringe on the border with a notable strategic-gap that arguably do not necessarily contribute in a particularly positive way to the rural setting but these developments have the benefit of planning approval. The additional static caravans, whilst not necessarily exposed to wider views, are a predominate feature and therefore their prominence in the landscape is enhanced by their number. The site is not within any settlement boundary and because the development of the site encroaches into the countryside it does not comply with one of the purposes of including land within the Green Belt, which is to assist in safeguarding the countryside from encroachment. The fact that the site may not be exposed to wider view does not mean that there has not been encroachment into the Green Belt and therefore associated planning harm.

8.10 The landscape character of this area of the Chilterns ANOB is generally of sweeping views of open countryside, with the boundary treatment along the roadside in the area comprise native planting with permeable views into the adjoining paddocks. Despite the existing roadside screening of the site, the

proliferation of caravans leads to a cluttered appearance which is at odds with the landscape character of the area and its overall visual interest, and neither conserves or enhances the special landscape quality and scenic beauty of the AONB of which the Land forms a part.

8.11 The Framework advises that there are three elements of sustainable development which are economic, social and environmental. In addition, the PPTS sets out criteria to ensure that traveller sites are sustainable in all three respects. As mentioned, the appeal site is outside the settlement boundary but it is in relative proximity to services and facilities in Amersham. In this respect the development is perhaps socially, economically and environmentally sustainable, but the environmental role also includes the contribution of the planning system to protecting and enhancing the natural and built environment. For the reasons above, the development of the site does not contribute to the protection or enhancement of the natural and built environment and it does not comply with the environmental element of sustainability.

8.12 The Council recognises that that planning permission may be granted for additional gypsy and traveller pitches where a number of specific criteria can be demonstrated. However, no such criteria have been demonstrated and the Council has been informed that certain of the pitches on the site have been 'let' to non gypsy/travellers. This issue is still being explored at the time of writing this report and may be re-examined in the event of an appeal and/or a subsequent demonstration of 'very special circumstances'. The site is not located within an existing settlement and has an impact on the identity of the settlement of Amersham in that it does not reflect the character or appearance of the permanent residential and other building types within the settlement and displays unacceptable impacts on the character and appearance of the surrounding landscape because of an over proliferation of caravans.

8.13 The development that has taken place is inappropriate development in the Green Belt and, as such, is by definition harmful and should not be approved except in very special circumstances. The identified harm arising from the loss of openness and the adverse impact on landscape character and visual amenity. The development is not sustainable and does not comply with local or national planning policy. The totality of the harm occasioned by the development is therefore substantial. Planning policy advises, particularly in the case of Green Belt, that intentional unauthorised development is a material consideration that should be weighed in the determination of planning applications and appeals. It therefore cannot be ignored that the development of the Land has been undertaken in advance of obtaining planning permission and there was no opportunity to appropriately limit or mitigate the harm that has already taken place, which adds weight to the substantial harm. However, weighing against that substantial harm is the unmet need for gypsy and traveller sites locally, the lack of alternative or available accommodation and the personal circumstances of those occupying the Land. Notwithstanding, Policy E of the PPTS states that 'personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'. In the absence of information to the contrary, the totality of the harm to the Green Belt and any other harm, is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

8.14 There is little doubt the occupants' Article 8 Convention 12 rights to respect for private and family life and the home would be engaged as enforcement action may result in the loss of the family's home because of the terms of the enforcement notice. Article 8 is a qualified right that requires a balance between the rights of the individual and the needs of the wider community or state interest. However, no specific interest in this regard has been demonstrated and said interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations already identified

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the

First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the open character of the Green Belt character. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming

but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within Six (6) months:

Requirements:

- 1 Cease the use of the Land (as shown shaded in the location between the red and blue lines on the Plan) for the stationing of caravans and mobile homes for residential purposes.
- 2 Remove all static caravans from the Land, including all associated fixtures, fittings and waste materials therefrom, so that no more than eight (8) pitches remain (one pitch being one static and one mobile caravan) on the Land
- 3 Take up and remove the Hardstanding from the Land (the position of which is shown shaded in the location between the red and blue lines on the Plan);
- 4 Rip the soil from the part of the Land where the hardstanding has been removed to alleviate pressure;
- 5 Where the Hardstanding formerly stood restore the Land to its level prior to the laying of the Hardstanding (commensurate with adjacent ground level);
- 6 Remove from the Land all debris and materials arising as a result of compliance with steps 3-5.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The change of use of land surrounding the existing lawful site, the laying of hardstanding on this land and the stationing of additional static caravans onto the Land is inappropriate development which erodes the openness of the Green Belt and conflicts with the purposes of including the Land within it. The proliferation of caravans on the Land does not conserve or enhance the special landscape character and scenic beauty of the AONB. Furthermore, the development does not protect or enhance the natural, built and historic environment and is therefore not sustainable. No 'very special circumstances' have been demonstrated that would outweigh this harm.

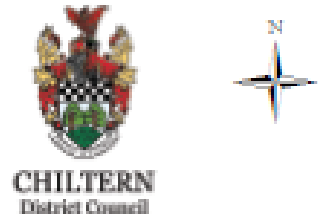
The unauthorised development is therefore contrary to Policies CS4, CS14 and CS22 of the Core Strategy for Chiltern District (Adopted November 2011), Saved Policies GC1, GB2 and LSQ1 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 20 May 2011) Consolidated September 2007 and November 2011 and policies contained in the National Planning Policy Framework and the Local Government Planning policy for traveller sites.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

