



Appeal Decision

Site visit made on 17 July 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/X0415/W/18/3194341

7 Oxford Street, Lee Common, Great Missenden, Buckinghamshire HP16 9JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr P Barrett against the decision of Chiltern District Council.
 - The application Ref CH/2017/0999/VRC is dated 24 May 2017.
 - The application sought planning permission for alterations, single storey side/rear extension and conversion of garage to elderly relative's annexe without complying with a condition attached to planning permission Ref 94/1274/CH/FA, dated 7 December 1994.
 - The condition in dispute is No 3 which states that: The converted garage and extension thereto hereby permitted shall only be occupied by an elderly relative of the occupier(s) for the time being of the property currently known as 'The Old Shop', No 7 Oxford Street. If and when such occupation is no longer required, the building hereby permitted shall only be occupied as ancillary accommodation for the main dwelling and shall not be occupied as an independent unit of residential accommodation.
 - The reason given for the condition is: Because this permission is granted having regard to the special circumstances of the case and because the Council would not be prepared to permit the creation of a second unit of accommodation on this site.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the condition is necessary having particular regard for its stated purpose of ensuring that the converted garage is not used as a separate unit of accommodation.

Reasons

3. Planning permission 94/1274/CH gave consent for the conversion (and extension) of a garage to form an elderly relatives annexe. Condition 3 of that decision appears to have been drafted to prevent its occupation as an independent dwelling so that a second unit of accommodation would not be created at the site. Both main parties have agreed that in order to prevent the occupation of the annexe as an independent dwelling, at the time of the decision, a condition was necessary as the building included all the elements which would be required for it to function as an independent dwelling.

4. The Council have not objected to the principle of an additional dwelling in this location but have raised concerns over the parking arrangements and the impact on the amenity of the future occupiers of the new dwelling and/or the occupiers of 7 Oxford Street.
5. In respect of the number of parking spaces required for both dwellings, it is noted that the current dwelling (including the annexe) has three spaces. Given that, it is reasonable to conclude that two of those spaces would be associated with the main dwelling, with the remaining space associated with the one bedroomed annexe.
6. The Council have indicated that the parking standard for the one bedroomed property would be two spaces. Notwithstanding that standard, I consider that the provision of one space for the property would be sufficient for everyday needs of the future occupants of the dwelling given its limited size and likely occupancy. I also consider that the remaining two spaces on site could provide adequate provision for the existing dwelling, particularly as this reflects the current situation at the site.
7. Notwithstanding that, the location of one of the two spaces for No 7 would be located directly in front of the kitchen window to the proposed dwelling. To my mind, the comings and goings of vehicles, together with headlights during the hours of darkness, would cause an unacceptable nuisance to the future occupiers of the dwelling.
8. In coming to that view, I acknowledge that a similar situation exists at the present time. However, the annexe (or ancillary accommodation) is currently linked to the occupants of No 7 as a single household and therefore there is a degree of control over any harm that would arise. Should I allow this appeal, that degree of control would be lost with the future occupants having no control over such vehicle movements.
9. Turning to the proximity of the respective dwellings, the new dwelling is sited much further back into the site than that the main dwelling. However, this is also the case now. The principal impact of the creation of an independent dwelling would be in relation to additional boundary treatment which would be necessary to ensure that the occupiers of each dwelling would have adequate private amenity space. Whilst the occupation of the current annexe as an independent dwelling would invariably result in an increase in domestic activities at the site, to my mind, this would not result in an unacceptable degree of harm to the occupiers of No 7, or provide an unacceptable living environment for the occupiers of the new dwelling. However, that does not outweigh the harm I have already identified.
10. The Council have referred to Policy H14 of the Chiltern District Local Plan 1997 (including alterations adopted 29 May 2001) (LP) in their reason for refusal. However, this policy is concerned with extensions and I find that the appeal proposal does not conflict with this policy.
11. In respect of Policies TR11 and TR16 of the LP, these set out the number of parking spaces required for new development. Whilst the proposal does not strictly accord with the provisions of these policies, I have already considered that the number of off-street parking spaces provided is appropriate for the development proposed, including the residual amount of spaces for 7 Oxford

Street. Consequently, the failure to comply with the requirements of these policies does not weigh against the development.

12. Turning to Policy H19 of the LP, this outlines a blanket approach that the Council will not grant planning permission for the retention of a self-contained residential annexe without compliance with the restriction limiting its occupancy to relatives (amongst other situations). However this approach does not consider whether such a proposal would result in any material planning harm. Notwithstanding that, in this case, I have found harm and the proposal is clearly contrary to this policy.
13. For the above reasons, the location of one of the required parking spaces for 7 Oxford Street would result in unsatisfactory living conditions for the future occupiers of the new dwelling contrary to Policies GC3, H7, and H19 of the LP and Policy CS26 of the Local Development Framework Core Strategy for Chiltern District (2011) which amongst other matters seek to ensure that a good standard of amenity for the future occupiers of development is achieved.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR



Appeal Decision

Site visit made on 23 July 2018

by **S Rennie BA (Hons) BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **31 August 2018**

Appeal Ref: APP/X0415/Z/17/3191391

Former Holy Cross Convent Site, Gold Hill East, Chalfont St Peter, Buckinghamshire

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Yourlife Management Services Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2017/1524/AV, dated 9 August 2017, was refused by notice dated 26 October 2017.
 - The advertisement proposed is for a non-illuminated advert of 2.4 metres by 73.2 metres on the site hoarding for a temporary period to May 2018.
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Decision

1. The appeal is allowed and express consent is granted for the display of non-illuminated advert of 2.4 metres by 73.2 metres on the site hoarding for a temporary period to October 2018 as applied for. The decision is subject to the five standard conditions set out in the Regulations and the following non-standard condition:
 - 1) The advertisement hereby approved shall be removed from the site in its entirety on or before 1 October 2018.

Procedural matter

2. During the process of this appeal, the month of May 2018 past. This was the original date that the advertisement subject to this appeal was to remain in place. The appellant has stated that the construction work at the site is continuing and therefore the hoarding around the site perimeter is still in place for health and safety reasons, with the advertisements on this hoarding. They now wish the advertisement to remain until the building is occupied in October 2018. The Council has been informed of this and has returned comments.

Main Issue

3. The main issue is the effect of the signs on the visual amenity of the area.

Reasons

4. The proposed advertisements are attached to the hoardings around the current construction site and are in place. They cover a large area, being essentially the full height of the hoarding and extending approximately 74m, fronting an adjacent highway.

5. This is primarily a residential area where advertisements are not common. However, the proposed advertisements relate to the development being constructed behind the hoardings. In such a scenario I do regard this type of advertisement as common and typical. It is assumed when the development is complete the hoarding and the advertisements would be removed, but in any case the appellant has stated that they wish to retain the advertisements until October this year.
6. The advertisements, being non-illuminated, are not overly prominent or particularly unattractive within this setting and do not result in any significant detriment to the character of the area. Also it is important to note that the advertisements would only be in place for a relatively short time.
7. The advertisements do not dominate views of the site, especially being against the backdrop of tall mature trees. I accept the advertisements cover a large area, but this is essentially the area of hoardings that are typically required around a large construction site, but would not be a permanent feature of the area.
8. I acknowledge that some occupiers of neighbouring dwellings would be able to see the advertisement, but I do not regard this as resulting in any significant detriment to the amenity of these neighbours, especially considering the advertisement is non-illuminated.
9. I note comments from interested parties that the advertisement is adjacent to a Conservation Area. However, I have no details before me of the extent of this Conservation Area and note that the Council questionnaire states that the site is not adjacent to such a heritage designation. I have therefore not considered the appeal based on the effect of the advertisement to any adjacent Conservation Area.
10. I have no evidence that the proposed advertisements would be (or has been until present) a hazardous distraction for drivers on adjacent highways. The advertisement is not illuminated and is set back from the highway edge. As such, I do not regard the advertisement as resulting in an overly distracting hazard to highway users.
11. Consequently, there would be no conflict with Policies GC1 and GC3 of The Chiltern District Local Plan, Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011, Policy VC1 of the Chalfont St Peter Neighbourhood Plan 2013-2028. These policies seek to, amongst other things, require development to respect the character of the village centre at Chalfont St Peter, be of a high standard of design and protect neighbour amenities.
12. For the reasons outlined above the appeal should be allowed. As well as the standard advert conditions, the consent will also be subject to a non-standard condition for the removal of the signage by 1st October 2018, as the appellant proposes.

Steven Rennie

INSPECTOR



Appeal Decision

Site visit made on 17 July 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2018

Appeal Ref: APP/X0415/W/17/3191276

274 and 274A Chartridge Lane, Chesham, Buckinghamshire HP5 2SG

- 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 Visao Limited against the decision of Chiltern District Council.
 - The application Ref CH/2017/1552/FA, dated 11 August 2017, was refused by notice dated 9 November 2017.
 - The development proposed is the retention and alterations to existing houses, and erection of one 2 bed detached house, one 3 bed detached house and two 4 bed semi-detached houses together with associated parking and open car ports, amenity space and landscaping, including alterations to existing vehicular access.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Visao Limited against Chiltern District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council have described the application as the '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'.
4. Whilst the Appellant has not utilised this description on the appeal form, it appears to me that the Council's description of the development more accurately reflects the development proposed.
5. From the evidence before me, there appears to have been some confusion over which plans had been taken into account when the Council determined the application. Having sought clarification from the Council, the plans which the Council took into account included a revised access arrangement which included alterations to the existing service road. The Appellant has also submitted these drawings with the appeal submission.
6. However, the red-line of the planning application does not include the land where the alterations to the highway would be. An amended red-line plan has been submitted with the appeal submission to include this extra land.

7. There has also been additional plans submitted relating to the provision of a bin storage area within the site adjacent to the turning head and revised swept path analyses relating to refuse vehicles and fire tenders.
8. In deciding whether to accept these plans, I am mindful of the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982).
9. In this case, the documents and plans which the Council determined the application on included the revised access arrangements and representations received on the appeal also make reference to this detail. Taking this into account, I consider that there would be no prejudice to any party by accepting these plans at the appeal stage. I have therefore determined the appeal on the basis of the revised plans and the Council's description of the development.
10. My attention has been drawn to two other planning applications¹ at the appeal site and numerous other planning permissions² and appeals³ at other sites. Whilst the decisions at the appeal site are clearly very relevant to the current appeal, there are also many differences between the respective developments. In relation to the other sites (both the permissions granted by the Council and the appeal decisions), I am not aware of the full circumstances of each of these cases. Moreover, I have considered this appeal on its individual merits.
11. Since the determination of the appeal application, the National Planning Policy Framework published in 2012 has been replaced, with the new version being published in July 2018 (the 2018 Framework). I have invited further representations from the Council and the Appellant on this specific matter and have taken the representations received into account in my decision.

Main Issues

12. The main issues are:

- (i) whether the development would provide a safe and suitable access;
- (ii) the effect of the development on the living conditions of the occupiers of 54 The Warren with particular regard to outlook;
- (iii) whether the development provides a suitable level of amenity space for the future occupiers of plot three;
- (iv) the effect of the development on the character and appearance of the area; and
- (v) whether the development makes adequate provision for the collection of refuse bins.

Reasons

Access

13. The access to the main part of the appeal site is located between 272 and 276 Chartridge Lane. The access driveway is in the region of 67 metres in length and connects to a service road to Chartridge Lane which serves Nos 264 to 276. The driveway varies in width but is around 4.1 metres at its narrowest point, including the grass verges.

¹ References CH/2016/1038/FA and CH/2017/2365/FA

² References CH/2017/1824/FA, CH/2015/2021/FA, CH/2016/2230/FA, CH/2016/1679/FA and CH/2016/1740/FA

³ APP/G5180/W/15/3002451, APP/D0121/A/10/212345/NWF, APP/A1720/A/10/2138718, APP/N0410/W/16/3154389, APP/X0415/A/08/2067031/NWF and APP/A1720/A/10/2137702

14. The proposed development includes alterations to the service road, and would include a new access onto the main carriageway of Chartridge Road. The first part of the new road would be at least 4.8 metres in width and would extend at least 10 metres rear of the main carriageway. The access driveway would have a width of around 4.8 metres before narrowing down to around 4.1 metres. It would then have two narrow sections where the vehicle element of the driveway would be around 2.75 metres⁴. This reduced width would be for at least half the length of the driveway. Along this section, there would also be a 0.95 metre wide area which would be a different surface material and allow for a pedestrian refuge along the driveway. The driveway, including such refuges, would also be wide enough for emergency vehicles to traverse. I also acknowledge that there would be good forward visibility.
15. The 2018 Framework, at paragraph 108, sets out that in assessing specific applications for development it should be ensured that a safe and suitable access to the site can be achieved for all users.
16. From 'Manual for Streets' (MfS), the minimum width for two cars to be able to pass would be 4.1 metres, with the minimum width for a lorry and a car being 4.8 metres, and for two lorries to pass the width should be 5.5 metres. It is clear that for a large proportion of the driveway it would not be possible for two vehicles to pass. For vehicles larger than a standard sized car, vehicles would be forced to wait (or reverse back to) either the public highway (on the service road) or the bend where the access driveway meets the main part of the appeal site.
17. Whilst there would be a low probability of conflict between vehicles, any vehicle which would need to wait on the service road would invariably cause a highway danger. To that extent, in the absence of a sufficient width of the driveway for a large part of its length, the intensification of the use of the access by increasing the number of dwellings from two to six would not be in the best interests of highway safety.
18. Turning to pedestrian access, the Appellant has indicated that a shared surface arrangement would be appropriate and has pointed to MfS where it is indicated that this can work where the volume of motor traffic is below 100 vehicles per hour. However, MfS also indicates that shared surface streets are likely to work in short lengths which (to my mind) is not the case in respect of the appeal proposal.
19. The Appellant has suggested that the development would form a cul-de-sac. Whilst the main part of the site could be considered to be a cul-de-sac in the manner which MfS is intending, to my mind, the nature of the narrow driveway is not what it is seeking to achieve. Furthermore, it is recognised that shared surfaces can cause problems for some disabled people.
20. Whilst I acknowledge that the existing access has been used as a shared surface access for many years, the development would result in an unacceptable intensification of the use of a sub-standard access.
21. Taking all of these matters into account I consider that, on the basis of the evidence before me, the proposal would not provide a safe and suitable access and would be contrary to Policy CS26 of the Local Development Framework

⁴ From drawing ITL12517-SK-010 revision E

Core Strategy for Chiltern District (2011) and Policy TR2 of the Chiltern District Local Plan 1997 (including alterations adopted 29 May 2001) (LP) which amongst other matters seek to ensure that the standards of road safety for all users is maintained and that development provides a satisfactory vehicular access so that the convenience, safety and free flow of traffic using public highways is not adversely affected and that there is a safe and attractive access on foot and by cycle. It would also be at odds with the transportation aims of the 2018 Framework.

