

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 9th August 2018

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The Lee

CH/2017/2235/FA Ward: Cholesbury, The Lee, Bellingdon Page No: 2

Proposal: Replacement dwelling and outbuilding

Recommendation: Refuse permission

1 and 2 Kingswood Cottages, Swan Lane, The Lee, Great Missenden, Buckinghamshire, HP16 9NU

Amersham

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Proposal: Change of use from sui generis to scaffolding storage yard (Class B8) (Retrospective)

Recommendation: Refuse Permission with further action

PHD Modular Access Service Limited, Bramble Lane, Amersham, Buckinghamshire, HP7 9DN

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Main List of Applications 9th August 2018

CH/2017/2235/FA

Case Officer: Emma Showan
Date Received: 01.12.2017
Parish: The Lee

Decide by Date: 23.05.2018
Ward: Cholesbury, The Lee,
Bellingdon

App Type: Full Application
Proposal: Replacement dwelling and outbuilding
Location: 1 and 2 Kingswood Cottages
Swan Lane
The Lee
Great Missenden
Buckinghamshire
HP16 9NU

Applicant: Mr Young and Mrs Thomas

SITE CONSTRAINTS

Article 4 Direction
Adjacent to Unclassified Road
Area Special Adv. Control
Within Chilterns Area of Outstanding Natural Beauty
Adjacent Public Footpaths and Public Rights Of Way
Within Green Belt other than GB4 GB5
Public footpath/bridleway
Within 500m of Site of Importance for Nature Conservation NC1

CALL IN

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

SITE LOCATION

This application relates to two semi-detached cottages in the open Green Belt outside of The Lee. The cottages were formerly occupied by different generations of the same family, with No. 1 forming an annex to the main family dwelling, No. 2. The cottages caught fire in 2017 which subsequently rendered the building structurally unstable and since then the property has remained unoccupied. The cottages comprised a linear 1.5 storey building with rendered walls and dormer windows set within a stepped hipped roof finished with red clay tiles. They were sited parallel to Swan Lane with a frontage directly onto the highway but away from the nearest neighbouring properties. The site is also located in the Chilterns Area of Outstanding Natural Beauty.

THE APPLICATION

This application proposes the erection of a replacement dwelling and outbuilding.

The proposed dwelling would have a maximum width of 16.3 metres (to include the bay window), depth of 12.6 metres and pitched roof height of 8.5 metres, with an eaves height of 6 metres. It would utilise the existing access but would not be built on the same footprint as the previous cottages, instead moving further into site and approximately 9 metres away from the east boundary with Swan Lane (in comparison, Kingswood Cottages fronted directly onto Swan Lane).

The proposed outbuilding would have a maximum width of 11 metres, depth of 6.2 metres and pitched roof height of 4.8 metres, with an eaves height of 2.3 metres. It would provide two parking spaces and a bike/garden equipment store and would be located forwards of the front elevation of the proposed dwelling.

A Design & Access Statement has been submitted by the applicant.

RELEVANT PLANNING HISTORY

CH/2017/1263/EU - Application for a Certificate of Lawfulness for an existing use relating to the use of the land as residential garden land associated with the residential occupation of 1 and 2 Kingswood Cottages; Certificate granted.

CH/1997/1501/FA - Alterations to access and replacement detached single garage, conditional permission.

CH/1993/0215/FA - Detached domestic double garage incorporating garden shed, conditional permission.

CH/1990/1275/FA - Alterations, rear roof extension and single storey side/rear extension, conditional permission.

CH/1990/1018/FA - Alterations, rear roof extension, single storey side/rear extension and detached quadruple garage and stores, refused permission.

CH/1989/2666/FA - Part single, part two storey rear extension, conditional permission.

PARISH COUNCIL

The Lee Parish Council has given careful consideration to the above planning application and would like to offer the following comment based on two key aspects of the proposal:

- 1) The design of the new house - in mock-Georgian style
- 2) The height of the new building (8.45m to the ridge which is 40% higher than the existing building which is approx. 6m)

1) In Para 6.15 of the applicant's Design and Access document, it states: "Swan Bottom contains an array of building styles, scales, materials and design features. Consequently, there is no specific design ethos that a replacement dwelling should follow". As the local PC, we should point out that whilst there may be a variety of styles, there are certainly no mock-Georgian style properties of this type and size anywhere in the area. The applicant states that the style choice is in fact acceptable under both National Planning Policy Framework (NPPF) and CDC Policies and uses this in its 'evidence'. Our local knowledge is such that we can confidently state this is not the case.