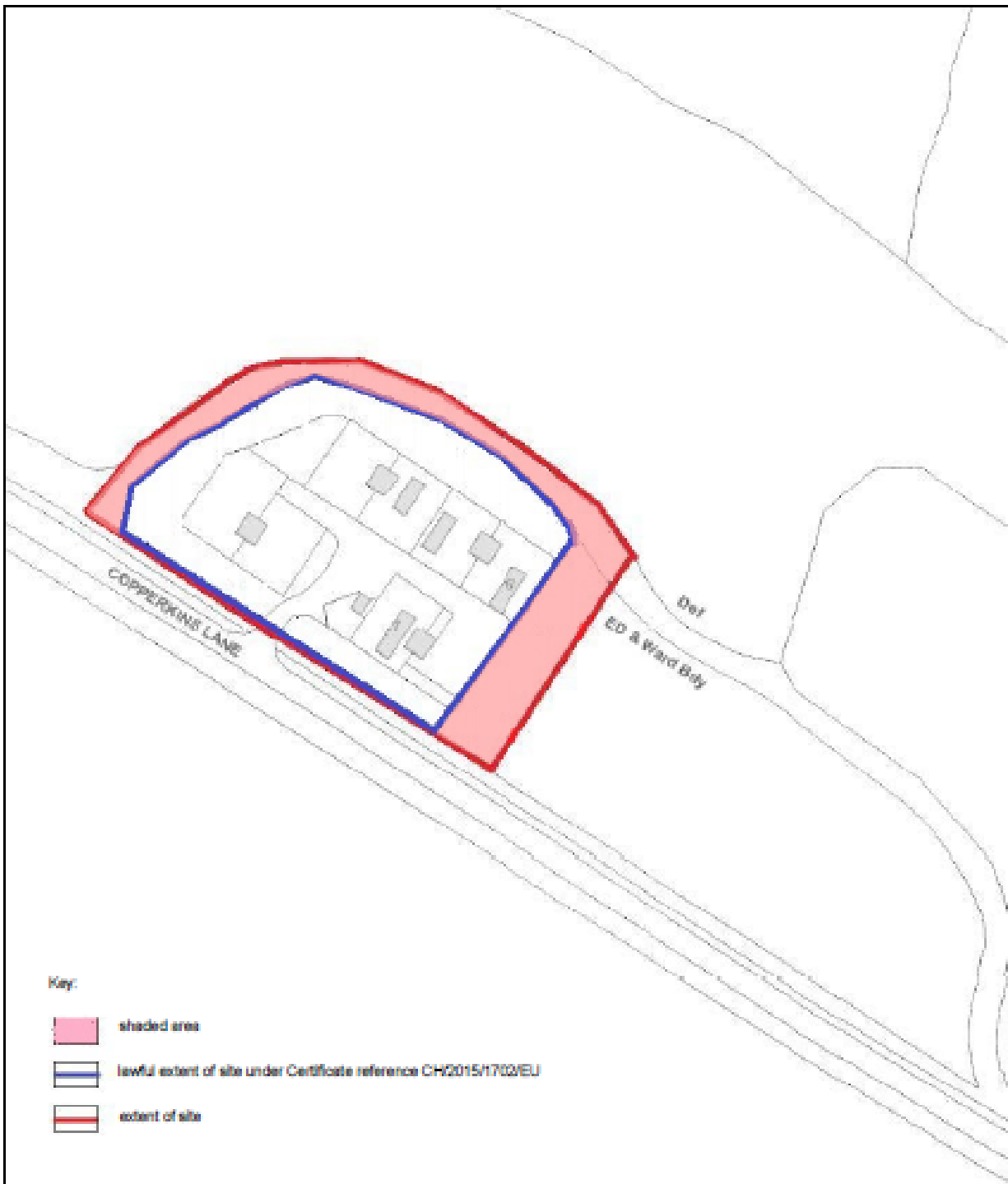
Copies of the notice should be served on:

The Owner(s)/Occupier(s) - Green Park, Copperkins Lane, Amersham, Buckinghamshire
HP6 5SS ("the Land")

2017/00242/AB
Green Park
Copperkins Lane
Amersham
Buckinghamshire
HP8 5SS



Location Plan
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Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

| | |
|-----------------------------|---|
| SUBJECT: | <i>Planning Enforcement Report - 2017/00314/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Suleman Uddin</i> |
| WARD: | <i>Prestwood and Heath End</i> |
| SITE ADDRESS: | <i>Sellengers Round 68 High Street Prestwood Buckinghamshire HP16 9EN</i> |
| BREACH: | Without planning permission, the erection of a fence on the Land. |

1.0 INTRODUCTION & SUMMARY

1.1 The Land comprises a detached dwelling with associated access onto Sellengers Round.

1.2 A fence has been erected where the boundary of the Land adjacent to the highway, in excess of 1m in height when measured from highest adjacent ground level.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 Nothing relevant.

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the development is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been

witnessed by Council officers who have recorded their findings as part of enforcement case 2017/00314/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the fence is “permitted development”.
- Effect of the unauthorised development on the character and appearance of the area in conjunction with quality of design.

8.1 Whether the fence is “permitted development”.

No planning permission has been sought from or granted by the Council for the fence, and the therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

8.2 Class A permits a gate, fence, wall or other means of enclosure adjacent to a highway used by vehicular traffic. However, other than in the case of schools the permission is limited by virtue of A.1 (a)(ii) to fencing that does not exceed 1 metre in height above ground level.

The key issue therefore is whether the fencing is “adjacent” or not to the highway. 9. The meaning of the word “adjacent” is not defined in the GPDO or in the Act, and therefore the Council relies on its literal meaning. “Adjacent” is defined in the dictionary as meaning being near or close to, next to, or contiguous. “Contiguous” is so defined as sharing a boundary or touching each other physically, or continuous. However, the case law has established that the meaning of “adjacent” in the context of the GPDO does not mean “contiguous” or “abutting”. It is clear from this that a fence does not have to adjoin a highway to be “adjacent” to it; it is a matter of judgement, and of fact and degree in each case, as to whether a fence is perceived to define the boundary of a property from the highway edge, and hence whether it is “adjacent” to the highway.

8.3 When viewed in the context of the street scene the fence appears as forming the boundary of the Land with the highway. Given its height and stark, opaque appearance when contrasted against the more open areas of surrounding countryside, the viewer’s eye is immediately drawn to it, and so even to a casual observer it would be perceived as being a boundary separating the Land from the highway. As a matter of fact and degree, the fencing is “adjacent” to the highway and, as such, it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control.

8.4 The Council realise that the fence replaces a low wall that occupied a similar location on the Land previously. However, it appears that in terms of its height massing and scale and the materials used in its construction the new fence is not a ‘replacement’ for the purposes of the GPDO but is considered new development.

8.5 Effect of the unauthorised development on the character and appearance of the area.

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The fence, due to its height, length, colour and position adjacent to the footway, is a visually prominent addition where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form and landscaping. As such, it presents a visually jarring addition to the street scene, in context.

8.6 Due to its height, mass and scale in conjunction with its situational relationship in context, the fence predominates to the detriment of the area in which it is located. Moreover, its presence draws the eye away from the more attractive features of the wider area. No effort has been made to integrate the fence within its surroundings and therefore reinforce its relationship to the parent property which does nothing to reduce its visual impact. Whilst one would reasonably expect to see a fence in such a location, the fact that there is no (soft) material-interruption between the highway and the fence, as it has been built hard to existing highway that surrounds the Land, means that the unauthorised development offers a visually intrusive and therefore unwelcome departure from the established rhythm and form of wider contextual development, thus detracting from its overall appearance and legibility, increasing the impact of the built form and creating a perceived addition in density of the area.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is perhaps likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 **CONCLUSIONS**

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Two (2)** months:

Requirements:

i Remove the fence as shown in the approximate position 'A' to 'B' on the Plan (and shown in the Photograph at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

By virtue of its design and location on the Land, the fence is visually jarring addition to the street scene and the poor quality of its design from the character and visual interest of wider public realm.