Living Conditions – Plot 3

22. Plot three of the proposed development is largely formed from the existing property of 274A Chartridge Lane albeit with alterations and a rear extension. However, the current extensive garden of the existing dwelling would be utilised for other parts of the development.
23. The resultant garden area for plot three would be very limited in its size and would be located on the northern side of the property, with two storey buildings also on the south-eastern and south western sides of the garden.
24. The Council have not provided any guidance on the amount of space required to achieve a good standard of amenity for the future occupiers of the dwelling. However, Policy H12 of the LP sets out that there should be a minimum garden length of about 15 metres unless in cases where adequate private amenity space exists within the application site or where the rear site boundary abuts a public bridleway or footpath, an open field, open countryside, a recreation ground or a playing field, a reduced garden depth may be acceptable
25. Notwithstanding that, the rear garden space for plot three would be clearly very limited. Whilst the dwelling would be modest compared to the other properties I am not convinced that the available space would be of a size to allow occupiers to carry out all the domestic activities one would normally expect for the size of the dwelling. Furthermore, given the juxtaposition of the garden to the surrounding dwellings it would also have restricted access to sunlight and daylight. In considering both of these factors, the amenity area would not provide the future occupants of the dwelling with a good standard of amenity.
26. For the above reasons, the proposal would not provide a good standard of amenity space for the future occupants of plot three, and therefore an unacceptable standard of living, contrary to Policies GC3 and H12 of the LP which amongst other matters seek to achieve good standards of amenity for the future occupiers of the development.

Living Conditions - 54 The Warren

27. The Council's concern relates to the siting of plot six when viewed from the habitable room windows of No 54 and its rear garden. The proposed dwelling would be in the region of 4 metres away from the side elevation of No 54. The eaves height of the respective dwellings would be broadly the same.
28. In respect of the views from the main habitable windows of No 54, the Council's main concern relates to views from the south-east elevation, which is the side elevation of the bungalow. From my site visit I saw that there were several windows on the side elevation, although from the Council Officers report only two of these are to habitable rooms.

29. The window which would be most affected by the development serves the kitchen which is located towards the rear of No 54. From what I observed on site, and from the ground floor plan from application CH/2017/2365/FA⁵, the principal window faces the appeal site, with only a small secondary window and a door on the rear elevation.
30. The dwelling would appear as a dominant building when looking from the kitchen window despite its distance and the dropped eaves design. Whilst I accept that the overall height of the dwelling would be less than a traditional two storey property, it would still nevertheless have a significant adverse impact on the outlook currently enjoyed by the occupants of No 54.
31. The Appellant has provided a plan which indicates that the proposal would accord with the 45 degree guide from the rear of No 54. Whilst this may well be the case, it is significant that the Council have not raised any concerns over the loss of sunlight or daylight, or in respect of outlook from the rear of No 54.
32. Turning to the effect on outlook from the rear garden, it is noted that the two storey element would project around 5 metres beyond the rear of No 54, with a further flat roof single storey element.
33. To my mind, given the width and size of the rear garden of No 54, the proposed dwelling would not have a significant impact on the amenity of the occupiers of No 54 when they are utilising their rear garden. In coming to that view, I acknowledge that there would be some impact owing to the height and rearward projection of the proposed dwelling. However, I consider that this is not a determinative factor in this case.
34. The Council have also referred to Policies H13 and H14 of the LP in their reason for refusal. From the evidence before me, these policies relate to extensions to existing dwellings. Given this, they are not relevant to the proposed development and I have therefore given them no weight in the determination of this appeal.
35. For the above reasons, plot six of the proposed development would have an adverse impact on the outlook from the principal kitchen window of 54 The Warren to the detriment of the living conditions of its occupiers contrary to Policies GC3 and H3 of the LP which amongst other matters seek protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.

Character and appearance

36. The appeal site consists of 274 and 274A Chartridge Lane, including their access driveway. The properties are sited to the rear of 272 and 276 Chartridge Lane, with the access driveway running between these properties.
37. I have already found that the size of the garden area for plot 3 would not provide a good standard of amenity for the future occupiers of the dwelling. From the evidence before me, the size of rear gardens in the area are significantly larger in all aspects than that proposed for plot 3 and large garden areas form part of the character of this section of Chartridge Lane. Whilst there are properties in the area with less generous garden areas, none have been drawn to my attention which are as limited as plot three. To my mind,

⁵ Plan 917:1102/PL101 dated December 2017

this provides some harm to the character and appearance of the area despite the fact that it would not be possible to perceive the size of the gardens from the existing neighbouring dwellings. However, it would be possible to gauge the limited size of the garden from the new dwellings, and in particular from plot four.

38. Turning to the location of the parking spaces, these would be located towards the north-eastern side of the site, with the existing hedge along the boundary retained. The location of the parking spaces along this side of the site, on the opposite side of the access driveway to the dwellings themselves, is not characteristic of the existing development in the area.
39. Notwithstanding that, I consider that this arrangement would not give rise to any significant harm to the overall character and appearance of the area particularly since the parking areas would still be to the front of the dwellings. To that end, the location of the parking spaces along the north-eastern side of the site does not weigh against the development.
40. For the above reasons the development would harm the character and appearance of the area owing to the limited size of the rear garden area for plot three contrary to Policies GC1 and H3 of the LP which amongst other matters seek to ensure that new development relates well to the characteristics of the site and should be sited to create attractive groupings and spaces between buildings and is compatible with the character of locality of the application site. It would also be at odds with the design aims of the 2018 Framework.

Refuse

41. The Appellant has submitted a revised plan with the appeal documentation which includes a refuse collection point within the site.
42. From the evidence before me, it would be possible for a refuse vehicle to enter and exit the site in a forward gear by utilising the turning head within the site. However, it is unclear from the various plans whether this would require any minor changes to the layout of the site (including to take account any operational issues which might arise). Notwithstanding that, I am satisfied that should that be the case, this could be achieved through an appropriately worded planning condition should I be minded to allow the appeal.
43. Taking the amended plan into account, the revised details also overcome any concerns relating to the storage of refuse bins on the highway verge as this would no longer be necessary.
44. For the above reasons, the proposed development would provide an acceptable means for the storage and collection of refuse and would accord with the overall design aims of the 2018 Framework in this respect.

Planning balance

45. The Appellant has indicated that the Council has failed to evidence a sustainable 5 year housing land supply. However, little evidence of this has been provided to me and the Council have not made any reference to this either in their Officers report or appeal statement.

46. Reference is also made to the evidence base for the Council's new Local Plan and the need to identify further sites to meet the housing requirements up to 2036, including potential releases of land within the Green Belt and relying upon a neighbouring Council to provide housing to meet the needs of the area. However, this does not in itself indicate that there is a current shortfall in the five year supply of housing. Therefore, from the limited evidence before me, it is unclear whether the Council does have a five year housing land supply.
47. Notwithstanding that, the 2018 Framework indicates that planning decisions should apply a presumption of sustainable development. For decision taking, where Development Plan policies which are the most important for determining the application are out of date⁶, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the 2018 Framework taken as a whole.
48. In this case, I have found that the proposal would not provide a safe and suitable access, would harm the amenity of the occupiers of 54 The Warren, would not provide a suitable amenity space for the future occupiers of plot three and would harm the character and appearance of the area. These factors weigh heavily against allowing the proposed development.
49. Notwithstanding that, the development would give rise to some minor social benefits in that it would provide much needed additional housing. The development would also bring some minor economic benefits through the construction process. These matters are in favour of the proposed development.
50. However, the provision of four additional dwellings would be unlikely to have any significant effect in reducing the deficit to the housing land supply for the Chiltern District should there be such a deficit. Against this background, the harm identified significantly and demonstrably outweighs the minor benefits when assessed against the policies in the 2018 Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

51. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

⁶ Footnote 7 includes situations where the local planning authority cannot demonstrate five year supply of deliverable housing sites.



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Your Ref: CH/2017/1569/PNO
Our Ref: APP/X0415/W/18/3193149

Ms Jayne Froome
Chiltern District Council
Planning Services
Council Offices
King George V Road
Amersham
Bucks
HP6 5AW

29 August 2018

Dear Ms Froome,

Town and Country Planning Act 1990
Appeal by GE Healthcare Limited
Site Address: Pollards Wood, Nightingales Lane, Chalfont St Giles,
Buckinghamshire, HP8 4SP

I enclose for your information a copy of a letter received withdrawing the above appeal(s).

I confirm no further action will be taken.

Yours sincerely,

Jasmine Rogers
Jasmine Rogers

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search



Appeal Decision

Site visit made on 20 August 2018

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2018

Appeal Ref: APP/X0415/D/18/3204600

19 Oakington Avenue, Little Chalfont, HP6 6XY

- 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 Shane Gomes against the decision of Chiltern District Council.
 - The application Ref CH/2017/1607/FA, dated 22 August 2017, was refused by notice dated 16 March 2018.
 - The development proposed is a single storey rear extension, a single storey front and side extension, a front/side/rear loft extension including the removal of a chimney plus fenestration alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development given above is taken from the appeal form and from the Council's decision notice. I note that the development at the rear of the property is described as single storey. However, in my opinion, the proposed rear extension would have two floors. Therefore, I have considered the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal property is a relatively small detached bungalow with accommodation in its roof-space. In the immediate vicinity of the appeal site, Oakington Avenue is characterised by dwellings that are similar to the appeal property in terms of their scale and general appearance. Hipped roofs are a distinctive feature in the streetscene. Within the wider area, dwellings are mixed in terms of their size and appearance.
5. The proposal contains a number of different elements. The Council does not object to the single storey front and side extensions or to the rear extension, which includes a gabled roof. However, the Council considers that the alterations to form a gable at the front would be harmful to the appearance of the area.
6. Saved Policies GC1 and H15 of the adopted Chiltern District Local Plan seek to ensure that new development is of high quality design; and that proposals for

extensions should be in keeping with the existing dwelling and other buildings in the area. In addition, paragraph 127 of the National Planning Policy Framework 2018 (the Framework) seeks, amongst other things, to ensure that developments add to the overall quality of the area and are sympathetic to local character.

7. Whilst I consider that the single storey side and front extensions plus the extension at the rear to be acceptable in terms of their scale and appearance, the proposed gabled extension to the front of the property would be a particularly dominant and visually incongruous feature within the streetscene that would be at odds with the distinctive characteristics of this part of Oakington Avenue. I note that the area of glazing has been reduced from that originally proposed, but that does not alter my concerns regarding its uncharacteristic design and appearance.
8. In reaching my decision, I have taken into account the mixture of dwelling types in the wider area. At my site visit, I also viewed the development at number 183 Amersham Way, which was allowed at appeal and is similar to the appeal proposal. However, that section of Amersham Way is less uniform in terms of its dwelling types and styles. Consequently, I do not regard it as a precedent for the current appeal.
9. Therefore, I consider that the proposal would be unacceptably harmful to the character and appearance of the area and it would conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Conclusion

10. For the reasons given above, it is concluded that the appeal should be dismissed

Ian McHugh

INSPECTOR



Appeal Decision

Site visit made on 21 August 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2018

Appeal Ref: APP/X0415/W/18/3197409

Great Green Street Farm, Green Street, Chorleywood WD3 6EA

- 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 The Air Group Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2017/1804/FA, dated 26 September 2017, was refused by notice dated 22 December 2017.
 - The development proposed is erection of a stable building adjacent to northern entrance and change of use of land for equestrian purposes.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a stable building adjacent to northern entrance and change of use of land for equestrian purposes at Great Green Street Farm, Green Street, Chorleywood WD3 6EA in accordance with the terms of the application, CH/2017/1804/FA, dated 26 September 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan and Composite Location Plan, Block Plan, Floors Plans and Elevations: Drawing no. 1501-138.
 - 3) Notwithstanding the approved details, no development shall take place until details of the surface materials for the hardstanding area around the proposed stable building and the proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The details shall include a written specification of the surface materials and the type and height of fences, hedges/shrubbery, gates and other means of enclosure. The development shall be completed in accordance with the approved details.

Procedural matters

2. Since the determination of the application the revised National Planning Policy Framework (the revised Framework) was published on 24 July 2018. The main parties have been consulted on the revised Framework and provided comments in relation to this appeal. I have therefore considered the development against the relevant aims and objectives of the revised Framework.

3. The Council's appeal statement outlines that the sole reason for refusal on the Council's Decision notice relating to the material change of use of the land in the Green Belt, is now no longer relevant in this case, as the revised Framework now allows for this type of development to take place. The Council has confirmed that based on this material change in national planning policy, the Council no longer regards the proposal as an inappropriate development in the Green Belt and does not wish to defend the reason for refusal. I will address this matter below.

Main Issue

4. The main issue is whether the proposal would be inappropriate development in the Green Belt.

Reasons

5. The appeal site forms part of an agricultural parcel of land situated in an open Green Belt location and the Chilterns Area of Outstanding Natural Beauty (the AONB). It is located on the western side of Green Street close to its junction with A404 Amersham Road and immediately to the north of Great Green Street Farm, a former farmhouse and range of barns converted into residential use. Aside from the residential uses at Great Green Street Farm, the appeal site is surrounded by open countryside and the AONB, which gives the area an open and rural character and appearance.
6. The proposal would involve the change of the use of the land for equestrian purposes and the erection of a small stable building on the eastern side of the site. The proposed building, measuring about 14.7m (length) by 5.45m (width), would be a timber-framed construction with horizontal timber cladding and a low pitched profiled sheet roof with a ridge height of about 3.2m.
7. Policy GB2 of the Chiltern District Local Plan (LP)¹ states that there is a general presumption against inappropriate development in the Green Belt. It does however specify certain categories of development that are not considered inappropriate, which includes, at criterion (a) new buildings to provide essential facilities for outdoor recreation; and (f) the making of material changes in the use of land; subject to both preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. Policy R13 of the LP supports proposals for new equestrian facilities where they would be well screened and have no detrimental impact on the character or appearance of the locality and the AONB.
8. Paragraph 145 of the revised Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless, amongst other things, it would involve the provision of appropriate facilities for outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Paragraph 146 of the revised Framework states that certain other forms of development, such as material changes of use of land (such as change of use for outdoor recreation), are also not inappropriate in the Green Belt provided they would preserve its openness and not conflict with the purposes of including land within it.

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

9. The proposed stable building would be set back from the road behind an electricity sub-station, grass verge and mature landscaping and established trees running along the eastern boundary of the site. As such, there would be limited public views of the proposed building in the wider area, due to the intervening sub-station and mature vegetation. Against this backdrop, by virtue of its limited scale, form and traditional design, the proposed stable building would have a limited impact on the openness of the Green Belt and no detrimental impact on the character or appearance of the locality and the overall special qualities of the AONB.
10. The proposed stable building would involve the provision of an appropriate facility associated with the equestrian use of the land as an outdoor recreation use. The equestrian use of the land, in my view, would have no greater impact on the openness of the Green Belt than the current agricultural use of the land in this case. Consequently, I conclude that the proposal would not constitute inappropriate development in the Green Belt and would be consistent with LP Policy GB2 and the aims of the revised Framework.

Conditions

11. Having regard to the revised Framework, and in particular paragraph 55, I have considered the conditions suggested by the Council. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. I have also imposed a condition requiring that surface materials for the hardstanding area around the proposed stable building and the proposed boundary treatment shall be submitted, in order to protect the character and appearance of the area and to preserve the openness of the Green Belt.