As such the Parish Council believes that the proposal does not really respond to local character and history and reflect the identity of local surroundings and materials? (NPPF). Neither does it reflect and respect the character of the surrounding area and those features which contribute to local distinctiveness? (CDC's Policy

CS20: Design), or maintain or improve local character and the natural environment (CDC's Policy CS20: Design). Specifically in the context of AONB: we believe the proposals does little, if anything, to conserve and, where appropriate, enhance the special landscape character and high scenic quality of the area.

2) CDC Policies clearly state: "that size, design, and the degree of harmony with the local vernacular style of architecture should be used to assess whether a development meets the aim of protecting and enhancing the Chilterns AONB. Development which does not meet these objectives should be resisted".

Taking into account our point 1) above together with the fact that the proposed is 40% higher than the current building, The Parish Council would like to suggest that planning permission is not granted for the application as it currently stands.

REPRESENTATIONS

One letter of objection received which can be summarised as follows:

- Neighbours along Swan Lane were not notified of the planning application
- The proposed dwelling is not in keeping with the other properties in Swan Lane and/or Swan Bottom
- There are no neo-Georgian properties in the area and the proposal would be totally out of keeping in the AONB
- No objection to building on the site, but objection to the plans as they are now

CONSULTATIONS

Buckinghamshire County Ecology Officer:

The Ecologist is satisfied that the surveys have been undertaken according to current guidance and that the mitigation is appropriate. A number of conditions are recommended in order to enhance the site for biodiversity.

POLICIES

National Planning Policy Framework.

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2011) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, GC4, GB2, GB7, GB8, GB15, LSQ1, H9, H11, H12, TR11, TR2, TR3, TR11 and TR16.

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

EVALUATION

Principle of development

1. The site is located in the open Green Belt where, in accordance with Policy GB8 of the Local Plan, any proposal to rebuild or replace a derelict dwelling, will be considered on the same basis as a proposal to build a new dwelling on a new site. The submitted Design & Access Statement confirms that much of the building was gutted as a result of a fire in early 2017 and this has rendered it uninhabitable and structurally unstable. This would mean that in accordance with Policy GB8, any proposal to replace the current derelict, uninhabitable, dwelling would be inappropriate development in the Green Belt.

2. However, Chapter 13 of the NPPF states that, whilst most development in the Green Belt is considered to be inappropriate, paragraph 145 of the NPPF (as revised, July 2018) lists some forms of development which are not considered to be inappropriate. This includes the replacement of a building, provided the new

building is in the same use and not materially larger than the one it replaces. This clause makes no reference to a building needing to be habitable. The lawful use of the existing building is still residential, even though the dwellings may be uninhabitable following a fire. Therefore, as the NPPF is more up to date than the Local Plan, the allowance for a replacement building in the NPPF should carry more weight than Policy GB8. As such a replacement building is acceptable in principle, subject to the strict proviso in the NPPF that it is not materially larger than the existing building. Furthermore, the site lies in the Chilterns Area of Outstanding Natural Beauty (AONB) and therefore the proposal should conserve, and where considered appropriate and practicable, enhance the high scenic quality of the landscape. All other relevant Development Plan policies should also be complied with.

3. It is noted that Local Plan Policy GB7 states that the rebuilding or replacement of an existing habitable dwelling will be acceptable in principle providing the new dwelling is not materially larger than that to be demolished after taking into account any extension that could have been built as 'permitted development' by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However this policy is not strictly relevant, as the existing dwellings are not habitable.