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1 of the Chiltern Local Plan 1999 and polices contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner(s)/Occupier(s) - Sellengers Round, 68 High Street, Prestwood, Buckinghamshire, HP16 9EN

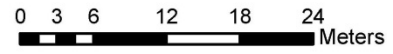
2017/00314/AB

Sellengers Round
68 High Street
Prestwood
Buckinghamshire
HP16 9EN



Enforcement Notice Plan

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Appendix A



Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report – 2018/00001/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Kirstie Elliot</i> |
| WARD: | <i>Little Missenden</i> |
| SITE ADDRESS: | <i>Land Between Mantles Green Cottage and Mantles Farm Fields Hyde Heath Road Hyde Heath Buckinghamshire (“the Land”)</i> |
| BREACH: | <i>Without planning permission, the material change of use of the land to residential by the stationing of a caravan in residential occupation.</i> |

1.0 INTRODUCTION & SUMMARY

1.1 The Land is a square-shaped plot located on the south side of Hyde Heath Road, approximately 200m to the east of the junction with Bullbaiters Lane. The Land is located within the open Green Belt and the Chilterns AONB. There is a public footpath to the west of the Land.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Sustainable Construction & Renewable Energy SPD (2015)

The Chalfont St Peter Neighbourhood Plan: Examination Draft 2013- 2028 – Policy VC4

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 There is no planning history for the Land.

6.0 BACKGROUND INFORMATION

6.1 Concerns were raised with the Council by a member of the public that a caravan and car were present on the land and that the caravan was being lived in. An enforcement officer has subsequently visited on a number of occasions and whilst the gate to the site has been locked, it was observed from the public footpath and highway that present on the Land is a touring caravan, a tent. An electricity generator has also been heard and a car parked on the land. There is no evidence of any operational development on the Land.

6.2 A Planning Contravention Notice (PCN) was served on the owner/occupier of the Land with the response confirming that the occupier is living on the Land in a caravan with the permission of the land owner.

6.3 The breach of planning control has occurred in the last 10 years.

7.0 CONSULTATIONS AND REPRESENTATIONS

Legal Services.

8.0 PLANNING CONSIDERATIONS

8.1 The Main Issues:

8.2 (i) Whether the development is inappropriate development within the Green Belt; (ii) the effect of the development on the character and appearance of the area which is within the Chilterns Area of Outstanding Natural Beauty (AONB); (iii) if the development is inappropriate, whether there are any special circumstances which would outweigh the harm the harm; (iv) whether the development is sustainable; (v) impact on amenities of neighbouring residential occupiers.

Inappropriate Development:

8.3 Paragraph 80 of the NPPF states that the Green Belt serves five purposes, namely

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

8.4 Most development within the Green Belt is inappropriate save for a closed list of 10 exceptions as stated at paragraphs 89 and 90 of the NPPF. The change of use of land is not one of these exceptions as such, the unauthorised use of the Land for the stationing of a caravan in residential occupation is inappropriate development. The stationing of the caravan on the land, including associated domestic paraphernalia is considered to affect the openness of the Green Belt and results in encroachment into the countryside. Policy GB2 of the Adopted Local Plan does allow for the change of use of land within the green belt provided openness is maintained. Policy GB2 is out of step with the NPPF in this respect and as such the NPPF as the most up to date policy takes precedence.

Character and appearance of the AONB:

8.5 The Land is located within the Chilterns AONB where the primary objective is to conserve and enhance the natural beauty of the landscape. The unauthorised use, with the stationing of the caravan and associated residential paraphernalia has a significant urbanising impact on the character of the area and is considered harmful to the AONB and does not conserve or enhance it. It is acknowledged that the Land is screened to some extent due to existing hedging and trees. However, this natural screening is only effective during the summer months and will not necessarily be present in perpetuity. As such, the unauthorised change of use is

contrary to paragraph 115 of the NPPF, Policy CS22 of the Core Strategy for Chiltern District and Policy LSQ1 of the Adopted Local Plan.

Special Circumstances:

8.6 It is considered that the change of use of the Land is inappropriate development which harms the openness of the Green Belt and harms the character and appearance of the AONB. There have been no very special circumstances identified which outweigh this harm to justify the change of use of the Land.

Sustainable Development:

8.7 The Land is located on the outskirts of the village of Hyde Heath and some 4 miles (approximately) from the settlement of Amersham. The Land is therefore located in an isolated location in the countryside which has poor transport links and limited access to amenities and services. Accordingly, the unauthorised use of the Land is not considered a sustainable form of development as defined in the NPPF and is contrary to Policy CS4 of the Core Strategy for Chiltern District.

Impact on amenities of neighbours:

8.8 The Land is located a considerable distance from existing residential properties, the dwelling at Mantles Green Cottage being located some 70 metres (approximately) to the east of the Lane. Given the distances involved, it is not considered that the unauthorised development has a direct impact upon the living conditions of occupiers of neighbouring residential properties, by reason of loss of privacy or an overbearing development.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The unauthorised change of use of the Land causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of Enforcement Notices by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and, given the harm caused, is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The occupier of the Land has stated that he does not see the need for planning permission in respect of the breach and has taken no steps, when requested, to voluntarily cease the unauthorised use and vacate the Land. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Six (6)** months:

Requirements:

1. Use. Cease the Unauthorised use of the Land for the stationing of a caravan for residential purposes;
2. Remove from the Land the caravan and other domestic paraphernalia associated with the Unauthorised

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 10 years.

The unauthorised use of the Land is inappropriate development which harms the openness of the Green Belt and is detrimental to the visual interest of the local area. The Land is located in an isolated position with poor transport links and limited access to services and amenities and is not a sustainable form of development. It has not been demonstrated that 'very special circumstances' exist that would outweigh the demonstrable planning harm caused by the development.