Conclusion

12. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR



Appeal Decision

Inquiry opened on 24 July 2018

Site visit made on 31 July 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2018

Appeal Ref: APP/X0415/W/18/3202026

Land to the rear of the Old Red Lion, High Street, Great Missenden, HP16 0AU

- 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 PGMI (Great Missenden) Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2017/1943/FA, dated 18 October 2017, was refused by notice dated 6 April 2018.
 - The development proposed is described on the application form as 'Demolition of 3 4-bed houses, a disused industrial building (Use Class B2) and 20 garages, removal of spoil and trees from the rear of the site. Development of 34 residential dwellings comprising 25 houses and 5 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 to provide 4 flats. Ground floor building line amendment to southern elevation of the Old Red Lion (62 High Street) to remove 700mm at ground floor only, to provide improved visibility onto the High Street. Amendments to Forge Cottage on Missenden Mews to relocate front door, relocate car parking space and provision of new private amenity space within the site'.
 - The inquiry sat for 5 days on 24 to 27 July, and 1 August 2018.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of 3 4-bed houses, a disused industrial building (Use Class B2) and 20 garages, removal of spoil and trees from the rear of the site; development of 34 residential dwellings comprising 25 houses and 5 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 to provide 4 flats; ground floor building line amendment to southern elevation of the Old Red Lion to remove 700mm at ground floor only, to provide improved visibility onto the High Street; amendments to Forge Cottage on Missenden Mews to relocate front door, relocate car parking space and provision of new private amenity space within the site, on land to the rear of the Old Red Lion, High Street, Great Missenden, HP16 0AU, in accordance with the terms of the application, Ref CH/2017/1943/FA, dated 18 October 2017, subject to the conditions set out in the attached Schedule.

Application for costs

2. At the Inquiry an application for costs was made by PGMI (Great Missenden) Ltd (the appellant) against Chiltern District Council (the Council). This application is the subject of a separate Decision.

Preliminary matters

3. Some of the application and appeal documentation was submitted in the name of PGMI (Missenden) Ltd rather than PGMI (Great Missenden) Ltd, but both main parties were content for the appeal to proceed in this latter name. I am satisfied that no-one with an interest in this case would be adversely prejudiced by this, and have therefore determined the appeal on this basis.
4. A similar proposal by the appellant for a development of 45 residential dwellings on this site was refused planning permission by the Council in June 2017, and had been scheduled for an inquiry¹. However, the appellant withdrew that appeal in order to pursue the appeal into the current proposal for 34 residential dwellings.
5. After the close of the inquiry, but in accordance with an agreed timetable, the appellant submitted a planning obligation in the form of a unilateral undertaking (UU), made under Section 106 (S106) of the Town and Country Planning Act 1990, as amended. I have had regard to this UU in reaching my decision.
6. The Council refused planning permission for 6 reasons as set out in the Statement of Common Ground² (SOCG). However, after reviewing the 'fall-back' position detailed in the appellant's transport evidence (see later), Buckinghamshire County Council (BCC), as local highway authority, advised the Council shortly before the opening of the inquiry that it no longer considered there to be any basis to uphold those reasons for refusal which dealt with concerns regarding access to the site. As a result, the Council made it clear in its opening submissions to the inquiry³ that reasons for refusal 3 and 4 were not being pursued.
7. In addition, although not formally withdrawing reason for refusal 5 (parking provision), and reason for refusal 6 (waste collection), the Council did not strongly defend either of them at the inquiry. In the case of reason for refusal 5 this was as a result of evidence presented at the inquiry and subsequent concessions made by the Council; whilst in the case of reason for refusal 6, it was as a result of the appellant's evidence and the submission of the aforementioned UU. I deal with these matters in more detail later in this decision.
8. On the first day of the Inquiry the Government published its revised National Planning Policy Framework⁴ (NPPF). Therefore, unless noted otherwise, references to the NPPF throughout this decision relate to this revised, 2018 document. The Planning Practice Guidance (PPG), initially published in March 2014 and last updated in July 2018, is also relevant to this appeal.

Site description, surrounding area and details of the appeal proposal

9. The appeal site lies within the existing settlement of Great Missenden and sits within both the Great Missenden Conservation Area and the Chilterns Area of Outstanding Natural Beauty (AONB). It comprises some 0.9 hectares (ha) to the west of High Street and is bounded by the Great Missenden Railway Station car park to the west and the grade II listed Baptist Church to the north. To the south there is vacant land, known as 1 Twitchell Road, which now has an extant planning permission for 6 dwellings⁵. The eastern boundary is lined with a mix of residential and retail/commercial buildings (several of which are listed) which front

¹ Planning application Ref CH/2017/0171/FA; Appeal Ref APP/X0415/W/17/3190919

² Document (Doc) 24

³ Doc 2

⁴ Doc 32

⁵ Reference CH/2015/1417/FA

onto the High Street. Buildings along High Street are generally of 2 storeys, with ground floor retail/commercial uses and residential above.

10. The site rises noticeably from east to west, and currently contains 3 derelict 4-bed houses; a disused industrial building (Use Class B2); 20 garages; a group of maisonettes and Forge Cottage accessed from Missenden Mews; and 2 existing buildings fronting the High Street - the Old Red Lion (62 High Street) and 76 High Street. As such, much of the site constitutes previously developed land as defined in the NPPF. At the time of my visit large areas of the site were laid to rough grass, with many trees scattered across the site and particularly on the northern, western and southern boundaries.
11. The site has 3 existing pedestrian and vehicle access points onto the High Street. The northern access passes between Nos 50 and 48, providing pedestrian access to the appeal site and vehicular access to the rear of Nos 48 and 50. The main access lies to the south of the Old Red Lion, passing between this building and the grade II listed 64 High Street. It is used by vehicles and pedestrians going to and from the Class B1 office building (not part of the appeal site) which lies to the rear of No 64; the parking areas for the Old Red Lion and the TSB Bank which lie to the rear of these properties; as well as to the 3 vacant residential properties, the vacant Class B2 warehouse building, and a row of unoccupied garages. The southern access serves the residential Missenden Mews, Forge Cottage and a number of garages associated with these properties.
12. Under the appeal proposal the existing buildings on the site (excluding the Old Red Lion and Forge Cottage) would be demolished, and would be replaced with a total of 25 houses and 5 flats, with a further 4 flats being provided in the upper floors of the Old Red Lion. Most of the new dwellings would be sited close to the site's western boundary, although the block of 5 flats, together with some under-croft parking, would be sited just to the west of the existing parking area for the Old Red Lion. A total of 51 parking spaces would be provided on the site, for residents and visitors, including 1 space retained for the Old Red Lion ground floor unit, which would be unaffected by the appeal proposal.
13. The northern access would only provide a pedestrian route to and from the proposed development. The Old Red Lion access would be widened to improve inter-visibility between pedestrians and drivers, and the internal roads would be designed to allow for 2-way traffic immediately to the rear of the Old Red Lion building. This would be the primary vehicle access into the site, as at present. Missenden Mews would be retained in its existing form but extended into the site and on-site turning would be provided for the benefit of new and existing residents. There would be an emergency link, controlled by bollards, between Missenden Mews and the main internal site roads.
14. It is relevant to note that the Council has identified the appeal site (excluding the Old Red Lion) as suitable for housing development in its Draft Housing and Economic Land Availability Assessment⁶ (HELAA), published in May 2017. A Disclaimer explains that the Draft HELAA does not represent policy and will not determine whether a site should be granted planning permission. Rather, it establishes a 'pool' from which sites can be tested on their potential suitability, availability and achievability, and is being used to inform the preparation of the emerging Chiltern and South Bucks Local Plan (CSBLP). The site⁷ is considered

⁶ CDC8(b)

⁷ Listed as Site No CD0098 in Appendix 4 to CDC8(b)

suitable for 23 to 39 dwellings. Because of potential access issues a 6 to 10 year period is considered to be an appropriate timescale for delivery.

Main issues

15. The main issues are:

- i. Whether the Council can demonstrate a 5 year supply of deliverable housing land, in accordance with the requirements of the NPPF;
- ii. The weight to be given to relevant saved policies of the Chiltern District Local Plan (CDLP) and policies in the Core Strategy (CS) for Chiltern District, which pre-date the 2012 NPPF;
- iii. The effect of the proposed development on the character and appearance of the surrounding area, including on the Chilterns AONB; the Great Missenden Conservation Area; and the settings of nearby listed buildings;
- iv. Whether the proposed development would provide safe and convenient access to and from the proposed residential properties for all users; and its effect on the safety and convenience of users of the nearby highway network;
- v. Whether the proposed development would provide sufficient on-site parking;
- vi. Whether the proposed development should make allowance for a review mechanism to consider the provision of affordable housing.

Reasons

Housing Land Supply (HLS)

16. This issue can be dealt with fairly briefly, as the SOCG makes it clear that there is agreement between the parties that the Council cannot currently identify a 5 year supply of deliverable housing land as required by paragraph 73 of the NPPF⁸. Indeed the SOCG refers to a HLS of 2.97 years, based on a calculation undertaken in December 2017. This was amended to a 2.52 year HLS in a table provided to the inquiry by Mr Winwright⁹, and this was further modified to a 2.48 year HLS, once the table was corrected to account for a number of sites with outline planning permission which had been wrongly included¹⁰.
17. But although the Council accepted in its final submissions that it has no 5 year HLS at present¹¹ it also argued, on the basis of the evidence presented by Mr Winwright, that depending on the weight to be given to the emerging Vale of Aylesbury Local Plan (VALP), it could be considered as having a 5.89 year HLS¹².
18. In this regard I understand that the VALP is at a fairly advanced stage, having recently completed its Examination hearings, with the Inspector's report anticipated later this year. I further understand that as part of the Duty to Co-operate the Council has a Memorandum of Understanding with Aylesbury Vale District Council, to the effect that the submission version of the VALP includes 5,750 dwellings of the Chiltern and South Bucks housing need which cannot be met within these latter authorities' own areas, over the period 2016 to 2036.

⁸ See paragraph 5.3 in Doc 24

⁹ Doc 12

¹⁰ See paragraph 25 in Doc 28

¹¹ See paragraphs 44 to 55 in Doc 27

¹² This figure was adjusted downwards at the inquiry to about 5.81 years, again to account for a number of sites with outline planning permission wrongly included in Mr Winwright's data

19. However, although Mr Winwright's table shows that 3,000 of these dwellings are intended to assist in meeting Chiltern's housing need over the whole VALP plan period, there is no firm evidence before me to demonstrate that these dwellings are deliverable in the terms set out in the NPPF and - if so - how many would contribute to the 5 year HLS. In any case the VALP remains, at the present time, a draft plan, and I have been mindful of the appellant's assertion - not disputed by the Council - that the VALP's approach to housing has made it one of the most controversial emerging Local Plans in the country. In these circumstances, and having regard to paragraph 48 of the NPPF, I do not consider it appropriate to afford anything but limited weight to the VALP at this time.
20. With the above points in mind, there is nothing to cause me to disagree with the view set out in the SOCG, and I therefore conclude that the Council cannot currently demonstrate a 5 year supply of deliverable housing land.

The weight to be given to relevant development plan policies

21. As noted above, the Council only put evidence forward at the inquiry in support of reasons for refusal 1, 2, 5 and 6. In the case of reason for refusal 1 it argued that the proposed development would be contrary to Policies GC1, H3, CA1, CA2 and LSQ1 of the CDLP which was adopted in September 1997 (including alterations adopted in May 2001), and was consolidated in September 2007. The Council also maintained that the appeal proposal would conflict with Policies CS20 and CS22 of the CS for Chiltern District, which was adopted in November 2011. For reason for refusal 2 the Council alleged a conflict with CDLP Policy LB2, whilst for reason for refusal 5 conflict is alleged with CDLP Policies GC3, TR11, TR15 and TR16, along with CS Policies CS25 and CS26. CDLP Policy GC3 is also considered to be conflicted in the case of reason for refusal 6.
22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the NPPF which explains in its paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to indicate that the planning system has 3 interdependent and overarching objectives - economic, social and environmental - which need to be pursued in order to achieve sustainable development; and so that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the NPPF.
23. This is now detailed in paragraph 11, which sets out 2 criteria relating to decision-taking. Under (c) it explains that development proposals that accord with an up-to-date development plan should be approved without delay; whilst under (d), it explains that where there are no relevant development plan policies, or where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless either of 2 further criteria applies. In this context being out-of-date includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). This is the case which applies here.
24. The first of these aforementioned criteria, set out in sub-paragraph (d)i, relates to situations where the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. A footnote elaborates on this point, explaining that AONBs and designated heritage assets fall into this category. I deal with these matters under

the next main issue. The second criterion, in sub-paragraph (d)ii, relates to situations where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. I assess this matter in the planning balance which I undertake later in this decision.

25. In light of the above points, it is necessary to assess the development plan policies referred to in the reasons for refusal against the policies in the NPPF. From the CDLP, Policy GC1 sets out general criteria for development and seeks to ensure that development throughout the District is designed to a high standard. I see no material conflict between this policy and the NPPF, which makes it clear in its Chapter 12 that good design is a key aspect of sustainable development. Accordingly I consider that Policy GC1 can be given full weight.
26. Policy GC3 requires development proposals to seek to achieve good standards of amenity for future occupiers of that development, and to protect the amenities enjoyed by the occupiers of existing adjoining and neighbouring properties. As the NPPF seeks to ensure that new development provides a high standard of amenity for existing and future users¹³, as well as safe and healthy living conditions¹⁴, I consider that this policy can also be given full weight.
27. Policy H3 indicates that in the built-up areas excluded from the Green Belt (as is the case here), proposals for new dwellings will generally be acceptable in principle, subject to there being no conflict with any other policy in the CDLP. In this regard, NPPF paragraph 118 indicates that substantial weight should be given to the use of suitable brownfield land within settlements for homes and other identified needs, and that the development of under-utilised land should be promoted and supported, especially where land supply is constrained. As much of the District is indeed constrained by Green Belt and AONB I share the appellant's view that Policy H3, which supports development within existing settlement boundaries, should be given full weight.
28. However, I consider that only limited weight can be given to Policies CA1 and CA2, which relate to development within conservation areas, and Policy LB2 which relates to listed buildings, as they are not consistent with the NPPF's approach to development which affects heritage assets. Whilst these policies understandably seek to control development which would adversely affect such assets, they are all worded rather inflexibly as they do not allow for the balancing of any harm to the significance of designated heritage assets against any public benefits of the proposed development, as set out in the NPPF.
29. A similar situation arises in the case of Policy LSQ1, which relates to the Chilterns AONB. This policy reflects national policy in paragraph 172 of the NPPF insofar as it indicates that within the AONB the primary objective is to conserve and enhance the natural beauty of the landscape. However, parts of Policy LSQ1 set higher assessment thresholds than does the NPPF, requiring very exceptional circumstances to be present to outweigh objections on landscape terms, and stating that major development will be refused unless the development can be shown to be in the national interest, with no other alternative site outside the AONB being available.
30. In contrast, the NPPF indicates that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. The NPPF now

¹³ NPPF paragraph 127

¹⁴ NPPF paragraphs 117 and 180

contains a definition of major development, and how this should be considered in the context of AONBs, and I return to this matter in the next main issue. This inconsistency with the NPPF means that in my opinion the aforementioned aspects of Policy LSQ1 can only carry limited weight.