Loss of a dwelling

4. It is also worth noting that this application concerns No. 1 and No. 2 Kingswood Cottages. The Design & Access Statement states that the properties originally formed three dwellings which were amalgamated into two units several decades ago. The two properties were then occupied by the same family with No. 1 forming an annexe to the main family dwelling (No. 2), prior to the destruction of the dwellings by fire in early 2017. There is no planning history to show that No. 1 ever formally became ancillary to No. 2 and there are no records to suggest when the three cottages become amalgamated to form one residential unit. Indeed, in a Certificate of Lawfulness application, reference CH/2017/1263/EU, it was concluded that: 'consideration of all available evidence is that there are two separate properties and whilst the whole application site is ancillary residential garden land, part of it forms the curtilage to 1 Kingswood Cottages and part to 2 Kingswood Cottages.' As such, it is clear, on the basis of the evidence available, Local Plan Policy H9 is applicable to this application. However, since the existing building on site was damaged by fire in early 2017 and the building is uninhabitable and derelict, there are presently no habitable dwellings on the site. In this unique case, it could therefore be argued that Development Plan Policy H9 is not applicable in this instance, as there would be no loss of habitable dwellings, should the building be demolished. As such, on the basis that there are no habitable dwellings on site at present, the proposal would result in a net gain of one dwelling. No objections are therefore raised regarding Policy H9.

Impact on the Green Belt

5. In accordance with the NPPF, the replacement of an existing building in the Green Belt can be acceptable, but only where the new building is in the same use and not materially larger than that to be demolished. There is no allowance for any extant permitted development rights to be taken into account, but even if there was, these would add less than 10 sqm to the property, therefore have little relevance. The siting of the new building overlaps the footprint of the existing and, although it is sited further from the lane, the siting is considered acceptable in principle. In floorspace terms, the existing building has a floor area of 313 square metres and the proposed dwelling would have a floor area of around 440 square metres (including the large detached triple garage, which must be taken into account in this assessment). This is an increase of over 40% in floorspace terms, which is clearly materially larger than the existing building. Furthermore, the visual perception of bulk is mostly derived from the eaves height of a building above ground level. Most of the sections of eaves on the existing building are low and around 2.5m to 3.0m in height, with some limited areas of taller two storey level eaves. The eaves of the replacement building are all a very high 6.1m in height, thus most of the walls of the replacement dwelling would be notably higher than even an average two storey property (5m) and would be around twice as high as the existing walls. This would give rise to a considerably bulkier form and appearance than the existing low cottages. In addition, the overall ridge height of the

existing low cottages is around 6m, whereas the ridge of the proposed building is 8.6m, with a flat crown. This would also render the proposed building notably larger in overall size and bulk than the existing. It is clear that the replacement dwelling would appear far more bulky than the existing modest cottages, and is clearly materially larger than that to be demolished. Therefore it fails to comply with the advice in the NPPF. As such the proposal comprises inappropriate development in the Green Belt, which is harmful by definition. In accordance with the NPPF, this is substantial harm to the Green Belt.

6. In addition to the above, given that the proposed building would be notably larger than the existing, it would also have a moderate adverse impact on the openness of the Green Belt.

Character and appearance

7. As noted the application site is within the Chilterns Area of Outstanding Natural Beauty. Local Plan Policy LSQ1 and Core Strategy Policy CS22 set out the principles that should be followed in the AONB and the latter policy states that all development proposals must be in accordance with the Chilterns Buildings Design Guide. In this respect the Design Guide states that developers should identify the main architectural features of traditional buildings in the area and interpret these in the design. The Guide states that the materials and roof are key elements when views of a building in the landscape are possible, as in this case. It states that developments should normally include a pitched roof with a central ridge and should avoid deep floor plans which create large roof spans, which are often unacceptably shallow in pitch. Gable ended roofs are advocated as typical of the Chilterns AONB and a double roof with valley gutters and parallel ridges is preferable to a large bulky roof form, in order to minimise the mass. Furthermore, the Design Guide states that roofs should preferably be of clay tiles, with slates only used when common in the locality. Roofs should normally be of a pitch of at least 40 degrees and the Design Guide states that roofs of 30 degrees appear uncharacteristically flat.

8. Kingswood Cottages is characterised by a low, linear series of what were originally three terraced cottages. The cottages fronted directly onto Swan Lane and were characterised by rendered walls and six pitched roof dormer windows which were set within a red clay tile roof. They had a rustic appearance with three entrances marked by three pitched roof porch canopies. The nearest properties to the application site are generally modestly proportioned and have a rural 'cottage-like' appearance.