The unauthorised development is therefore contrary to Saved Policies GB2 and LSQ1 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007

& November 2011, Policies CS4 and CS22 of the Core Strategy for Chiltern District - Adopted November 2011 and policies contained in the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

Karl Warne, Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde Heath, Buckinghamshire

Keith Alcrow, Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde Heath, Buckinghamshire

The Occupier, Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde Heath, Buckinghamshire

The Owner, Land Between Mantles Green Cottage and Mantles Farm Fields, Hyde Heath Road, Hyde Heath, Buckinghamshire

Land between Mantles Green Cottage and Mantles Farm Fields
Hyde Heath Road
Hyde Heath
Buckinghamshire
HP6 5RW

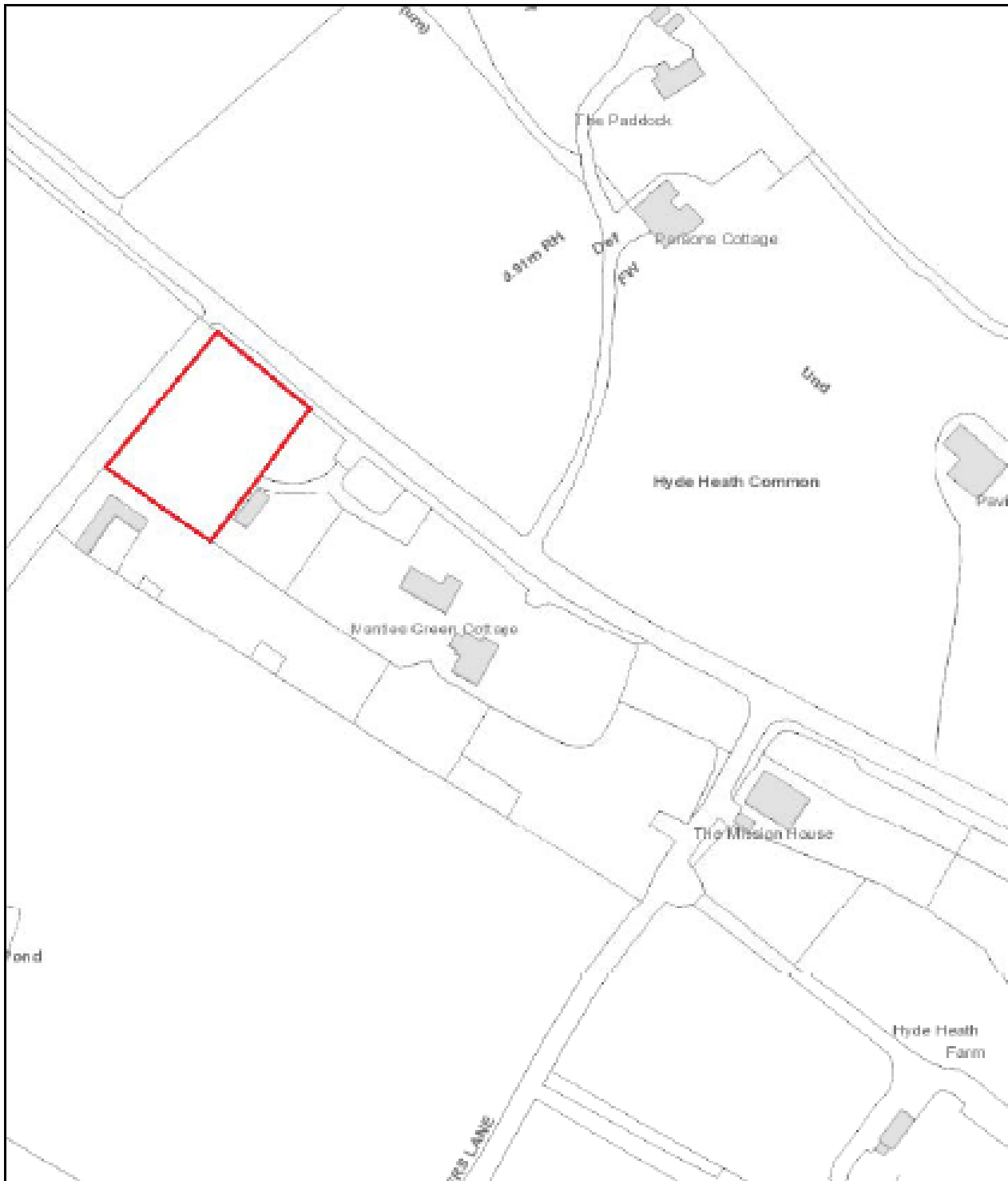
2018/00001/AB

Location Plan
© Crown Copyright and database rights 2016. Ordnance Survey
100025874.



CHILTERN
District Council

0 5 10 20 30 40 Metres

Signed:

Steve Bambrick – Director of Services

Dated:

Signed:

Joanna Swift – Head of Legal and Democratic Services

Dated:

| | |
|-----------------------------|---|
| SUBJECT: | <i>Planning Enforcement Report - 2018/00006/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Little Missenden</i> |
| SITE ADDRESS: | <i>Merryhill Farm Windsor Lane Little Kingshill Buckinghamshire</i> |
| BREACH: | Without planning permission, the erection of a Fence on the Land. |

1.0 INTRODUCTION & SUMMARY

1.1 The Land comprises of an area of open agricultural land with associated access off of Windsor Lane.

1.2 A fence has been erected where the boundary of the Land meets the greenbelt land to the rear of Savanna, Windsor Lane, Little Kingshill, Buckinghamshire, HP16 ODP, and is in excess of 1m in height when measured from highest adjacent ground level.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue an Enforcement Notice pursuant to Section 171A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

None.

6.0 BACKGROUND INFORMATION

6.1 Planning permission for the development is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been

witnessed by Council officers who have recorded their findings as part of enforcement case 2018/00006/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the fence is "permitted development".
- Effect of the unauthorised development on the character and appearance of the area in conjunction with quality of design.

8.1 Whether the fence is "permitted development".

No planning permission has been sought from or granted by the Council for the fence, and the therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

8.2 Class A permits a gate, fence, wall or other means of enclosure should it not exceed 2 meters above ground level, by virtue of A.1 (a)(ii). The key issue is therefore whether the fencing is above 2m, and as such it measured 2.8m in height, therefore it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control.

8.3 Effect of the unauthorised development on the character and appearance of the area.

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The fence, due to its height, mass, scale and position within the Greenbelt and Area of Outstanding Natural Beauty (AONB), is a visually prominent addition where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form. By virtue of the height, mass and scale in conjunction with its situational relationship, it does not harmonise with the scenic AONB. It also restricts view into and out of the AONB and adversely impacts the openness of the greenbelt. A close boarded fence of this height is not of a character or design reflective of its rural surroundings, and contrary to policies GC1, LSQ1 and GB2, therefore predominates to the detriment of the area in which it is located.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public-sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 EXPEDIENCY

The issue of an Enforcement Notice by Local Planning Authorities is discretionary, and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 Do nothing or under enforce

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 Negotiate

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

11.3 Issue an Enforcement Notice

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is perhaps likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

12.0 CONCLUSIONS

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Three (3)** months:

Requirements:

i Remove the fence as shown in the approximate position 'A' to 'B' on the Plan (and shown in the Photograph at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 4 years.