31. Policy TR16 sets out a range of Parking and Manoeuvring Standards for different types of development, to be applied throughout the District. However, uniform standards such as these are not consistent with the NPPF, which explains in its paragraph 105 that local parking standards for residential and non-residential development should take account of a wide range of local factors. Because of this inconsistency with the NPPF I consider that Policy TR16 can only be given limited weight, and the same applies to Policy TR11 and that part of Policy TR15 which refers directly to the TR16 standards. Other parts of Policy TR16 can, in my view, be given full weight as they relate to sound design principles for parking areas.
32. Turning to the CS, Policies CS20¹⁵, CS22¹⁶ and CS26¹⁷ are generally consistent with the NPPF and can therefore be given full weight. Policy CS25, dealing with the impact of new development on the transport network, contains a direct reference to the Buckinghamshire Local Transport Plan 3 (LTP3) (2011-16), and in this regard is clearly out of date as the current version of the Local Transport Plan is LTP4. The rest of the policy can, however, be given full weight as it generally accords with the transport policies of the NPPF.
33. Drawing the above points together, it is clear that not all of the policies referred to in the reasons for refusal are consistent with the NPPF. I therefore conclude that some aspects of CDLP Policies CA1, CA2, LB2, LSQ1, TR11, TR15 and TR16, and CS Policy CS25, can only carry limited weight. I have regard to these matters when undertaking the planning balance, later in this decision.

The effect on character and appearance

34. *The Chilterns AONB*. As noted above, NPPF policy relating to AONBs is found primarily in paragraph 172. Amongst other matters this indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, where the scale and extent of development should be limited. The NPPF states that planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
35. For housing, 'major development' is now defined in the NPPF Glossary as development where 10 or more homes will be provided, or where the site has an area of 0.5 ha or more. However, this definition is specifically noted as not to be applied in the context of paragraph 172. Instead, as is made clear in Footnote 55, in such cases it is for the decision maker to determine whether or not a proposal constitutes major development, taking account of the proposed development's nature, scale and setting and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
36. In this regard the Chilterns AONB Management Plan 2014-2019¹⁸ explains, in its Introduction, that this AONB was designated for the natural beauty of its landscape and its natural and cultural heritage. In particular, it was designated to protect its special qualities which include the steep chalk escarpment with areas of

¹⁵ Policy CS20: Design and Environmental Quality

¹⁶ Policy CS22: Chilterns Area of Outstanding Natural Beauty

¹⁷ Policy CS26: Requirements of New Development

¹⁸ CDC6

flower-rich downland, woodlands, commons, tranquil valleys, the network of ancient routes, villages with their brick and flint houses, chalk streams and a rich historic environment of hillforts and chalk figures.

37. With these points in mind I share the appellant's view that at present the appeal site, which is very enclosed by mature trees on its northern, southern and western boundaries, and by existing buildings on its eastern boundary, makes little contribution to the AONB. Indeed, because of its enclosed nature the site only has a limited influence upon character and appearance beyond its boundaries. I consider that with well-designed buildings, in keeping with other nearby development in the village, and the proposed landscaping treatment of the site, the appeal proposal would result in an enhancement of the character and appearance of the land within the appeal site itself.
38. This is borne out by the Council's Chiltern & South Bucks Townscape Character Study¹⁹ which identified the site as forming part of the 'tightly formed centre' character area, and as having the potential for change. Such areas are noted as having the potential to be improved in terms of their quality and positive contribution to the overall quality of the character area they sit within.
39. I note that glimpses of the appeal site can be obtained from the High Street, along the 3 access points, but the Verified Views²⁰ submitted by the appellant demonstrate that there would only be limited changes in character as a result of the proposed development. Views along these accesses would still be of a backland area with various buildings, trees and other vegetation.
40. Moreover, as I saw at my site visit, the appeal site makes no material contribution to the AONB in longer views. I acknowledge that the boundary trees and trees within the site do form part of the wooded backdrop to the village in views from public footpaths to the east, but many of these trees would remain with the appeal proposal and I am not persuaded that any visual change arising from this development would be out of keeping with the nearby existing built form of the village, or result in any harm to the landscape and scenic beauty of the AONB.
41. It seems to me that those undertaking the HELAA assessments must have reached a similar conclusion, as Stage 2 of this process had regard, amongst other matters, to Policy Constraints²¹ (including the AONB), but the site's location within the AONB was apparently not considered to be a barrier to development. I share that view. Overall I consider that the proposed development would not have any detrimental effect on the environment or the landscape and with this in mind, and having regard to paragraph 172 of the NPPF, I do not consider that this proposal should be seen as major development in the AONB.
42. But even if I am wrong on this point, I am satisfied that exceptional circumstances exist in this case, evidenced by the very limited scope for the provision of housing within Chiltern District on sites that do not lie within the AONB or the Green Belt; the fact that there is a severe shortfall against the housing requirement and that this shortfall has been persistent; and that the site lies in a sustainable location with easy access to local services and public transport²², within one of the most sustainable settlements in the District²³. Indeed as this site has already been

¹⁹ CDC12

²⁰ CDA13

²¹ See paragraph 51 of CDC8(b)

²² See paragraph 29 in CDA3

²³ Paragraph 7.5 of the CS identifies Great Missenden as one of the 5 most accessible settlements in the District

identified in the HELAA as being appropriate in principle for accommodating housing, it can reasonably be assumed that the Council is satisfied that such development would not be at odds with CDLP Policy LSQ1 and the NPPF, and that it therefore accepts that exceptional circumstances exist.

43. In light of the above points NPPF paragraph 172 does not provide a 'clear reason for refusing the development proposed', as required by NPPF paragraph 11(d)i.
44. *Conservation Area and Listed Buildings.* As already noted, the appeal site lies within the Great Missenden Conservation Area, close to a number of listed buildings. Most of these lie on the High Street towards the southern part of the site, although the Cross Keys public house and the Baptist Church are located just to the north of the site. The grade II listed 76 High Street lies within the site but would not be directly affected by the appeal proposal, and the site also contains the 2 non-designated heritage assets of the Old Red Lion (now unoccupied) and Forge Cottage.
45. Dealing first with the conservation area, reason for refusal 1 contends that the proposed development would not conserve or enhance its character and appearance, and as a result would be at odds with CDLP Policies CA1 and CA2, as well as with the provisions of the NPPF. The conservation area is fairly extensive in size, being broadly linear in form and containing much of the older part of the village to the east of the railway line, centred on High Street and Church Street, and also containing the more open area of Abbey Park and land around the Parish Church to the south and east. As such, the appeal site itself forms only a small part of the overall conservation area²⁴.
46. The Conservation Area Appraisal²⁵ (CAA) dates back to 1992 and does not reflect the approach now required by the NPPF and Historic England (HE), of examining the significance of a heritage asset and determining the effect of development proposals on that significance. That said, the CAA does identify the characteristics of the conservation area, referring to the fact that the old part of Great Missenden forms a linear village lying along the old A413 road on the west side of the Misbourne Valley in the lee of a wooded hillside. It refers to the town (sic) being seen as a compact and clearly defined settlement when viewed from Frith Hill in the east, noting that development has been limited by the railway and hill on the west, and by the River Misbourne on the east.
47. The CAA also refers to the narrow, winding nature of High Street and Church Street and the fact that they are intimate in scale, with the strong feeling of enclosure being enhanced by the number of glimpses of open country through gaps in the street frontage, and with the transition from country to town being immediate, particularly at the north and south approaches to the High Street.
48. The appellant highlights the fact that the CAA identifies the need to maintain the eastern edge of the village, where a strong relationship exists between the village and the surrounding landscape, but that no similar reference is made to the village's western side, arguing that this implies the western edge is less sensitive. The Council disputes this point, maintaining that the reference to the eastern side of the village arose because of pressure for development in the east at the time the CAA was prepared, pointing to the fact that this matter is referred to in the CAA at paragraph 14 under the heading 'Defects Requiring Remedy'.

²⁴ See Plan A2.2 in CDC9

²⁵ CDC10

49. However, it seems to me that this can only be partly correct, as the same matter is also referred to in paragraph 5 of the CAA – not as a defect to be addressed – but rather in the context of emphasising the importance of preserving the open character of land to the east, in views both out of and into the village. As such I share the appellant’s view that the western side of the village and conservation area, which abuts the railway, less clearly expresses the relationship between the historic village and its wider landscape than does the eastern side, and is therefore less sensitive to further development.
50. The appeal site lies on this western side of the village and I consider that its rather messy and unkempt nature, with vacant mid-20th century dwellings, industrial buildings and garages, detracts from the more ordered and well-kept appearance of much of the more publicly accessible parts of the conservation area. But as the site is enclosed it is only visible in glimpsed views from the High Street and is not overly discernible in long-distance views from the east. Because of this I do not consider that the area of the site which lies to the west of the High Street makes any meaningful contribution to the conservation area in its present form.
51. Turning to the proposed development, the Council is critical of the density of the appeal proposal and also its layout, arguing that the bulk of the development would create a second line of major development behind the historic High Street, and that this would compete with the High Street buildings. Moreover, the Council maintains that the new dwellings, which would mainly be built on the higher, western part of the site, would be prominent in views from the east across the valley, especially as some trees within the site would need to be removed to allow the development to take place.
52. The Council is also critical of the fact that what it describes as a large block (of 5 apartments) would be located directly to the rear of the Old Red Lion, and that there would be 3 other deep-flanked sets of dwellings at right-angles to the main row of dwellings, staggered up the hill. It also argues that many of the proposed buildings would be taller than the Baptist Chapel, which is a prominent feature just to the north of the site, and that they would compete for attention, thereby diminishing the significance and impact of this important grade II listed building.
53. However, notwithstanding the Council’s objections to the proposed layout, the Design and Access Statement²⁶ (DAS) shows that the linear style of development which forms the subject of this appeal, was favoured by the Council’s Historic Buildings Officer (HBO) in post at the time pre-application discussions were taking place. Other alternatives put forward by the appellant were ‘Mews Lanes’ and ‘Courtyards’ layouts, but the HBO felt that the linear design was the most appropriate within the historic context of Great Missenden. Despite the Council’s current objections, I see no good reason to take a contrary view on this matter.
54. Moreover, insofar as density is concerned, the DAS shows that the footprint and density of the appeal proposal²⁷ would be lower than nearby existing areas of High Street and Church Street. In this regard I note that the number of dwellings and density proposed would fall well within the ranges considered appropriate for this site in the Council’s HELAA²⁸, referred to earlier. Furthermore, whilst I acknowledge that the main row of proposed dwellings would sit on the higher,

²⁶ See CDA1

²⁷ Stated by Mr Handcock to be 37.8 dwellings per hectare (dph)

²⁸ CDC8(b), Appendix 4, suggests that 23 to 39 dwellings at a density of between 30 and 50 dph would be appropriate for this site

western part of the site, having viewed the layout and sections shown in the DAS, along with the Verified Views from a variety of representative viewpoints, I do not consider that the proposed dwellings would be obtrusive or out of keeping.

55. Indeed, it seems to me that it would mainly be the roofs of the proposed dwellings which would be seen from the eastern, distant viewpoints, and whilst this would 'thicken' the extent of development in the vicinity of the appeal site and the High Street at this point, the linear characteristic of the village would be retained. Development would be sufficiently far away from the Baptist Chapel to ensure that there would be no unacceptable impact on this listed building or its setting, and although some of the trees internal to the site would have to be removed, the well-treed backdrop to the village, rising up the western hillside, would not be adversely impacted by the proposed development.
56. In coming to these conclusions I have had regard to the fact that distant views of this part of the village are only available from certain locations on or close to the footpaths on the eastern hillside, and from a rather remote part of the churchyard. This leads me to conclude that the proposed development would not be a prominent or ever-present feature to walkers in these areas.
57. In terms of impact on the site itself, there are a number of mature trees within the site, as well as along several of the boundaries. As a result of the appeal proposal most of the trees within the site would be removed, but in his consultation response on the application the Council's Tree Officer²⁹ (TO) stated that the trees on the site are generally of poor quality and could be replaced by good landscape planting within any new development. That said, he did also indicate that the current proposal seemed to leave little suitable space for such planting.
58. Notwithstanding this latter point, the Officer's report to the Planning Committee records no objection from the TO, subject to the imposition of conditions requiring adequate protection for the retained trees. Conditions have been agreed between the Council and the appellant, covering such matters as tree protection, an arboricultural method statement for works within the root protection areas of the retained trees, and a landscaping scheme which includes proposals for new planting and its maintenance. As such I am satisfied that concerns regarding trees could be adequately addressed if planning permission was to be granted.
59. The DAS states that the general approach to architecture has been to restore the period buildings (the Old Red Lion and Forge Cottage), in keeping with their traditional character, whilst all the new build would be constructed from traditional materials, with their form echoing the established precedents for terraced housing in the village. This seems to me to be an appropriate and acceptable approach.
60. Moreover, although the Council maintains that the parking areas would dominate the development, the spaces would be spread throughout the scheme and would be interspersed with trees in raised beds and other landscaping features. As such I do not consider that either the parking areas or parked vehicles would be overly intrusive features within the development. Because of this, and having regard to all the above points, I share the appellant's view that the proposed development would enhance the character and appearance of the appeal site itself.
61. From within the High Street, as noted above, development on the appeal site would be largely unseen as it would only be glimpsed along the 3 accessways, and

²⁹ CDB2

would generally be well-shielded by existing development and/or existing or proposed vegetation. This is evidenced in the Verified Views document³⁰, and as a result I find it difficult to share the Council's view that there would be competition between the proposed development and the historic High Street. For reasons just given I do not believe this would be the case.