9. In the case of the proposed house, the roof is of an uncharacteristically shallow pitch of 25 degrees. The proposed roof, with its large flat crown and deep square form, is entirely uncharacteristic of the AONB and does not reflect the clear advice in the Design Guide. In addition, the proposed dwelling has been designed in a neo-Georgian style with very high eaves (6m in height), a shallow hipped to flat crown roof. A dwelling of this type is not traditional or typical of buildings within the Chilterns AONB and does not accord with the clear guidance set out in the Chilterns Building Design Guide. The symmetrical and grand façade of the proposed dwelling, which is designed as a very bulky neo-Georgian mansion, with projecting brick columns and regularised windows, would be out of keeping with the cottages and more rural properties in the vicinity. It would be at odds with the local vernacular and this, combined with the proposed formal planting and the sweeping gravel drive which combines a turning circle forwards of the property means that the formal style of the proposed dwelling would be at odds with the local, more rural vernacular. As noted, the dwelling would be visible from the surrounding roads and countryside, from where it would appear overly prominent and visually intrusive. It would not therefore conserve or enhance the natural beauty of the landscape within this part of the AONB.

10. As such, the proposal is contrary to Policies CS20 and CS22 of the Core Strategy for Chiltern District (Adopted November 2011) and Policies GC1 and LSQ1 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

Residential amenity

11. The proposed dwelling would be set away from the nearest residential properties. It would be sited within extensive grounds and as such, it is considered that the proposal would not have an adverse impact on neighbouring amenity.

12. With regards to amenities of future occupiers of the dwelling, the proposed dwelling would have adequate light and outlook and access to a substantial garden in accordance with the provisions of Development Plan Policy H12. Adequate bin storage can also be provided within the site and so no objections are raised in this respect.

Parking/Highway implications

13. It is proposed to utilise the existing access to Kingswood Cottages and no objections are raised in this respect. In terms of the provision of parking spaces, it is proposed to erect an outbuilding with parking spaces for two vehicles alongside an area of hardstanding with space for additional parking. Notwithstanding the objections above to the large size and bulk of the proposed outbuilding, three spaces can clearly be provided in accordance with Development Plan Policy TR16 and there would be no adverse parking implications resulting from this proposal.

Ecology

14. The County Ecology Advisor has raised no objection to this application, subject to the inclusion of conditions to enhance the biodiversity on site.

Affordable housing

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

Conclusions

16. For the reasons set out above, the proposal clearly fails to comply with the NPPF and several Development Plan policies. Objections are raised to the loss of a dwelling, the fact that the dwelling is notably bulkier and materially larger than the existing, and the resulting impact on the Green Belt. Further concerns arise in relation to the bulk and design of the proposed neo-Georgian dwelling, which is entirely uncharacteristic of the area and the AONB landscape. In the case of inappropriate development in the Green Belt, the NPPF is clear that such development must not be approved unless very special circumstances exist which are sufficient to outweigh the harm arising from the proposal. In this case, no such circumstances have been submitted and, whilst the existing building is fire damaged, that does not mean a significantly larger building is acceptable. As such, no very special circumstances exist and the application is recommended for refusal.

Working with the applicant

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

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

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

Human Rights

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

RECOMMENDATION: Refuse permission

For the following reasons:-

- 1 In accordance with paragraph 145 of the National Planning Policy Framework, as revised in July 2018 (NPPF), the replacement of a building in the Green Belt can be acceptable but only where the new building is in the same use and not materially larger than the one it replaces. In this instance, by reason of its significantly larger floorspace, double the existing eaves height, notably greater ridge height, bulky square footprint and design, the proposed dwelling plus large detached garage structure would be materially larger than the modest cottages to be demolished. The proposal would therefore constitute inappropriate development in the Green Belt which is seriously harmful by definition. Furthermore, given the increased bulk, the proposal would have a greater impact on the openness of the Green Belt than the existing cottages. As such the proposal is contrary to Policy GB2 of The Chiltern Local Plan, Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011, and paragraph 145 of the NPPF (July 2018).
- 2 The proposed dwelling, with its neo-Georgian design with high eaves, shallow pitched large flat crown roof, and bulky square footprint, is not typical of buildings within this part of the Chilterns Area of Outstanding Natural Beauty and does not accord with the guidance set out in the Chilterns Building Design Guide, adopted as Supplementary Planning Guidance. The dwelling would be visible from the surrounding countryside, from where it would appear overly prominent, visually intrusive and entirely out of character in the rural landscape. The proposal would therefore fail to conserve or enhance the natural beauty of the landscape within this rural part of the Chilterns AONB and is contrary to Policies CS20 and CS22 of the Adopted Core Strategy for Chiltern District (Adopted November 2011) and Policies GC1 and LSQ1 of the Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