The erection of the fence on the Land has resulted in the loss of openness of the Greenbelt and AONB, by virtue of its design and size on the Land; it presents an overly dominant and visually oppressive addition to the Greenbelt and AONB. The loss of this openness in conjunction with the design of the fence detracts from the character and visual interest of the wider public realm.

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1, LSQ1 and GB2 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies, and policies contained in the National Planning Policy Framework.

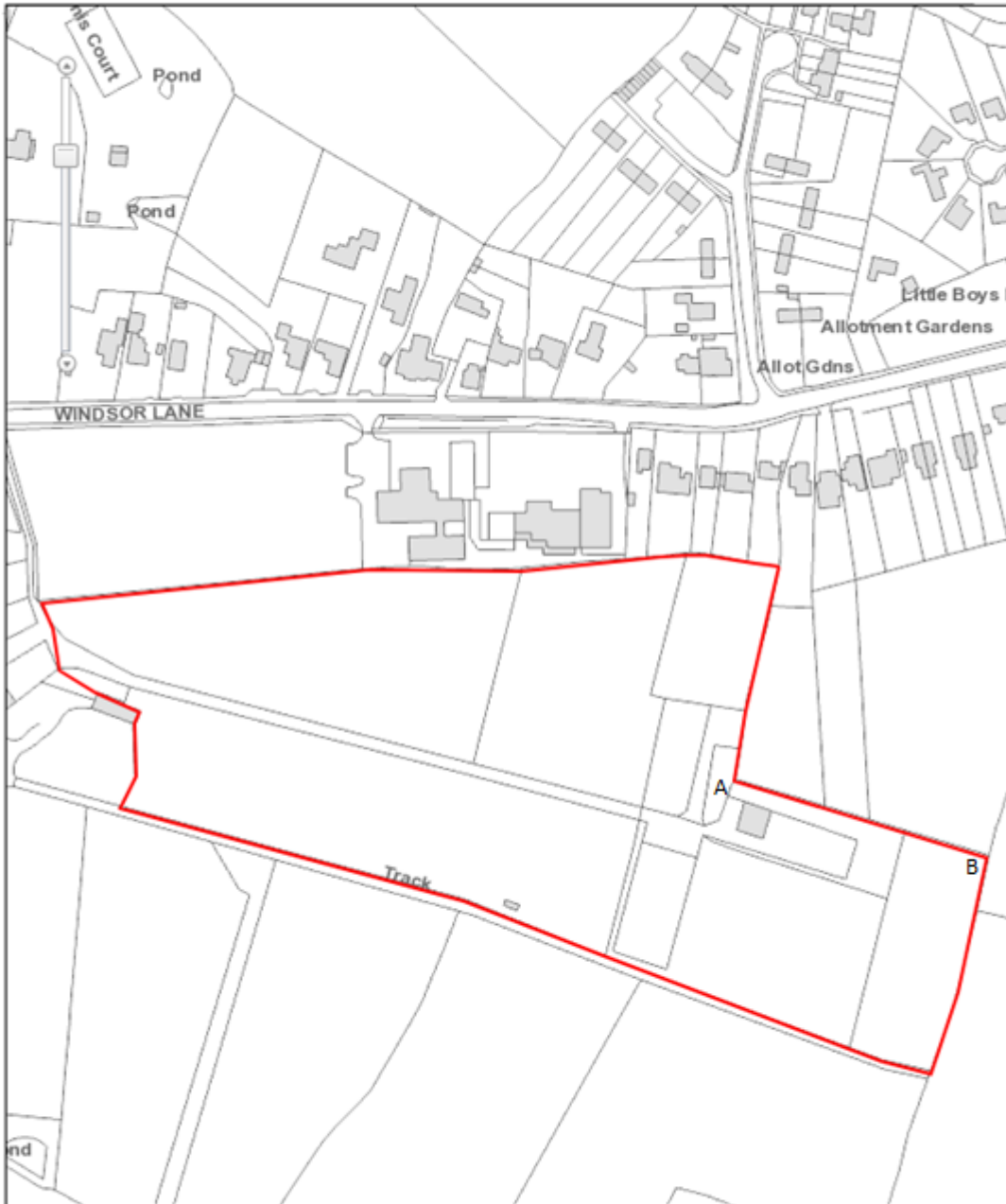
The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

The Owner(s)/Occupier(s) - A & D DOWDY (PROPERTIES) LIMITED (Co. Regn. No. 10449542) of Ivy Cottage, Green Lane, Radnage, High Wycombe HP14 4DJ.

Location Plan

Merry Hill Farm, Windsor Lane, Little Kingshill, Buckinghamshire



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1: 2500

Appendix A



Signed:

Dated:

Steve Bambrick – Director of Services

Signed:

Dated:

Joanna Swift – Head of Legal and Democratic Services

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Delegated Report - 2018/00023/AB</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Adam Pegley</i> |
| WARD: | <i>Holmer Green</i> |
| SITE ADDRESS: | <i>2A Browns Road Holmer Green Buckinghamshire HP15 2SL (“the Land”)</i> |
| BREACH: | Without planning permission, a material change of use of the Land from amenity land to residential. |

1.0 INTRODUCTION & SUMMARY

- 1.1 The site comprises a detached residential dwelling with access via Browns Road.
- 1.2 A fence has been erected on amenity land beyond where the boundary of the Land meets Parish Piece, adjacent to and immediately abutting a highway. The fence that has been erected is unauthorised, required planning permission and due to its location also represents the unauthorised change of use of Parish Piece to residential use by the Land, without planning permission.

2.0 MAIN ISSUES

- 2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

- 3.1 That it is expedient in the public interest to issue an Enforcement Notice requiring the removal fence and ceasing the residential use of highway amenity land.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

- 5.1 CH/2016/0067/FA Replacement dwelling (changes to design of new dwelling approved under planning permission CH/2015/1438/FA) - *Permitted*

6.0 BACKGROUND INFORMATION

- 6.1 Planning permission for the fence directly abutting the highway and change of use of the field to residential is required, yet no application to regularise has been forthcoming and the unauthorised development remains in situ. This unauthorised development has been witnessed by Council officers

who have recorded their findings as part of enforcement case 2018/00023/AB and photographic and other documentary evidence has been saved in the repository attached to this record.