62. There would be a noticeable impact on the Old Red Lion as its southern ground floor elevation, alongside the access, would be altered and set back by some 700mm, in order to improve visibility for drivers entering the High Street from within the site (see later). This would result in the introduction of a 'side-jetty' to this building at first floor level. However, whilst this would be an atypical feature in the High Street, the Old Red Lion itself is already a rather unusual and atypical building in this locality, as is detailed in the Heritage Impact Assessment (HIA)³¹.
63. This explains that the Old Red Lion is a mix of 2 and 2.5 storeys, with this taller, southern part making it stand out in the High Street where a lower 2-storey building height is almost ubiquitous. Moreover, this taller, 2.5-storey element has resulted in the eaves on the street frontage being much higher than the head of the first floor windows, a feature not repeated on other High Street buildings, which have the more usual relationship between the eaves line and the upper storey windows. I share the view expressed in the HIA that this gives the building a somewhat awkward appearance. Furthermore, the presence of tile hanging on the front and side elevation is not a common feature in the High Street.
64. On the basis of the representation shown in the Verified Views document I do not consider that the proposed introduction of a side-jetty would be unduly harmful to the overall appearance of this building. Furthermore, I have noted that a Structural Engineer's Assessment - not disputed by the Council - indicates that such alterations would be feasible. With these points in mind, I consider that although this non-designated heritage asset would experience some loss of fabric, its significance as a prominent building on the High Street and a former coaching inn would not be harmed.
65. Similarly, I do not consider that the modest alterations proposed for Forge Cottage - primarily the relocation of its front door - would have any material impact on the significance of this non-designated heritage asset.
66. With regards to the nearby listed buildings I have already noted that 76 High Street, which forms part of the appeal site, would not be directly affected by the appeal proposal, and I do not consider that the proposed changes elsewhere on the site would have any material impact on this building's setting. I have also concluded, earlier, that there would be no adverse impact on the setting of the Baptist Chapel.
67. In my opinion the only other listed buildings which could potentially be affected by the proposed development are Nos 64-74 on the western side of the High Street. No 64 is grade II listed and sits on the south side of the proposed main access to the site. However, it already backs onto a parking area for the Class B1 office building, and this existing building would largely shield No 64 from any development on the appeal site. Whilst some of the proposed new build to the rear of the Old Red Lion could possibly be visible from rear-facing windows of No

³⁰ CDA13

³¹ See CDA1

64, any such development would be at a distance and I do not consider that it would have any significant adverse impact on the setting of this building.

68. I have noted the Council's concerns that a carelessly driven vehicle could cause damage to the side elevation of this property, but of course that is also the case now. That said, I do acknowledge that the current low level of activity associated with the lawful use of the appeal site means that use of the access by large vehicles is unlikely to be a common occurrence at the present time. I return to this matter under a later main issue.
69. Turning to the other listed buildings – Nos 66-74 – the Council has raised concerns about the impact of the proposed development when viewed from these and other High Street properties. However, no specific harm has been detailed and I see no reason why the proposed built form on the appeal site – which would in any case be some distance from the rears of these buildings – should result in any unacceptable visual or other harm. In this regard I note that Stage 2 of the HELAA assessment process took account of Environmental Constraints³² - including listed buildings – and did not see this matter as a barrier to development on the appeal site. I share that view.
70. I have also been mindful of the fact that in its consultation response³³, HE did not consider that the scheme would cause harm to the character or appearance of the conservation area as experienced from within it, as it would be largely screened from clear views along the High Street and would only be seen in glimpsed views along the 3 access points. HE commented that from outside the conservation area boundary, although the roofs of the scheme would be clearly seen from the graveyard of the Parish Church, they would form part of a very varied roofscape into which they should fit reasonably well, provided that a variety of similar materials are used. In this regard, the DAS notes that the architectural treatment of the proposals would reflect the local vernacular, in order to fit comfortably and sensitively into the village.
71. HE did raise some concerns about the proposal, but these were only in relation to the possible implications of an inadequate amount of parking being provided by the development and the possible consequences of parking spilling over into the sensitive, small streets of the village centre. I return to this matter under a later main issue.
72. Drawing all the above points together I do not consider that the appeal proposal would have any undue impact on the linear nature of the village or the conservation area, nor would it adversely impact on any of the conservation area's characteristics such as the narrow, winding streets and the strong sense of enclosure, as detailed above. It would therefore preserve the character and appearance of the conservation area. Furthermore, it would not have any adverse impact on listed buildings or their settings, and whilst it would result in an alteration to and some loss of fabric of the non-designated Old Red Lion, on balance I do not consider that this would result in any material harm. As such I am satisfied that the proposed development would not result in any harm to the significance of designated or non-designated heritage assets. The presence of designated heritage assets therefore does not constitute a clear reason for refusing this development, in the context of NPPF paragraph 11.

³² See paragraph 51 of CDC8(b)

³³ Included as Appendix A16 to Mr Handcock's evidence

73. **Summary.** Overall on this main issue, in light of all the matters detailed above, I conclude that the appeal proposal would not have an adverse impact on the character and appearance of the surrounding area, or on the Chilterns AONB, the Great Missenden Conservation Area, or on the settings of nearby listed buildings. The impact on the non-designated Old Red Lion and Forge Cottage would also be acceptable. Accordingly – and notwithstanding the fact that I consider that some of these policies can only be given limited weight – I find no material conflict with CDLP Policies GC1, H3, CA1, CA2, LB2, or with CS Policies CS20 and CS22. Moreover, there would be no conflict with NPPF policies dealing with AONBs or heritage assets.

The safety and convenience of the proposed access points, and of users of the nearby highway network

74. The issue of access to the proposed development was, in my view, the most important concern raised by those interested persons who spoke at the inquiry, and it was also the most mentioned matter in the various representations made at application stage³⁴ and at appeal stage. Concerns over the adequacy and safety of the access points led to the Council imposing reasons for refusal 3 and 4 when it refused planning permission for this proposal. I can understand and appreciate these concerns as all of the 3 existing access points to the appeal site are relatively narrow, with none of them being of a standard which BCC as local highway authority would be prepared to adopt. As such, the accessways and the shared surface roads within the development would all remain private.

75. However, it is clear that these existing accesses are all in current use, as I was able to see at my site visit. I observed that the main access, between the Old Red Lion and 64 High Street is currently used by visitors to the TSB Bank (which has a small car park to the rear of its High Street premises); by workers at, and visitors to, the existing B1 office building to the rear of No 64; and by people who park to the rear of the Old Red Lion, apparently taking advantage of the fact that it is currently vacant. More importantly however, the Council, BCC and the appellant all agree that there are various existing lawful uses on the appeal site (including the Old Red Lion itself), which could generate traffic without the need for any further planning permissions to be granted.

76. The submitted evidence indicates that this fact formed the basis of a series of discussions, primarily between the appellant and BCC, in an attempt to establish a form and quantum of development for the site which could be considered 'traffic neutral'. In other words, an assessment was made of the potential traffic generation which could legitimately be expected to arise from the mix of houses, garages, and Class A2 and Class B2 uses present on the appeal site. In considering this matter I am well aware of the currently run down nature of the uses on the appeal site, and I fully accept that only a very limited amount of traffic is likely to be generated by these uses at present.

77. But this cannot disguise the fact that these existing uses (or similar) could be resurrected without the need for planning permission, and it is therefore quite legitimate and indeed necessary for the potential, lawful traffic generation of the appeal site to be taken into account. Using figures from the industry standard TRICS³⁵ database, agreed between BCC and the appellant, BCC confirmed in September 2017 that a development scheme comprising 23 houses and 10 flats

³⁴ CDB3

³⁵ TRICS: Trip Rate Information Computer System

would be considered traffic neutral, compared to the existing use of the site³⁶.

Minor adjustments were then made to the calculations by the appellant, leading to its view that a more accurate mix for a traffic neutral scheme would be 25 houses and 9 flats³⁷. It is on this basis that the scheme which now forms the subject of this appeal was prepared and submitted in October 2017.

78. However, despite this apparent agreement on a traffic neutral position, the appellant only received the consultation comments from BCC on the application on 3 April 2018, just a few days before the planning application was refused under delegated authority on 6 April 2018. I find this BCC consultation response somewhat confusing and contradictory, as in one paragraph it appears to agree that the existing uses on the site could be expected to generate 124 daily 2-way vehicle movements. But it then goes on to carry out a calculation leading to a different total of 111 daily 2-way vehicle movements, using a slightly different traffic generation rate for the garages on the site.
79. With an agreed traffic generation for the appeal proposal of 123 daily 2-way vehicle trips, BCC argued that this proposed development would be likely to generate 12 more daily trips than could potentially be generated by the existing uses, resulting in an intensification of use at both the Old Red Lion and the Missenden Mews access points. In addition, the BCC consultation response raised concerns about the achievable pedestrian visibility splays at the Old Red Lion access, although the appellant maintained that agreement had previously been reached with BCC on this matter. It was as a result of this consultation response that the Council imposed reasons for refusal 3³⁸ and 4³⁹.
80. In his transport proof of evidence to the inquiry, Mr Fitter, for the appellant, acknowledged that providing an overall traffic neutral solution would, indeed, result in modest increases in traffic at the Old Red Lion and the Missenden Mews accesses of 5 and 3 daily 2-way trips respectively, but that this would be compensated for by a reduction of 9 daily 2-way trips at the narrowest, northern access. But through Mr Fitter's evidence the appellant also made the point that there was an alternative legitimate fall-back position which could be pursued, if planning permission is not forthcoming for the appeal proposal, namely the marketing of the upper floors of the Old Red Lion for Class A1 retail use, and the change of use of the existing Class B2 unit to a B1 use.
81. Evidence from local commercial property consultants⁴⁰ has been provided by the appellant to indicate that there could be significant interest in this suggested use of the upper floors of the Old Red Lion for retail purposes, and whilst the consultants did not comment directly on the alternative B1 use of the existing industrial unit, the fact that there is already a small B1 office use to the rear of 64 High Street leads me to the view that such an alternative use could well be viable. In view of these points I note that on the basis of this latter proposition alone (the suggested change from B2 to B1), there would be a likely daily increase in traffic generation of 11 2-way vehicle trips, effectively cancelling out the 12 additional trips from the proposed development alleged by BCC in its consultation response.

³⁶ CDA9

³⁷ Also in CDA9

³⁸ Relating to an alleged intensification of use of the Old Red Lion access, giving rise to danger and inconvenience for users

³⁹ Relating to alleged inadequate width of vehicle and pedestrian access points, and concerns about safety and convenience

⁴⁰ CDA14

82. But more importantly, a retail use of the upper floors of the Old Red Lion would significantly increase the traffic generation of the existing uses on the appeal site, by over 600 2-way trips on a daily basis, with 2-way morning and evening peak hour vehicle movements of 35 and 53 respectively. Having reviewed and accepted the veracity of this fall-back position BCC wrote to the Council on 20 July 2018, shortly before the opening of the inquiry, to indicate that it no longer felt able to support reasons for refusal 3 and 4. As a result, in opening its case at the inquiry⁴¹ the Council withdrew these 2 reasons for refusal and presented no evidence on this matter.
83. Concerns about access issues were, however, still expressed by those who spoke at the inquiry as individuals and on behalf of Great Missenden Parish Council and the Great Missenden Village Association and, as already noted, concerns about access were expressed in the various written representations. The main Old Red Lion access was the subject of particular criticism.
84. However, the appellant proposes certain improvement to this access, including a widening to 4.2m at ground floor level, in order to improve visibility between emerging drivers and pedestrians using the western footway on the High Street, and the removal of the modern extensions to the rear of the Old Red Lion. This latter measure would reduce the extent of the restricted width section to just about 11m. All other shared surface roads within the development would be wide enough to allow 2 cars to pass, and would also provide for necessary parking (see later) and manoeuvring. On this point I note that the Buckinghamshire & Milton Keynes Fire Authority raised no objection to this proposal, simply commenting that particular attention must be given to parking facilities to prevent 'chronic double parking' issues, which could ultimately affect emergency service attendance.
85. I acknowledge that this widening at ground floor level would not benefit taller vehicles but swept path analyses, taking account of the on-street parking bays on High Street, have been submitted to show that a wide range of vehicles could access the site even without this widening. Whilst some of the largest vehicles, including pantechnicons, would not be able to enter through the Old Red Lion access, the appellant has indicated that access to the site by such vehicles would be controlled by both a Demolition and Construction Method Statement and a Delivery and Servicing Plan, both of which could be secured by conditions if planning permission is granted.
86. In view of these points I am generally satisfied that the access arrangements for the development would be safe and satisfactory, although I do share the Council's concern regarding the potential for damage to occur to 64 High Street if the existing metal post at the front of the Old Red Lion access, protecting this property, is removed as proposed. That said, it was agreed at the inquiry that measures could be introduced by a planning condition to address this matter, if planning permission is granted. I return to this point later in this decision.
87. With regard to BCC's concerns about pedestrian visibility splays at the Old Red Lion access, I consider that the appellant's proposal to widen this access to 4.2m would provide a satisfactory level of inter-visibility between pedestrians and drivers at this location. In this regard I have been mindful of the comments from interested persons, that pedestrian movements in the High Street were low at the time of my site visit, both because it was a school holiday period, and also

⁴¹ See Doc 2

because the popular tourist attraction of the Roald Dahl Museum, located within the High Street, was closed in the aftermath of a recent flooding incident.

88. However, whilst I acknowledge that the appeal proposal would result in a fairly high level of traffic movement at the Old Red Lion access, this is an established and relatively well-used access which, in terms of its form and layout, would not be dissimilar to many of the other access points along the High Street. Moreover, submitted accident information indicates that there have been no personal injury accidents at this or other similar accesses along the High Street over the last 3 years. Because of these points, and the satisfactory standards of visibility, coupled with the slow speeds at which vehicles would inevitably have to manoeuvre at this location, I do not consider that the increased use of this access would unduly compromise the safety of either drivers or pedestrians.
89. Taking all the above points into account, I conclude that the proposed development would provide safe and convenient access to and from the proposed residential properties for all users, and would not have an unacceptable impact on the safety and convenience of users of the nearby highway network. Accordingly, and notwithstanding the fact that the accessways and the shared surface roads within the site would all remain private, I find no conflict with CDLP Policies TR2 or TR3 which, in summary, require new development to have safe and adequate access to the existing highway network. Nor do I find any material conflict with CS Policies C25 or C26, or with the transport policies in the NPPF.

Whether sufficient on-site parking would be provided

90. Reason for refusal 5 alleges that the appeal proposal would not make adequate provision within the site for parking and manoeuvring of vehicles clear of the highway. As such it maintains that if permitted, the development would be likely to lead to additional on-street parking and to vehicles parking ad-hoc within the site access points, to the detriment of public and highway safety. The Officer's report to Committee states that 74 parking spaces would be needed for the 34 new dwellings, in order to comply with the requirements of CDLP Policy TR16. This figure was increased to 82 spaces in the evidence of the Council's planning witness, Mrs Smith, who also argued that a further 28 spaces could be needed to compensate for displaced on-site parking/garaging, together with replacement parking for the commercial use in the ground floor of the Old Red Lion.
91. However, the parking standards set out in Policy TR16 are based upon car ownership data from the 1991 census, which is clearly now out of date. Moreover, these Policy TR16 standards apply uniformly throughout the District, and do not take specific account of relevant local factors, such as those set out in paragraph 105 of the NPPF. This indicates that policies setting out local parking standards for residential and non-residential development should take account of the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; and local car ownership levels; together with an adequate provision of spaces for electric and other ultra-low emission vehicles.
92. The Transport Assessment (TA) submitted with this application makes reference to the Chiltern District Council Accessibility, Parking Standards and Community Infrastructure Study, dated 2005, which shows that Great Missenden is considered to be one of the most accessible settlements in Chiltern District. In addition the centre of Great Missenden, including the appeal site, is shown as achieving the highest accessibility index available. With these points in mind, the TA comments

that any residential development in this location would be suitable for a suppressed level of parking, and in view of the close proximity of local facilities and services, the rail station and a reasonable level of bus public transport, I see no reason to doubt this view.