CH/2018/0080/FA

Case Officer: Adam Pegley
Date Received: 16.01.2018
Parish: Amersham
App Type: Full Application
Proposal: Change of use from sui generis to scaffolding storage yard (Class B8) (Retrospective)
Location: PHD Modular Access Service Limited
Bramble Lane
Amersham
Buckinghamshire
HP7 9DN
Applicant: PHD Modular Access Service Ltd

Decide by Date: 17.04.2018
Ward: Amersham Town

SITE CONSTRAINTS

Article 4 Direction
Adjacent to A and B Road
Adjacent to Unclassified Road
Area Special Advertisement Control
Biodiversity Opportunity Areas
Adjoining High Pressure Line
Critical Drainage Area
Within Green Belt other than GB4 GB5
A and B Roads
Tree Preservation Order (A/G/W)
Adjoining Ancient Woodland
GB settlement GB4,6,12,23,H7,13,19

SITE LOCATION

The site is located off Bramble Lane, which is a narrow road accessed from the A413 in Amersham. Bramble Lane has a number of residential properties located along it, with the site the subject of this application located at the end of the lane. The site is located within the Green Belt.

THE APPLICATION

The application is for retrospective planning permission for the change of use of the site from a Sui Generis Use (the site was previously operating as a gardening contractor's yard) to a scaffolding storage yard (Use Class B8).

RELEVANT PLANNING HISTORY

CH/1980/0271/FA - Retention of storage of one 15' touring caravan. Refused Permission.

CH/1981/0661/FA - Demolition of buildings and erection of extension for use as workshops, offices and storage. Conditional Permission.

CH/1984/2132/FA - Three new buildings for offices and machine stores. Conditional Permission.

CH/1988/0746/FA - Single storey extensions to provide machine stores/workshop, erection of two buildings to provide diesel tanks and pesticide store. Refused Permission. Split Decision.

CH/1988/0747/FA - Single storey rear extension to existing offices. Refused Permission. Appeal Dismissed.

CH/1993/1206/FA - Alterations and single storey extension to workshop/storage building (amendment to planning permission CH/2132/84). Conditional Permission.

TOWN COUNCIL

None received at time of drafting report.

REPRESENTATIONS

9 letters of objection received and 1 letter of comment stating the following (summarised):

- They start work before 8.00am and the noise they make is a nuisance, some major vehicles have started arriving as early as 5am.
- Concern over the height of the scaffolding being stored.
- Hedging does not appear to be being maintained.
- Adverse impact on the environment from 20+ tonne HGVs, previous lessors used much smaller vehicles.
- Bramble Lane is only 11ft wide, and is in a very bad state of repair.
- Muddy silt regularly affects the 5 residential driveways, and the bank adjacent to the land is being eroded.
- Highway concerns over the practicability of the lane, it has no passing places, plus adverse weather renders it inappropriate. The entrance off the A413 is not really wide enough and the vehicles are so wide they damage the grass verges.
- Concerns over highway safety regarding the disruption from loading/unloading.
- Environmental issues and drainage issues raised regarding a change in environment and in increase in parking spaces and concrete bases.
- There has been a significant increase in traffic generation compared to the previous use.
- The metal scaffolding, in comparison to the previous use as a gardening contractor yard, is a far more alien feature in the landscape and do not blend in.
- Noise implications arising from the deliveries and the day-to-day site operations.
- Deliveries were previously at set times in the AM and PM, now it is continuous throughout the day.
- The use of the site is intensifying as the months go by.
- Material is burnt at the site which smokes the whole neighbourhood out.
- Additional lighting has been erected on site, often during the hours of darkness, causing an adverse impact.

CONSULTATIONS

Buckinghamshire County Council Highways:

Consider that the existing Sui Generis use as a contractor's yard would generate vehicular movements comparable to or in excess of the proposed B8 storage yard use. Therefore as the proposals would not result in an intensification in use of the site, the Highway Authority have no objection to the proposals.