6.2 Contact was made with the owner who has thus far failed to meaningfully engage with the Council.

7.0 CONSULTATIONS AND REPRESENTATIONS

None.

8.0 PLANNING CONSIDERATIONS

The Main Issues

- Whether the fence directly abutting the highway is "permitted development"
- The effect of the unauthorised change of use on the character and appearance of the area in conjunction with quality of design.

8.1 *Whether the fence is "permitted development"*

No planning permission has been sought from or granted by the Council for the fence in this position and the associated change of use and therefore consideration is given as to whether it benefits from the planning permission available within Article 3 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO)

8.2 Class A permits a gate, fence, wall or other means of enclosure adjacent to a highway used by vehicular traffic. However, other than in the case of schools the permission is limited by virtue of A.1 (a)(ii) to fencing that does not exceed 1 metre in height above ground level.

The key issue therefore is whether the fencing is "adjacent" or not to the highway. The meaning of the word "adjacent" is not defined in the GPDO or in the Act, and therefore the Council relies on its literal meaning. "Adjacent" is defined in the dictionary as meaning being near or close to, next to, or contiguous. "Contiguous" is so defined as sharing a boundary or touching each other physically, or continuous. However, the case law has established that the meaning of "adjacent" in the context of the GPDO does not mean "contiguous" or "abutting". It is clear from this that a wall does not have to adjoin a highway to be "adjacent" to it; it is a matter of judgement, and of fact and degree in each case, as to whether a fence is perceived to define the boundary of a property from the highway edge, and hence whether it is "adjacent" to the highway.

8.3 When viewed in the context of the street scene the fence appears as forming the boundary of the Land with the highway. Given its height and stark, opaque appearance when contrasted against the more open areas of surrounding countryside, the viewer's eye is immediately drawn to it, and so even to a casual observer it would be perceived as being a boundary separating the Land from the highway. As a matter of fact and degree, the fencing is "adjacent" to the highway and, as such, it does not benefit from the planning permission within the GPDO and hence constitutes a breach of planning control. The council acknowledges that a section of the fence located closest to the junction of Parish Piece and Browns Road was reduced to the height of 1m for Highway Safety reasons.

8.4 *The effect of the unauthorised change of use on the character and appearance of the area*

Saved LP policy GC1, aims to secure satisfactory standards of design that relate sympathetically to the character and appearance of the surrounding area. The wall, due to its height, length, colour and position adjacent to the footway, is a visually prominent addition where it has a hard and stark appearance, at odds with the softer and more open treatment of nearby built form. As such, it presents a visually jarring addition to the street scene, in context. Moreover, the position of the wall prevents the strip of land now enclosed from performing an amenity role within the development which is harmful to the character and appearance of the area.

8.5 Amenity land features are an attractive and fundamental addition to the streetscape and influence the make-up of its character which is why permission for the enclosure of such land into gardens or indeed other uses is not usually given. Those approved schemes that do erode amenity land are unusually conditioned to include substantial soft landscaping to mitigate the loss by softening the edges of built development. However, here, by virtue of the built mass that runs along the edge of the of the Land adjacent to Wardes Close and Wren Road , built at the point where the pavement ends, offers no opportunity for any soft landscaping to reduce the harsh visual impact caused by the unauthorised development. Due to its height, mass and scale in conjunction with its situational relationship in context, the wall predominates to the detriment of the area in which it is located. Whilst one would reasonably expect to see a wall in such a location, the fact that there is no (soft) material-interruption between the highway and the wall, as it has been built hard to existing highway that surrounds the Land, the unauthorised development offers a visually intrusive and therefore unwelcome departure from the established rhythm and form of wider contextual development, thus detracting from its overall appearance and legibility, increasing the impact of the built form and creating a perceived addition in density of the area.

8.6 The unauthorised change of use has resulted in the encroachment of the adjacent highway pavement reducing the access for the public along Parish Piece, which is access to a School and accommodation for the Elderly.

9.0 HUMAN RIGHTS ACT

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The addition of this development causes unacceptable harm to the visual interest and the character of the area in which it is located. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual.

10.0 EQUALITY IMPACT ASSESSMENT

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered

proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 **EXPEDIENCY**

The issue of an Enforcement Notice by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no comment and has not sought to engage with the LPA. The harm caused by the unauthorised development is demonstrable. There is no reason to invite a planning application as the development would not be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for further negotiation.

13.3 **Issue an Enforcement Notice**

The only other option available to the Council is to issue an Enforcement Notice. This would have the benefit of remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the unauthorised development. Given the owner's attitude, it is likely that an appeal will be forthcoming but the author of this report believes that the Council's case is sound and any appeal would be likely to be dismissed.

14.0 **CONCLUSIONS**

The Council's solicitor should be instructed to issue an Enforcement Notice pursuant to Section 172 of the Town and Country Planning Act 1990 requiring, within **Three (3)** months:

Requirements:

- i Cease the use of the Land (as shown outlined in black on the plan) for residential purposes
- ii Remove the fence shown in the approximate position 'A' to 'B' as shown on the Plan (and shown in the Photographs at Appendix 'A' of this notice) from the Land, including all associated fixtures, fittings and waste materials therefrom.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 10 years.

The unauthorised change of use has resulted in the reduction in size of public pavement, this pavement being along Parish Piece, which is an access to a School and accommodation for the elderly.

The erection of the fence on the Land has resulted in the loss of an area of soft-landscaping and, by virtue of its design and location on the Land; it presents an overly dominant and visually oppressive

addition to the street scene. The loss of the amenity land in conjunction with the poor quality of the design of the fence detracts from the character and visual interest of wider public realm.

The unauthorised development is therefore contrary to Policy CS20 of the Adopted Core Strategy 2011; Policies GC1 of the Chiltern Local Plan 1999 and policies contained in the National Planning Policy Framework

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections to the development.

Copies of the notice should be served on:

Owner(s)/Occupier(s) - ROSEMARY ANN GRAHAM of 2a Browns Road, Holmer Green, High Wycombe HP15 6SL

Location Plan

2A Browns Road, Holmer Green, High Wycombe, Buckinghamshire, HP15 6SL



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1: 1250

Appendix A





Signed:
Steve Bambrick – Director of Services

Dated:

Signed:
Joanna Swift – Head of Legal and Democratic Services

Dated:

| | |
|-----------------------------|--|
| SUBJECT: | <i>Planning Enforcement Report - EN/18/2036</i> |
| RESPONSIBLE OFFICER: | <i>Steve Bambrick – Director of Services</i> |
| REPORT AUTHOR: | <i>Lyana Radzif</i> |
| WARD: | <i>Central</i> |
| SITE ADDRESS: | <i>Costa Coffee 59 - 61 St Peters Court High Street Chalfont St Peter Buckinghamshire SL9 9QQ (“the Premises”)</i> |
| BREACH: | Breach of Condition 2 of Planning Permission CH/2017/0904/FA (delivery outside of hours). |

1.0 INTRODUCTION & SUMMARY

1.1 The Premises is a ground floor commercial unit located on the Eastern aspect of St Peters Court. The Premises accommodates customer parking within the communal parking area to the front. There is a significant amount of residential accommodation occupying the upper floors of the Court.