93. In determining what it considered to be an appropriate level of parking provision for the proposed development the TA also undertook an analysis of 2011 census data to establish levels of vehicle ownership in the Great Missenden ward, differentiated between houses, maisonettes and flats. This exercise produced a predicted parking demand of some 43 spaces. When allowance is made for 1 space for Forge Cottage, and 1 for the retained A1 use in the ground floor of the Old Red Lion, as well as some parking for visitors, the appellant argued that the proposed total parking provision of 51 spaces would be appropriate and acceptable for this development.
94. I favour this approach adopted by the appellant. Indeed Mrs Smith for the Council accepted, under cross-examination, that Policy TR16 is not consistent with the NPPF and that the proposed development should not be required to make provision for the amount of parking that this policy would suggest. The parking demand figure was, in fact, amended during the course of the inquiry to incorporate information relating to households having 3 cars⁴², but it was agreed that a parking demand figure of 52 spaces would be reasonable for this development, and that this would allow for a degree of visitor parking.
95. This would amount to just 1 space more than the appeal proposal would provide, meaning that 1 resident's car or visitor's car may need to park on the carriageway within the scheme. The Council did not suggest that this would be unacceptable, and I share the appellant's view that this would be unlikely to have any significant impact on the operation or safety of the scheme. In light of the concession made by Mrs Smith, and the agreement between the parties on this updated parking information, the Council did not cross-examine Mr Fitter on parking matters, or indeed on any transport matters – although it did not formally withdraw reason for refusal 5.
96. As noted earlier, HE raised concerns about the parking provision of the appeal proposal, but those concerns would likely have been based on the Council's assessment of parking demand at that time – namely the Policy TR16 requirement. This has now been shown to be not appropriate for this site, and as such I give very little weight to HE's concerns that parking from the proposed development could spill over into the village centre and harm the character and appearance of the conservation area. Not only is it unlikely that there would be any significant over-spill parking, on the basis of the figures set out above, it is also the case that there is no unrestricted parking permitted on the public highway within some 200m of the appeal site, with all highway within that range being protected by traffic regulation orders, either in the form of double yellow lines or restricted on-street parking bays.
97. Drawing the above points together I conclude that the proposed development would provide sufficient on-site parking, and whilst there would be a conflict with CDLP Policy TR16, and by extension Policies TR11 and TR15, these policies only carry limited weight in this case for the reasons I have already given. Insofar as the proposed parking provision is concerned I find no conflict with CDLP Policy GC3, or with CS Policies CS25 and CS26 or the NPPF.

⁴² See Docs 14 and 15

Whether there should be a review mechanism to consider the provision of affordable housing

98. A Viability Report⁴³ (VR) submitted by the appellant with the planning application indicated that the proposed development had a Residual Site Value (or Residual Land Value – RLV), excluding fees and costs, in the region of £1.669 million. This compares with a Benchmark Land Value (BLV) of some £5.09 million, and as the RLV was lower than the BLV the VR concluded that the proposed development could not support contributions to planning obligations or affordable housing. However, it was later clarified by the appellant that the VR had included a contingency figure of £150,000, to go towards any requested planning obligations, but that this had been overlooked when the text of the VR was updated from the appellant's earlier proposal for this site.
99. To clarify – the appellant confirmed that the appeal proposal could support the financial contribution of £138,654 requested by the School Commissioning Officer, to go towards additional educational facilities, the need for which would be generated by the proposed development. This would be secured by means of the submitted S106 UU.
100. This VR, which had been prepared in November 2017 was reviewed by financial consultants on behalf of the Council in December 2017 and, whilst disagreeing about the level of costs and values assumed in the report, these consultants nevertheless did agree that the proposed development could not support on-site affordable housing or make a commuted capital payment in lieu of on-site provision.
101. The relevant policy framework in this regard is provided by CS Policy CS8, which indicates that in new developments of 15 dwellings or more the Council will aim to achieve a target of at least 40% of the dwellings being affordable. The policy does go on to say, however, that there will be occasions when it is not financially viable for developers to meet the targets in this policy. In such circumstances the Council will require clear evidence to demonstrate why it is not viable to do so.
102. In this case, as a result of the submission of the VR and the Council's assessment thereof, when planning permission was refused the Council did not include the lack of affordable housing, or a commuted payment in lieu of the same, as a reason for refusal. It did, however, attach an Informative to the decision notice, advising the appellant that if it decided to appeal the refusal it would be expected to submit a satisfactory Legal Agreement, to include a review mechanism, which would need to be carried out prior to the implementation of any approved scheme.
103. Whilst the inquiry was sitting, financial consultants for the appellant and the Council continued to discuss and negotiate, with a view to preparing a Viability SOCG. Such a document was prepared in draft form⁴⁴ but no signed and completed version was submitted before the inquiry closed. Although a number of matters were agreed, this Draft SOCG also sets out the various areas where the parties could still not reach agreement, including on the assumed figures for RLV. The Council argued for a figure of about £4.016 million, whilst the appellant's latest figure was about £2.665 million. However, the parties agreed that on the basis of either of these figures the appeal proposal still could not support on-site affordable housing provision, or a commuted payment in lieu of this.

⁴³ Within CDA1

⁴⁴ Doc 16

104. But notwithstanding the above, the appellant has included a 'Viability Appraisal' in its submitted UU which would be triggered if, following any grant of planning permission for this proposal, fewer than 10% of the dwellings have been constructed to at least 0.5m above foundations, with incoming services and site access laid out, by the second anniversary of the date of planning permission.
105. The aim of this Viability Appraisal would be to establish whether the viability of the proposed development had improved over this period, to the extent that an affordable housing contribution should be paid by the appellant to the Council. The Council argues that both parties would be protected by such a trigger and review, as it would encourage the appellant to expedite the scheme in a timely manner, but would also deliver a commensurate level of contribution if viability was to improve, and if implementation was delayed.
106. However, despite including these provisions in the UU, the appellant argues that such a review is not justified for a single phase proposal such as this, for which full planning permission is sought, and for which certainty of costs and expenditure is needed at the outset. The appellant further argues that the imposition of such a viability review mechanism would not accord with guidance in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010, which states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
107. In this case the UU fails the first of these criteria, as a Viability Appraisal is not necessary to make the development acceptable in planning terms. This is borne out by the fact that the Council did not cite the absence of affordable housing provision as a reason for refusal, as already noted. CS Policy CS8 clearly allows housing development to take place without achieving the target of 40% of affordable housing, when it can be demonstrated that a development is not able to viably support such provision – as here – and in such circumstances there is no conflict with this policy.
108. I have noted the Council's comment that neither the NPPF, the PPG⁴⁵, nor professional guidance from the Royal Institution of Chartered Surveyors (RICS) in its document Financial Viability in Planning⁴⁶, preclude the use of viability review mechanisms on single-phase schemes, and do not expressly advise on this matter. However, this RICS guidance does state that re-appraisals of viability are generally suited to phased schemes over the longer term rather than a single-phase scheme to be implemented immediately, which requires certainty. I give weight to this view.
109. Drawing all of the above points together, I share the appellant's view that there is no reasonable basis for concluding that in the absence of a review mechanism to re-assess viability, planning permission would have to be refused for this proposal. Accordingly, I conclude that a viability review mechanism is not necessary to make the proposed development acceptable in planning terms, and those parts of the S106 UU dealing with the suggested 'Viability Appraisal' therefore do not comply with Regulation 122 of the CIL Regulations, as detailed above.

⁴⁵ Doc 18

⁴⁶ CDC18

Other matters

110. One of the Council's reasons for refusal – No 6 – alleged that the appeal proposal fails to make adequate provision for the collection of waste from the site, and that this would be contrary to CDLP Policy GC3. However, the TA submitted with the planning application had made it quite clear that the refuse collection strategy for the proposed development was to introduce a private collection arrangement using smaller vehicles. The TA explained that future residents would be expected to pay a service charge to a management company for this service, and that this could be incorporated into a S106 planning obligation. The Officer's report to Committee commented that no precise details of such a refuse collection arrangement had been provided, and that this matter could therefore not reasonably be the subject of a planning condition.
111. The Council's witness on this matter confirmed that the accessibility of the appeal site was such that the Council would have to make special arrangements in order to collect waste from it, and that the cost of this would be unreasonably high. Like the appellant, I agree that in these circumstances the Council would be under no statutory duty⁴⁷ to collect waste from the proposed development. I am therefore satisfied, on the basis of the evidence placed before me, including swept path analyses and measurements taken on site, that appropriately-sized private refuse collection vehicles would be able to access the site.
112. As such, I see no reason why this matter could not be satisfactorily addressed by provisions set out in the submitted UU, which require a Management Company to be established and a Waste and Recycling Management Strategy to be submitted to and approved by the Council. Indeed, by the time the inquiry closed, the Council had accepted that a private waste collection service could be possible on this site, secured through an appropriate S106 planning obligation⁴⁸. This matter therefore does not weigh against the appeal proposal.
113. On other matters, Mr Wintgens spoke at the inquiry as joint owner and occupier of 48 High Street. He raised general concerns about access, similar to those put forward by other objectors, but had particular concerns regarding the northern access to the appeal site which, as noted earlier, passes between his property and 50 High Street. No 48 also has a flying freehold over this access track, with this first floor part of this property containing a bathroom and a bedroom.
114. Mr Wintgens objected to the fact that this northern access is edged in red on the submission plans, showing that it forms part of the appeal site. He maintains that this is an error as the track is unregistered and is not owned by the appellant. However, whilst I note these points, there is no firm evidence before me to demonstrate that the appellant does not have the necessary freehold or leasehold interest in this track. In any case, an applicant does not have to own all the land in question to be able to apply for planning permission.
115. I acknowledge that Mr Wintgens has use of this track, which leads to his double parking space, and it seemed to me at my site visit that other neighbouring properties may well make similar use this track. I understand, however, that it also provides access to 2 of the now derelict houses⁴⁹ on the appeal site, and that vehicular use of this track would therefore reduce under the appeal proposal as it

⁴⁷ As detailed in Section 45(1)(a) of the Environmental Protection Act 1990 – see CDE2

⁴⁸ Paragraphs 100-102 in Doc 27

⁴⁹ Orchard Cottage and Misbourne Cottage

would not be a vehicle access to the proposed development. It would become one of 3 possible pedestrian accesses to the site, but although Mr Wintgens argued that this would represent an unacceptable intensity of use and a gross invasion of his privacy, no firm evidence has been submitted to support this view.

116. The extent of the use of this northern track would undoubtedly depend upon where pedestrians would be travelling to and from, and because of the range of existing facilities and services along the High Street I see no reason why pedestrian use of this northern access would be excessive or unacceptable.
117. Mr Paul Tompson also spoke at the inquiry, as owner of 64A, 66 and 68 High Street, and of the businesses which occupy these properties. His main concerns also related to access difficulties and matters of highway safety, which I have addressed earlier in this decision, but he was also concerned about potential damage to his property from carelessly driven larger vehicles. I consider that this is a legitimate concern, and I have already made reference to a planning condition which could be imposed on any planning permission, and which I consider could satisfactorily address this matter.

Summary, planning balance and overall conclusion

118. To summarise the matters detailed above, by the time the inquiry closed the Council had withdrawn 2 of its original 6 reasons for refusal, relating to access matters, and had not seriously defended a further 2, relating to parking provision and waste collection. I have already established that the Council cannot currently demonstrate a 5 year supply of deliverable housing land – as is confirmed in the agreed SOCG – and that many of the policies which are most important for determining this application are out-of-date. This means that the proposal needs to be considered against the NPPF’s paragraph 11(d).
119. I have considered sub-paragraph (d)i and have concluded that the appeal proposal does not conflict with NPPF policies that protect areas or assets of particular importance, and that there are therefore no clear reasons under this sub-paragraph for refusing the proposed development. Insofar as sub-paragraph (d)ii is concerned, the ‘tilted balance’ is engaged and it is necessary to assess whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposed development.
120. In this regard I share the appellant’s view that this proposal would give rise to a number of benefits, across each of the 3 objectives for achieving sustainable development as set out in paragraph 8 of the NPPF – economic, social and environmental. Firstly, there would be benefits to the local economy as a result of direct and indirect jobs generated during the construction period, and as a result of increased population, which could increase demand for and use of local services and businesses in the High Street and the wider District, once the housing is occupied. This would help to maintain and enhance these services and businesses, thereby increasing their viability.
121. I acknowledge that these benefits would not be unique to this development, but would flow from any new housing development of this size within the District. However, this does not detract from the fact that the appeal proposal would give rise to these real benefits to which I attach significant weight, in accordance with NPPF paragraph 80.
122. In social terms, the proposed development would deliver 34 new homes of different tenures and sizes in a District which has a recent history of failing to

deliver sufficient homes to meet housing need, thereby helping to improve the HLS position. Moreover, the provision of a mix and range of housing sizes would assist in creating a strong, vibrant and healthy community.

123. The proposal would also improve the existing access point at the Old Red Lion by improving visibility for drivers exiting on to the High Street at this location. This would have positive safety implications for existing road users and pedestrians, as well as for users of the proposed development. In addition, the proposal would provide a financial contribution towards the provision of additional educational facilities in the locality. I also give significant weight to these social benefits.
124. In environmental terms, the proposed development would provide for future growth of Great Missenden within the existing settlement boundary, and would not expand the town into the Green Belt or undeveloped areas of the Chilterns AONB. Moreover, the proposal would result in the use of a brownfield site, set in a very accessible location in one of the most sustainable settlements in the District. As noted by the appellant, it would represent a medium-sized scheme, albeit important in the context of Chiltern District, and would assist the Council in meeting the target set out in paragraph 68(a) of the NPPF, to accommodate at least 10% of its housing requirement on sites no larger than 1 ha.
125. There would also be a potential benefit arising from the fact that the proposed residential use of the site would generate significantly fewer daily traffic movements than could the lawful fall-back use of the site. In addition, the high quality design proposed for the development, coupled with the provision of new communal amenity space and landscaping on the site, would improve the character and appearance of the surrounding area when compared with the poor character created by the existing buildings on the site. There would also be a benefit arising from the re-use of the non-designated heritage asset, the Old Red Lion, which would assist in ensuring its conservation. Again, I consider that these environmental benefits should attract significant weight.
126. As I have not found against the appeal proposal on any of the main issues, I am satisfied that there would not be any adverse impacts of granting planning permission of sufficient weight to significantly and demonstrably outweigh the above benefits, taken together. I therefore conclude that the appeal proposal should benefit from the Framework's presumption in favour of sustainable development. This is a material consideration in the proposed development's favour and, in my assessment, it outweighs the conflict I have found with CDLP Policies TR11, TR15 and TR16, as I have earlier concluded that these policies can only carry limited weight in this appeal.
127. I do realise that many local residents will be disappointed by my findings in this case, especially in view of the strong opposition to the proposed development on access grounds. However, in light of all the above points my assessment of the planning balance leads to the overall conclusion that this proposal should be allowed, subject to the imposition of a number of conditions, as discussed at the inquiry and set out in the attached Schedule. I have made minor alterations to the wording and the order of some of the conditions in the interests of clarity.