Buckinghamshire Ecology Advice Service:

The current planning application needs to conform to the National Planning Policy Framework (NPPF) and other policies. As such we would expect the applicant to ensure a net gain for biodiversity is achieved. To this end the Ecology advice service have recommended a condition requiring the submission of a landscape and ecological management plan (LEMP). Details of what should be included within the LEMP as set out in full within the ecology consultation letter.

Buckinghamshire Strategic Flood Management Team:

A holding objection lodged regarding the retrospective development. Further detail required regarding surface water management, the applicant must provide site details disclosing both the impermeable and permeable surface area of the site. If the impermeable area has not increased it is requested that the applicant provides details of the surface water drainage system.

POLICIES

National Planning Policy Framework.

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, GB2, GB22A.

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

EVALUATION

Principle of development

1. The site is within the Green Belt in close proximity to the settlement of Amersham. Within such areas, Local Plan Policy GB2 states that the making of material change of use of the land may be given provided openness is maintained and the openness of the Green Belt is preserved. The National Planning Policy Framework states that (paragraph 89) the redevelopment of previously developed sites may be an exception to inappropriate development given the same provisions. Further, Local Plan Policy GB22A relates to Business, General Industrial and Storage or Distribution within the green belt and sets criteria where such development would be granted.

Design & Impact on the openness of the Green Belt

2. The use of the site as a storage distribution centre for scaffolding does result in a significantly different overall appearance of the yard. Previously, as a gardening contractor's yard, the site had less of an industrial appearance with were less storage of metal and other man-made items, with a greater focus on natural materials and storage which incorporated well into the site's Green Belt setting. Residents have stated concern that the scaffolding site represents a far more alien feature than the gardening contractor's yard which blended in more appropriately to this location. The site retains some open space, particularly along natural pathways in-between the storage of various scaffolding. The scaffolding storage is well organised however at points can extend to significant heights in excess of 4 metres.

3. Local Plan Policy GB22A includes provision for business, general industrial and storage or distribution development in the green belt. Set criteria is established for when such development is considered acceptable, including GB22(c) where the site was last used for business, general storage or distribution purposes previously. Given the site's history, it is considered that the site would fall within this category. However, Policy GB22A(c) clearly states for this category to be acceptable, sites must be in accordance with Local Policy GB2(f), which is principally concerned that material changes of use of the land must maintain openness and not conflict with the purposes of including land in the green belt.

4. Considering the impact of the change of use on the openness of the green belt, in comparing the new development to the previous gardening contractor's yard and having regard to aerial imagery, it is considered that there has been an urbanizing effect arising from the development and indeed, a material increase in the height and scale of the developed area of the site arising from the high scaffolding and significant material

increase in storage on the site. As such, it is not considered that the openness of the Green Belt has been maintained, and objection is raised with regard to Local Plan Policies GB2 and GB22A.

Residential amenity

5. The comments of the neighbouring properties are noted. There has been significant objection to this development from local residents, who have raised a number of concerns, in particular the hours of operation of the scaffolding centre and the fact that the access drive is inadequate for purpose. Residential properties are located adjacent to the site to the West, South and South East, and although this site previously had a business/industrial use, clearly any material change of use must not adversely impact on neighbouring amenity to comply with Local Plan Policy GC3. The use of the site for scaffolding storage and distribution will invariably bring with it a significant impact on the locality through terms of noise above and beyond the previous use, e.g. metal hitting metal, and it is noted that a large number of deliveries are also having perceived noise implications. The increased height of scaffolding storage also detracts from the rural character of the area, particularly views North into the open green belt, and such is considered to cause an overbearing impact for neighbours immediately adjacent. Given the above, it is considered the development causes a significant adverse impact on neighbouring amenity and objections are raised with regard to Local Plan Policies GC3 and GC7.