2.0 MAIN ISSUES

2.1 Consideration of why the unauthorised development is not compliant with local and national planning policy allied with the expediency of enforcement action in the public interest.

3.0 RECOMMENDATION SUMMARY

3.1 In accordance with the Council’s Constitution [delegation 13(a)], that approval is given for the Director of Services exercises his power to issue a Breach of Condition Notice pursuant to Section 187A of the Town and Country Planning Act 1990 (as amended), following consultation with the Head of Legal & Democratic Services, in respect of remedying the Breach on the Land and that, if necessary, legal proceedings be instituted to secure compliance.

4.0 RELEVANT POLICIES

National and Regional Policies

The National Planning Policy Framework (NPPF – “the Framework”), 2012

Local Policies

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

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

The Chalfont St Peter Neighbourhood Plan: Examination Draft 2013- 2028 – Policy VC4

Adopted Council Enforcement Plan

5.0 RELEVANT PLANNING HISTORY

5.1 Full Planning Application CH/2017/0904/FA – ‘Change of use to coffee shop (A3 use) with the siting of external seating on the public highway – Conditionally Approved on 4th July 2017.

5.2 Condition 2 of Planning Permission CH/2017/0904/FA 'The Class A3 use hereby permitted shall only take place between the hours of 6:30 to 20:00 Mondays to Saturdays and 8:00 to 18:30 on Sundays and Bank Holidays and no delivery or collection vehicle shall service the site outside of these hours.'

6.0 BACKGROUND INFORMATION

6.1 A breach of condition concerning out of hours deliveries has been witnessed by a member of the public, who noted deliveries taking place as early as 1.30am, and this information was passed to the Council by way of a complaint. These findings form part of enforcement case EN/18/2036 and the photographic and other documentary evidence has been saved in the repository attached to this record.

7.0 CONSULTATIONS AND REPRESENTATIONS

Legal Services.

8.0 PLANNING CONSIDERATIONS

8.1 The Main Issues:

8.2 Whether condition 2 meets the tests applied by the National Planning Policy Framework (NPPF) and meets its purpose of protecting the amenity values of neighbouring occupiers in terms of privacy.

8.3 Paragraph 206 of the National Planning Policy Framework states "Planning conditions should only be imposed where they are:

- Necessary;
- Relevant to planning and to the development to be permitted;
- Precise and enforceable;
- Reasonable in all other respects.

8.4 *Necessary.*

The residential properties most likely to be affected by any noise generated by the movements of delivery vehicles to and from the Premises are those situated above and adjacent to it and most likely but not exclusive to, those located the rear. The aforementioned are the most sensitive locations for noise disturbance emanating from the delivery operations to the store. In these positions, background noise is dominated by the ambient noise levels generated by High Street traffic and other local traffic movements. No noise survey or assessment has been conducted with respect to internal noise levels from delivery events. However, an out-of-hours delivery event is the worst case scenario given the generally negligent level of ambient noise occurring in the early hours of the morning.

Deliveries occurring outside of the hours stipulated by the planning condition have a pronounced material effect on the living conditions of the adjoining residents in terms of disturbance by noise intrusion. Further, if there is an associated increase in the number of vehicles visiting the site, this would further impact the quality of life of nearby occupants, increasing their overall expose to such a disturbance. However, it is recognised that there is no restriction on the number of deliveries to the store that could take place within the permitted hours. It is therefore reasonable to assume that, given the lack of current restriction on a maximum number of deliveries to the Premises, and then more deliveries within the approved timings would satisfy the overall demand for delivered goods and should not necessitate a demand determined by the times at which they can take place. For the above reasons, failure to adhere to the recognised delivery times compromises the amenity interests of the residents of the neighbouring dwellings. Accordingly, there is a definite planning reason for the imposition of condition 2 in that it primarily seeks to limit disturbance in order that the retail and residential uses can co-exist in harmony.

8.5 *Relevant to planning and to the development to be permitted.*

The condition relates to planning objectives in that it seeks to protect privacy and avoid unnecessary disturbance, thus preserving wider amenity values. The condition is relevant to the development permitted by planning consent CH/2017/0904/FA and fairly and reasonably relates to it. Indeed, the absence of this condition may have led to the application being refused for reasons of the likely intrusion on amenity interests that the condition was put in place to mitigate.

8.6 *Precise & Enforceable.*

It is practicably possible to enforce the condition of relevance as it is precise in its wording, being free from ambiguity, and clear in its instruction and intent. The breach has been detected and the relevant evidence gathered and recorded. Moreover, the applicant has not demonstrated that they cannot reasonably or practically comply with the condition. All that is required is for deliveries to the Premises to occur within the stipulated hours of operation. No explanation has been forthcoming as to why this is not practically possible and nor has the applicant provided any extenuating circumstances as to why this cannot or should not happen in future

8.7 Reasonable.

For the reasons above, the Condition does not place an unjustifiable or disproportionate burden on the applicant as steps taken in order to comply with the requirement(s) of the condition are relatively straightforward and inexpensive. Moreover, the applicant will be aware that the condition was imposed to protect the privacy of the occupants who live nearby to the Premises and have a reasonable expectation that their peace will not be unnecessarily disturbed in the early hours of the morning.

9.0 **HUMAN RIGHTS ACT**

The following articles of the Human Rights Act 1998 are considered to be relevant in this case: Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence. Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions. Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others. The breach of planning control has caused unacceptable harm to the amenity interest of the occupants of nearby dwellings. The need to remedy the breach is in the interest of the wider community and, with the lack of demonstrable information to the contrary, greater than the needs of the individual to service the business at unsocial hours.

10.0 **EQUALITY IMPACT ASSESSMENT**

The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

10.1 Part 11, Section 149 provides the following 'Public sector equality duty' on authorities: "(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it." It is therefore necessary for the authority, in consideration of this report, as with the consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking the recommended action.

10.2 The breaches of planning control and action to resolve the breaches have been assessed in the context of the Human Rights Act and Equalities Act, and action to resolve the breaches is considered proportionate and in the public interest in order to uphold the planning laws of the land and harm caused to the amenity of the area.