Conditions

128. Condition 1 is the standard condition for full planning permissions, whilst Condition 2 is imposed to provide certainty and to ensure that the development is carried out in accordance with the approved plans. Condition 3 is imposed to minimise

damage and inconvenience to highway users, and to protect the amenities of the area. Conditions 4 and 5 are imposed to ensure that the existing established trees and hedgerows within and around the site that are proposed to be retained are safeguarded during building operations.

129. I have imposed Conditions 6 and 7 to ensure that risks from land contamination to future users of the site and neighbouring land, together with risks to controlled waters, property and ecological systems, are all minimised. These conditions will also ensure that the development can be carried out safely, without unacceptable risks to workers, neighbours and other off-site receptors. Condition 8 will safeguard any protected species identified under the Wildlife and Countryside Act (as amended), whilst Conditions 9, 10, 11 and 18 are imposed to ensure that the development is of a satisfactory appearance.
130. Condition 12 is necessary in order to influence modal choice and reduce single-occupancy car journeys, whilst Condition 13 will ensure that servicing and delivery trips to the proposed dwellings are satisfactorily organised and arranged. Condition 14 is imposed in order to minimise danger, obstruction and inconvenience to users of the highway and of the development, whilst Condition 15 is imposed in order to safeguard 64 High Street from damage by vehicles.
131. Conditions 16 and 17 are necessary in the interests of the visual amenities of the locality, with Condition 19 being imposed so that the local planning authority can properly consider whether any future proposals will constitute overdevelopment of the site, or in any other way be detrimental to the character of the locality. Condition 20 will ensure that adequate and satisfactory provision is made for the parking of vehicles clear of all carriageways to enable vehicles to draw off, park, load/unload and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway. Condition 21 will preserve the amenities of the occupants of the adjacent dwellings.
132. Condition 22 is imposed to ensure that a sustainable drainage strategy has been agreed prior to construction, and to ensure that there is a satisfactory solution to managing flood risk, whilst Condition 24 will ensure that the sustainable drainage system is designed to the appropriate technical standards. Condition 23 will ensure that maintenance arrangements for the sustainable drainage system have been arranged and agreed. Finally, Condition 25 is imposed to ensure that adequate measures are in place to achieve at least 10% of the energy supply of the development being from renewable or low-carbon energy sources.
133. I have had regard to all other matters raised, including the points put forward in opposition to the proposal by Great Missenden Parish Council and the Great Missenden Village Association, but they are not sufficient to outweigh the considerations which have led me to conclude that this appeal should be allowed.

David Wildsmith

INSPECTOR

Schedule of conditions (25 in total)

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans:

22842B/509-C, 511-C, 515-C, 10-B, 100-B, 51-B, 60-A, 61-A, 65-B, 66-A, 16-095-LS A, 16-095-EL-1 A, 16-095-EL-2 A, 16-095-EL-3 A, 16-095-EL-4 A, 16-095-EL-5 A, 16-095-EL-6-7 A, 16-095-FP-5 A, TCP A, 200-A, 201-A, 202-A, 250-A, 251-B, 252-B, 253-B, 254-B, 501-A, 502-B, 503-B, 504-A, 505-B, 506-B, 508-B, 512-B, 514-B and 516-B.
- 3) No development shall take place, including any works of demolition, until a Demolition & Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the demolition and construction period. The Statement shall provide for:
 - i. The parking of vehicles of site operatives and visitors;
 - ii. The phasing of the development;
 - iii. The construction access;
 - iv. Delivery, loading and unloading arrangements for plant and materials within the site including management and timing of deliveries;
 - v. Routing of construction traffic;
 - vi. A condition survey of the surrounding highway network; limiting the survey to 50 metres to the north-west and 50 metres to the south-east from the Old Red Lion access point on High Street;
 - vii. Storage of plant and materials used in constructing the development;
 - viii. The erection and maintenance of security hoarding;
 - ix. Measures to control the emission of dust and dirt including the prevention of the deposit of mud and debris on the adjacent highway during demolition and construction phases;
 - x. Measures to mitigate against noise/vibration nuisance during both demolition and construction phases;
 - xi. Measures to mitigate against light nuisance during both demolition and construction phases;
 - xii. A scheme for recycling/disposing of waste (with particular reference to any hazardous materials such as asbestos) resulting from demolition and construction works.

Thereafter, the works shall be carried out in accordance with the approved details.

- 4) No development shall take place until a Tree Protection Plan has been submitted to and approved in writing by the local planning authority. This plan shall clearly show the trees and hedges to be retained and those to be removed, along with the positions of tree protection fencing. Before any other site works commence on the development hereby permitted this tree protection fencing shall be erected around all the trees and hedges to be retained in accordance with both this plan and British Standard 5837:2012. The fencing shall then be retained in these positions until the development is completed. Within these enclosed areas

- there shall be no construction works, no storage of materials, no fires and no excavation or changes to ground levels.
- 5) No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the local planning authority, which shall detail all work within the root protection areas of the retained trees. This statement shall include details of protection measures for the trees during the development, and information about any excavation work, any changes in existing ground levels and any changes in surface treatments within the root protection areas of the trees, including plans and cross-sections where necessary. The work shall then be carried out in accordance with this approved method statement.
- 6) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
- i. A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments;
 - ii. The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
 - iii. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
- 7) Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 6.
- 8) A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:
- i. Further detail relating to the proposed mitigation, compensation and enhancement actions for the scheme;

- ii. Description and evaluation of features and habitats to be designed and managed (bat features will ideally be built into the development structures);
- iii. Ecological trends and constraints on site that might influence management;
- iv. Aims and objectives of management;
- v. Appropriate management options for achieving aims and objectives (see below);
- vi. Prescriptions for management actions;
- vii. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period);
- viii. Details of the body or organisation responsible for implementation of the plan;
- ix. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 9) No development shall take place until samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.
- 10) No work permitted by this permission shall be carried out until a detailed specification or working drawings/sections (scale 1:20, 1:10, 1:5, half or full size etc) fully detailing the new dormer windows, windows, eaves, extract vents, roof lights, flat roofs and porches have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved specification and retained thereafter.
- 11) No development shall take place until details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the local planning authority, with reference to a fixed datum point. The buildings shall be constructed with the approved slab levels.
- 12) Prior to occupation of the development a Travel Plan Statement shall be submitted to and agreed in writing by the local planning authority. The approved Travel Plan Statement shall be implemented upon first occupation of the development.
- 13) No development shall take place until a Delivery & Servicing Plan, detailing how the residential units within the development are to be serviced, has been submitted to and approved in writing by the local planning authority. The Delivery & Servicing Plan shall be implemented as approved, and shall remain in force as long as the development is occupied.
- 14) The development shall not commence until details of the internal private access roads, including any lighting, have been approved in writing by the local planning

- authority and no dwelling shall be occupied until the access roads have been laid out and constructed in accordance with the approved details.
- 15) No development shall take place until a scheme to protect the front corner of 64 High Street from likely damage by vehicles has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and retained for as long as the development is occupied.
 - 16) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include trees to be retained showing their species, spread and maturity and include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.
 - 17) Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
 - 18) No development shall take place until details of all screen and boundary walls, fences and any other means of enclosure have been submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved details and the buildings hereby approved shall not be occupied until the details have been fully implemented.
 - 19) Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A–E inclusive of Part 1 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site unless planning permission is first granted by the local planning authority.
 - 20) The areas for parking, garaging and manoeuvring and the loading and unloading of vehicles shown on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and those areas shall be reserved for parking for occupiers and not be used for any other purpose. 50 of the car ports and car parking spaces hereby permitted shall be reserved for the parking of vehicles for occupiers of and visitors to the approved residential development, and for the occupiers of Forge Cottage only and shall not be used for any other purpose; and 1 space, hereby permitted, shall be reserved for the parking of the users of the ground floor of the Old Red Lion and shall not be used for any other purpose.
 - 21) The east-facing windows in the first floor of the apartment building Nos 26-30 shall be maintained with obscure glass and shall be at least 1.7 metres above the internal finished floor level. All bathroom and en-suite window(s) at first floor level in the dwellings hereby permitted shall be glazed and maintained with obscured glass and only the top part of the window(s) shall be capable of being opened.
 - 22) Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological

and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall also include:

- i. Details of the alternative drainage strategy which will be implemented;
 - ii. A demonstration that consideration has been given to water quality and the ecological and amenity benefits;
 - iii. Details of the existing and proposed discharge rates and volumes;
 - iv. Full construction details of all sustainable urban drainage system and drainage components;
 - v. Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all sustainable urban drainage system components;
 - vi. Calculations which demonstrate that the proposed drainage system can contain up to the 1 in 30 year storm event without flooding occurring and any onsite flooding between the 1 in 30 year and the 1 in 100 year plus climate change storm event, should be safely contained on site;
 - vii. Details of the proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to the adjacent or the downstream sites;
 - viii. Details of Flow depth;
 - ix. Details of Flow volume;
 - x. Details of Flow velocity;
 - xi. Details of Flow direction.
- 23) If the road is to be adopted, the developer will agree to enter into a deed of easement pursuant to Section 38 of the Highways Act 1980 to allow the highway authority to access the sustainable urban drainage system to preserve the integrity of the highways system, for the purpose of emergency repair and maintenance.
- 24) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the local planning authority to demonstrate that the sustainable urban drainage system has been constructed in accordance with the agreed scheme.
- 25) No development shall take place until details of the measures to provide at least 10% of the energy supply of the development from renewable or low-carbon energy sources, including details of physical works on site, have been submitted to and approved in writing by the local planning authority. The renewable energy equipment shall then be installed in accordance with the approved details prior to the first occupation of any part of the development hereby permitted and shall thereafter remain operational at all times.

APPEARANCES

FOR THE COUNCIL	
Leanne Buckley-Thomson of Counsel	instructed by Ranjit Bharj, Chiltern and South Bucks District Councils (CSBDC) Joint Legal Services
She called:	
Mr Balal Farooqi	Policy and Efficiency Officer, Joint Waste Team, CSBDC
Mr Tim Thurley BEng(Hons) MIHE	Highways Development Management Consultant, Buckinghamshire County Council (BCC)
Mrs Julia Foster BA(Hons) PGDip Town Planning PGDip Historic Building Conservation AA IHBC MRTPI	District Historic Buildings Officer, CSBDC
Mr Stephen Chainani MSc	School Place Planning Commissioning Partner, Children and Young People Division, BCC
Mr Michael Veryard	Housing Manager, Joint Housing Team, CSBDC
Mr Graham Winwright BA(Hons) MRTPI	Planning Policy and Economic Development Manager, CSBDC
Mrs Margaret Smith BA(Hons) MRTPI	Principal Planning Officer, Development Management, CSBDC
Mr Stuart Morley BSc MA DipTP FRICS	Bespoke Property Consultants

FOR THE APPELLANT	
Reuben Taylor QC	instructed by Icen Projects Ltd
He called:	
Mr Laurie Handcock MA MSc MIHBC	Director, Heritage Team, Icen Projects
Mr Richard Fitter IEng FCILT FICE FIHE	Director, Entran Ltd
Mr David van der Lande BSc(Hons) MRICS	Director, Icen Projects
Mrs Katie Inglis BRTP MDS	Associate, Icen Projects

INTERESTED PERSONS OPPOSING THE PROPOSAL	
Mr Michael Wintgens	Local resident
Mr Paul Tompson	Local resident
Mrs Anne Kaneko	Local resident, speaking on behalf of Great Missenden Village Association
Mrs Christine Baxter	Chair of Planning, Great Missenden Parish Council, on behalf of the Parish Council

CORE DOCUMENTS

Document Number	Document Title
Application Documents	
A1	Original Application including Application Form, Planning Statement, Drawings, Ecology and Tree Assessments, Clague Heritage Impact Assessment and Design and Access Statement
A2	Additional documentation submitted during the application including Clague Design Response (Version 2), archaeology report and updated drainage strategy
A3	Decision Notice and Officer's Report
Pre-Application Correspondence	
A4	Meeting notes 2016
A5	Meeting notes 2017
A6	Correspondence between the highways authority and Entran (June-July 2017)
A7	Correspondence from HBO (Catherine Murray) 13 June 2017 and Clague Design Response (Version 1)
A8	Existing Uses letter 12 September 2017 and Council response 6 October 2017
A9	Traffic Neutral email 6 October 2017
A10	Extension of time and consultee update emails
Appellant's Appeal Documents	
A11	Appeal Form
A12	Appellant's Statement of Case
A13	Verified Views
A14	Agent's Letter
Council Questionnaire Documents	
B1	Council's Questionnaire
B2	Consultation Responses
B3	Representations
B4	Appeal Neighbour Letter and List
B5	Local planning authority Statement of Case
Policy Documents	
C1	The National Planning Policy Framework (2012 issue)
C2	Core Strategy
C3	Local Plan
C4	Affordable Housing SPD
C5	Sustainable Development SPD
C6	Chilterns AONB Management Plan
C7	Chilterns Design Guide
C8(a)	Emerging Local Plan Evidence Base including the Memorandum of Understanding, and Housing and Economic Needs Assessments
C8(b)	Draft Housing and Economic Land Availability Assessment
C9	Heritage Mapping
C10	Great Missenden Conservation Area Appraisal
C11	Historic England Planning Note and Guidance including: Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment (Historic England, March 2015) Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Historic England, second edition, December 2017) Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (English Heritage, April 2008).