Parking/Highway implications

6. No objections have been raised by Buckinghamshire County Council Highways who consider there would not be a material increase in traffic generation, given the site was previously in business/industry use. However, comments from the neighbouring properties are noted, which highlight consistently those deliveries to and from the site have materially increased and the hours increasingly unsociable - from 5am has frequently been reported. With a high number of residential properties in the area, it is not considered this is acceptable in this location. Whilst business use is accepted, it clearly must be sensitive to its surroundings and green belt location. It does appear the current use of the site employs a significant number of large, heavy trucks and goes significantly above and beyond any previous use of the site in utilising HGVs. Furthermore, concern is raised about the acceptability of the road given the reports of a significant increase in vehicular traffic. As such, objection is raised with regard to Local Plan Policy TR2, which requires satisfactory access onto the existing network, and states traffic of excessive volume, size or weight will not be accepted on unsuitable roads.

Conclusions

7. In summary, planning harm has been identified from the development, in particular that the use urbanises the area and adversely impacts on the openness of the green belt, the amenities of neighbouring properties and the material increase in size of vehicular traffic being unacceptable on this unsuitable road. The development is considered contrary to Local Plan Policies GB2, GB22A, GC3 and TR2 and as such the officer's recommendation is for refusal.

Working with the applicant

8. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant/Agent and was focused on seeking solutions to the issues arising from the development proposal. In this case, the Applicant/Agent was informed/advised that the proposal did not accord with the Development Plan, that no material considerations are apparent to outweigh these matters of principle and was provided with an opportunity to comment before refusal was recommended.

9. With regard to a refusal, if the applicant/agent had sought pre-application advice, and had subsequently not paid full regard to the response that CDC had given, then this should be referred to in the above paragraph also.

FURTHER ACTION

Human Rights

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

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

12. Given the serious harm identified in this report that is caused by the development, it is considered appropriate to pursue enforcement action as a mechanism for resolving the breach of planning control.

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

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

RECOMMENDATION: Refuse Permission with further action

For the following reasons:-

- 1 An adverse impact of the development on the openness of the Green Belt has been caused by the urbanizing effect arising from the development and indeed, a material increase in the height and scale of the developed area of the site arising from the high scaffolding and significant material increase in storage on the site above and beyond the previous use, which was as a gardening contractor's yard primarily involved in green storage and distribution. As such, it is not considered that the openness of the green belt has been maintained, and objection is raised with regard to Local Plan Policies GB2 and GB22A of the Adopted Chiltern District Local Plan 1997 (including Adopted Alterations May 2001 and July 2004) Consolidated September 2007 & November 2011.
- 2 The development results in the employment of a significant number of large, heavy trucks and goes significantly above and beyond any previous use of the site in utilising large HGVs. Furthermore, concern is raised about the acceptability of the road given the reports of a significant increase in vehicular traffic. Concerns are raised over satisfactory access onto the existing network, and the traffic is of excessive size and weight which is not acceptable on the unsuitable road. As such, the development conflicts with Local Plan Policy TR2 of the Adopted Chiltern District Local Plan 1997 (including Adopted Alterations May 2001 and July 2004) Consolidated September 2007 & November 2011.
- 3 Residential properties are located adjacent to the site to the West, South and South East, and although this site previously had a business/industrial use, the use of the site for scaffolding storage

and distribution brings with it a significant impact on the locality through terms of noise above and beyond the previous use and it is noted that a large number of deliveries are also having an adverse impact in this regard. The increased height of scaffolding storage also detracts from the rural character of the area, particularly views North into the open green belt, and such is considered to cause an adverse impact for neighbours immediately adjacent. Given the above, it is considered the development causes a significant adverse impact on neighbouring amenity and objections are raised with regard to Local Plan Policies GC3 and GC7 of the Adopted Chiltern District Local Plan 1997 (including Adopted Alterations May 2001 and July 2004) Consolidated September 2007 & November 2011.

- 4 If the Committee refuses planning permission in light of the identified harm it is recommended that follow up action is taken in accordance with Central Government Guidance in para 207 of the National Planning Policy Framework (NPPF) and Chiltern District Council's Planning Enforcement Policy and the Planning Committee authorises the service of such Enforcement Notices in respect of the development as may be considered appropriate by the Head of Sustainable Development. The precise steps to be taken, period of compliance and the reasons for serving the notice to be delegated to the Head of Sustainable Development. In the event of non-compliance with the Notice, the Head of Sustainable Development having delegated authority to instigate legal proceedings in consultation with the Head of Legal and Democratic Services and/or direct action to secure compliance with the Notice.

The End