11 **EXPEDIENCY**

The issue of Breach of Condition Notices by Local Planning Authorities is discretionary and it is the Council's decision to decide whether a notice is expedient in the public interest. In doing so, consideration must be given to all the options:

11.1 **Do nothing or under enforce**

The breach of planning control was brought to the Council's attention by a concerned resident. To do nothing at all in this case is likely to attract complaints from residents and, given the harm caused, is, in the circumstances, unjustifiable.

11.2 **Negotiate**

The adopted Enforcement Plan states that wherever possible, officers will negotiate to bring a contravention into compliance but goes on to recognise that sometimes enforcement action is necessary to reach the right outcome.

The owner has offered no explanation as to why the breach has occurred and the harm caused is clearly demonstrable. There is no reason to invite a planning application to vary or remove the condition as extended hours of operation are unlikely to be supported at officer level. For these reasons, it is considered that in order to remedy the breach in a timely manner there is no scope for negotiation and control should be forthcoming to try and prevent a repeat of the breach occurring.

11.3 **Issue a Breach of Condition Notice**

The most appropriate option available to the Council is to issue a Breach of Condition Notice. This would have the benefit of quickly remedying the harm that is being caused. It would also boost public confidence in the integrity of the planning system and the decision making of the Council as local planning authority as there is local objection to the current breach of condition.

12.0 **CONCLUSIONS**

It is respectfully requested that the Planning Committee instruct the Council's Director of Services, in consultation with the Head of Legal & Democratic Services, to exercise his power to issue a Breach of Condition Notice pursuant to Section 1 Section 187A of the Town and Country Planning Act 1990 (the Act 1990) requiring, from the date of service:

Requirements:

i Deliveries carried out in connection with the approved use of the Premises shall only take place between the hours of 6:30 to 20:00 Mondays to Saturdays and 8:00 to 18:30 on Sundays and Bank Holidays.

The reason for issuing a Notice

It appears to the Council that the above breach of planning control has occurred in the last 10 years.

The Notice is served by the Council, under section 187A of the Act 1990, because it considers that condition 2 of Planning Approval CH/2017/0904/FA - *'The Class A3 use hereby permitted shall only*

take place between the hours of 6:30 to 20:00 Mondays to Saturdays and 8:00 to 18:30 on Sundays and Bank Holidays and no delivery or collection vehicles.' - has not been complied with.

The Council considers that you should be required to comply with the aforesaid condition as specified in the Notice to protect the amenity interests of neighbouring occupiers in respect of their private enjoyment of their properties without unreasonable noise and disturbance.

Copies of the notice should be served on:

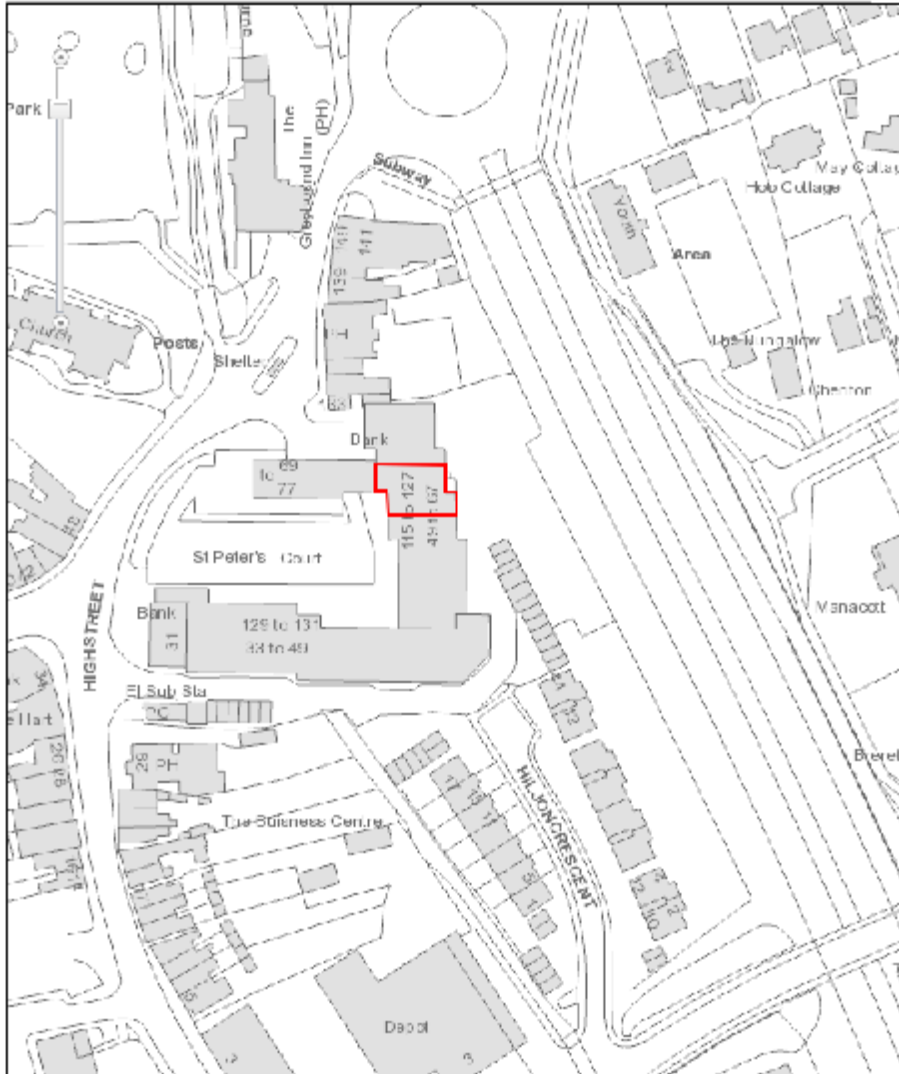
The Owner(s)/Occupier(s), Costa Coffee, 59 - 61 St Peters Court, High Street, Chalfont St Peter, Buckinghamshire, SL9 9QQ

The Company Secretary, COSTA LIMITED (Co. Regn. No. 01270695) of Whitbread Court, Porz Avenue, Houghton Hall Park, Houghton Regis, Dunstable, LU5 5XE.

Classification: OFFICIAL

Location Plan

Costa Coffee 59 - 61 St Peters Court High Street Chalfont St Peter Buckinghamshire
SL9 9QQ



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Scale 1:1250

Classification: OFFICIAL

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Signed:
Steve Bambrick – Director of Services

Dated:

Signed:
Joanna Swift – Head of Legal and Democratic Services

Dated:

The End

Classification: OFFICIAL