C12	Chiltern and South Bucks Townscape Character Study (November 2017)
C13	Chiltern Brownfield Land Register
C14	Buckinghamshire Local Transport Plan 4
C15	Buckinghamshire Development Management Policy/Guidance including consultation draft, consultation report and Guidance adopted in 2018
C16	Manual for Streets and Manual for Streets 2
C17	TD41/95 Vehicular Access to All Purpose Trunk Roads
C18	RICS Viability in Planning 2012
C19	Chiltern Authority Monitoring Reports
Other	
D1	Twitchell Road Planning Application Documents
D2	Letter from Mr Thurley, dated 20 July 2018
Council Documents	
E1	Household Waste Collection Policy Document - Chiltern Wycombe District Council
E2	Environmental Protection Act 1990 Section 45
E3	Environmental Protection Act 1990 Section 51
E4	Health & Safety Action 1974 Section 2(1)
E5	Waste Planning Guide

DOCUMENTS AND PLANS SUBMITTED AT THE INQUIRY

Document	1	Opening submissions on behalf of the appellant
Document	2	Opening submissions on behalf of the Council
Document	3	Statement from Mr Wintgens
Document	4	Statement from Mr Tompson
Document	5	Statement from Mrs Kaneko, with attachments, made on behalf of Great Missenden Village Association
Document	6	Statement from Mrs Baxter, with attachment, made on behalf of Great Missenden Parish Council
Document	7	Great Missenden Local Community Area Profile, February 2007, submitted by the Council
Document	8	Great Missenden District Ward Profile - submitted by the Council
Document	9	Mid-2011 Population Estimates: England - submitted by the Council
Document	10	Site Visit Itinerary
Document	11	Swept Path Analysis for a Fuso Canter 7C15D refuse collection vehicle - submitted by the appellant
Document	12	Table showing Chiltern District Council 5 Year Housing Supply Calculations – submitted by the Council
Document	13	Bundle of emails between Mrs Smith and Mr Tristan Higgs, BCC Highways Development Management Officer - submitted by the Council
Document	14	Parking Demand note prepared by Mrs Smith - submitted by the Council
Document	15	Technical Note 7 – Parking Demand – submitted by the appellant
Document	16	Draft Statement of Common Ground - Viability
Document	17	Table showing Summary of Construction Cost Discussions between the Council and the appellant
Document	18	Extract from the Planning Practice Guidance - Viability

Document	19	Plan showing the extent of the public highway in the vicinity of Great Missenden Parish Church – submitted by the appellant
Document	20	Bundle of information sheets providing vehicle dimensions - submitted by the appellant
Document	21	Witness Statement of Mr Tristan Higgs, dated 31 July 2018, regarding correspondence between the local planning authority and the Highway Authority during the consultation process – provided by the highway authority
Document	22	Amended Table 8.1 from Mrs Inglis’s Proof of Evidence - updating her Summary of Policy Weighting following publication of the 2018 NPPF
Document	23	Bundle of emails between Mrs Foster and Mrs Smith – submitted by the Council
Document	24	Signed Statement of Common Ground on Planning Matters
Document	25	List of suggested conditions, agreed between the Council and the appellant
Document	26	Revised Scheme Drawing Register – Revision D, 27 July 2018 – submitted by the appellant
Document	27	Closing Submissions on behalf of the Council
Document	28	Closing Submissions on behalf of the appellant
Document	29	Application for Costs on behalf of the appellant
Document	30	Costs Response on behalf of the Council
Document	31	Signed unilateral undertaking - submitted by the appellant. Received after the close of the inquiry, in accordance with an agreed timetable.
Document	32	National Planning Policy Framework – 2018 issue



Costs Decision

Inquiry opened on 24 July 2018

Site visit made on 31 July 2018

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2018

Costs application in relation to Appeal Ref: APP/X0415/W/18/3202026 Land to the rear of the Old Red Lion, High Street, Great Missenden, HP16 0AU

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by PGMI (Great Missenden) Ltd for 2 partial awards of costs against Chiltern District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for 'Demolition of 3 4-bed houses, a disused industrial building (Use Class B2) and 20 garages, removal of spoil and trees from the rear of the site. Development of 34 residential dwellings comprising 25 houses and 5 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 to provide 4 flats. Ground floor building line amendment to southern elevation of the Old Red Lion (62 High Street) to remove 700mm at ground floor only, to provide improved visibility onto the High Street. Amendments to Forge Cottage on Missenden Mews to relocate front door, relocate car parking space and provision of new private amenity space within the site'.
 - The inquiry sat for 5 days on 24 to 27 July, and 1 August 2018.
-

Decision

1. For Application 1, the application for an award of costs is allowed in the terms set out below. For Application 2, the application for an award of costs is refused.

The submissions for PGMI (Great Missenden) Ltd

2. The applications for costs were submitted in writing and further, brief points were added orally after the Council had made its response. In summary, **Application 1** seeks a partial award of costs in relation to the appeal costs associated with reasons for refusal 3 and 4, which dealt with matters of access. **Application 2** seeks a partial award of costs in relation to the appeal costs associated with reason for refusal 5, which dealt with parking concerns.
3. For **Application 1**, a development mix which would produce a 'traffic neutral' scheme had been agreed with the highway authority through a series of emails, culminating in an email from the appellant to the highway authority dated 6 October 2017. This indicated that a traffic neutral mix would comprise 9 flats and 25 houses, and the planning application was submitted on this basis on 18 October 2017. However, despite repeated attempts to contact the highway authority, to chase up any consultation response, it was not until 3 April 2018, 3 days before the application was determined, that the highway authority's comments were forwarded

to the appellant by the Council – even though the Council had received the final version of these comments on 28 March 2018.

4. Despite the appellant requesting many times to be given an opportunity to respond to any comments received, no such opportunity was provided. Indeed the appellant was informed by the Council's Case Officer on the following day – 4 April – that planning permission would be refused. The appellant therefore prepared its transport evidence for the appeal, including an assessment of a 'fall-back' position which it maintained could be pursued if planning permission was not forthcoming. After considering this evidence the highway authority informed the Council that it would not be able to support reasons for refusal 3 and 4 at the inquiry. This decision was reached 1 working day before the opening of the inquiry, without any discussion with the appellant, but simply on the basis of the appellant's evidence.
5. This proves that if the appellant had been given the opportunity to provide the evidence in its transport proof in response to the highway authority's consultation comments, and if that information had been taken into account by the Council, then the Council would not have imposed reasons for refusal 3 and 4. It is no excuse for the Council to say that the appellant should have provided details of the fall-back position sooner. This was not necessary, as agreement had been reached on a traffic neutral development. It was only when the highway authority came back with its consultation response on a different basis to that already agreed, that it became necessary to make reference to the fall-back position.
6. An appeal on these grounds was therefore wholly unnecessary. The Council has acted unreasonably by not allowing the appellant adequate time to respond to the highway authority's consultation comments, and the appellant has incurred wasted expense as a result.
7. For **Application 2**, the appellant had set out its approach to parking demand, in accordance with the National Planning Policy Framework (NPPF), in the Transport Assessment which was submitted with the planning application. In contrast, the Council's evidence, and its refusal of planning permission, were predicated on the dogmatic application of the parking standards set out in Policy TR16 of the Chiltern District Local Plan (CDLP).
8. Reason for refusal 5 was imposed because the Council required its standards to be met, but it was wholly and completely unreasonable to apply Policy TR16 in this dogmatic way. The 2012 issue of the NPPF required consideration to be given to the extent to which all relevant development plan policies were consistent with the NPPF, but at no stage in its decision-making process did the Council consider these issues. The Council failed in its statutory duty by not having regard to this matter.
9. The Council did not undertake any such exercise prior to refusing planning permission, nor when it presented its case in its proofs of evidence. It was only when presenting her evidence in chief that Mrs Smith, for the Council, sought to challenge the appellant's parking demand calculations. However, this proved to be a flawed and unreliable exercise, and once the relevant requirements of the NPPF were properly considered, Mrs Smith conceded, at the end of the first week of the inquiry, that the parking standards in TR16 were inconsistent with the NPPF approach and accepted that the proposed parking provision would be sufficient to meet demand. This position should not have been reached through cross-examination - it should have been the starting point for the Council's decision-making process.

10. The Council had no reasonable basis for refusing planning permission by reference to the Policy TR16 standards, and had no reasonable evidential basis for refusing planning permission on the basis that the number of parking spaces proposed would be insufficient to meet demand. The Council acted unreasonably by refusing planning permission on these grounds and the appellant has incurred unnecessary expense in having to pursue an appeal to overcome this issue.

The response by Chiltern District Council

11. This was also made in writing. For **Application 1**, the Council maintains that it did not act unreasonably. The potential fall-back position was raised for the first time in the appellant's transport proof of evidence, but could have been raised much earlier. Evidence from the appellant shows that it was aware of this potential fall-back position at the time of the Council's refusal, and it could have been raised with the Council following the refusal of planning permission. At the very least it could have been included in the appellant's Statement of Case.
12. Although the appellant states that a traffic neutral scheme was the objective, the highway authority had also always indicated that none of the access points should be subject to an intensification of use. The highway authority's consultation response argued that 2 of the accesses would experience increased use, and this is where the highway authority and the appellant disagreed. The difference of opinion was not confined to the numbers of houses and flats.
13. The appellant knew that the highway authority had concerns regarding use of the access points, as a result of the refusal of the previous planning application, so it made no sense for the appellant to not put forward its best argument (the fall-back position) at application stage. It must be the case that if the appellant had raised this matter before the highway authority's response; or soon after the decision notice was issued; or in its Statement of Case – then the Council would not have pursued reasons for refusal 3 and 4, but would have withdrawn them sooner.
14. Any costs that have been wasted do not flow directly from the appellant's alleged inability to be able to respond to the highway authority's position at the consultation stage, but rather from the appellant's failure to raise the fall-back position at one of the many earlier opportunities it had to do so, before appeal preparation got underway in earnest. The Council did not act unreasonably in this regard and an award of costs is therefore not justified.
15. For **Application 2**, the Council disputes that it applied the Policy TR16 standards on a dogmatic basis. Mrs Smith's proof of evidence does illustrate some consideration of the accessibility of the development, public transport, and the type, mix and use of the development. Mrs Smith also considered a possible relaxation of the standards in the Officer's report to the Planning Committee.
16. When Mrs Smith reconsidered matters in the course of the inquiry she acted reasonably and fairly conceded those matters which it was appropriate for her so to do. A change in position or indeed a wrong answer does not necessarily constitute unreasonableness. The Council maintains that it did not act unreasonably in this regard, and no award of costs should be made.

Reasons

17. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

18. With regard to Application 1 the submitted evidence gives every indication that agreement had been reached between the appellant and the highway authority on a development mix that would provide a traffic neutral scheme. The latest position of both sides in this regard, prior to the submission of the planning application, appears to be contained within one of the inquiry Core Documents – CDA9. This contains an email dated 27 September 2017 from the highway authority to the Council, confirming that a traffic neutral scheme would need to consist of 23 houses and 10 flats. This was responded to by an email dated 6 October 2017 from the appellant’s transport consultant, Mr Fitter, which made some minor adjustments to floor areas, leading to a revised traffic neutral mix of 25 houses and 9 flats.
19. Mr Fitter asked the highway authority to review this matter and confirm that it was satisfied with the amended calculation. There is nothing in the evidence before me to show that the highway authority expressed any misgivings on this matter, and the planning application was duly submitted on 18 October 2017. I understand that the consultation period for this application expired on 28 December 2017, but that despite a number of attempts by the appellant to elicit any information regarding the highway authority’s response, this response was not received by the Council in its final form until Wednesday 28 March 2018.
20. Although I acknowledge that the Council’s Case Officer, Mrs Smith, was on leave on Thursday 29 March, and that this was around the Easter period, with 30 March being Good Friday and 2 April being Easter Monday, no good reason has been placed before me to explain why the highway authority’s comments could not have been passed to the appellant on 28 March. Even then, this would have been an excessively long time after the end of the formal consultation period and only 5 working days prior to the application being refused under delegated powers.
21. In fact the highway authority’s response was not provided to the appellant until Tuesday 3 April, just 3 days before the application was refused. Moreover, the response took a different view to that which the appellant believed had been the subject of agreement, and recommended refusal on a total of 3 counts. I accept that the lateness of this response may not have been directly down to the Council (although there is no firm evidence before me to suggest that the Council actively chased the highway authority’s views), but to my mind the Council then acted unreasonably by not allowing the appellant the opportunity – even at this very late stage – to respond to the highway authority’s comments. The Council could have deferred making a decision on the application, but chose not to.
22. I find it very telling that once the highway authority saw the appellant’s response to its comments, contained in Mr Fitter’s proof of evidence for the inquiry, it came to the view that it could not defend reasons for refusal 3 and 4 – even without discussing this matter with the appellant. This demonstrates to me that had the appellant been given the opportunity to respond to the highway authority’s comments prior to the application being determined, there would have been a very strong likelihood that the highway authority would not have recommended reasons for refusal 3 and 4, and that they would never have been imposed.
23. I have noted the Council’s argument that the appellant could have referred to the fall-back position sooner, and I accept that this is indeed the case. However, this does not, in my assessment, make the Council’s actions any less unreasonable. In any case, I accept the appellant’s point that it had no reason to do so, believing as it did that it had reached agreement with the highway authority and had submitted a traffic neutral application to which the highway authority had no objection on

traffic generation grounds. It was, in any case, quite open to either the highway authority or the Council to examine the existing uses on the site and establish what a 'worst case' lawful fall-back position might look like.

24. In light of all the above points I conclude that the Council has acted unreasonably by failing to allow the appellant an opportunity to respond to unexpected comments from the highway authority. As a result, I consider that the appellant has incurred wasted and unnecessary expense having to prepare evidence to defend reasons for refusal 3 and 4. Accordingly a partial award of costs in this regard is justified.
25. Insofar as Application 2 is concerned, I consider that the Council has acted unreasonably in giving more or less full weight to the Policy TR16 parking standards. These standards were certainly the starting point for the Council's assessment of parking demand, and it is clear that although they date back to the adoption of the CDLP in 1997, they do not appear to have been re-visited in light of the approach to parking standards detailed in the 2012 NPPF.
26. However, I do accept that both in the Officer's report to Committee, and in Mrs Smith's proof of evidence, there is an acknowledgement that these standards could be reduced because of the location of the appeal site, its easy access to local services and public transport, and the intended introduction of a residential Travel Plan for the development. That said, the extent of this possible reduction was never fully articulated by the Council, and there was still a difference between the parties on this matter - at least until Mrs Smith's concessions at the inquiry.
27. But notwithstanding the above points, I am not persuaded that the Council's actions can be shown to have resulted in unnecessary or wasted expense for the appellant. Although I acknowledge that some of these matters could have been discussed and possibly resolved prior to the inquiry, it was only as a result of the presentation of further evidence to the inquiry, by both the Council and the appellant, that agreement on this matter was reached.
28. In these circumstances I conclude that a partial award of costs is not justified, insofar as reason for refusal 5 and parking issues are concerned.

Costs Order

29. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chiltern District Council shall pay to PGMI (Great Missenden) Ltd, the costs of the appeal proceedings, limited to those costs relating to reasons for refusal 3 and 4, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
30. The applicant is now invited to submit to Chiltern District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

David Wildsmith

INSPECTOR



Appeal Decision

Site visit made on 17 July 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2018

Appeal Ref: APP/X0415/W/18/3194966

6 Warrender Road, Chesham, Buckinghamshire HP5 3NE

- 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 Visao Limited against the decision of Chiltern District Council.
 - The application Ref CH/2017/2174/FA, dated 17 November 2017, was refused by notice dated 26 January 2018.
 - The development proposed is a new vehicular access and erection of two four bedroom detached houses including detached single storey pitched roof car port.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Visao Limited against Chiltern District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the determination of the appeal application, the National Planning Policy Framework published in 2012 has been replaced, with the new version being published in July 2018 (the 2018 Framework). I have invited further representations from the Council and the Appellant on this specific matter and have taken the representations received into account in my decision.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area and on the living conditions of the occupiers of 79A Lye Green Road and 6 and 8 Warrender Road with particular regard to outlook, noise and disturbance.

Reasons

Character and appearance

5. The appeal site consists of the curtilage of 6 Warrender Road, but also includes land currently within the curtilages of 75 Lye Green Road and 15 Codmore Crescent. The area as a whole is residential in character with the vast majority of houses directly fronting onto a highway. The notable exception to this is 75 Lye Green Road which is accessed down a narrow driveway and is sited to the rear of several properties on Lye Green Road, Codmore Crescent and 6 Warrender Road.

6. The appeal development would be accessed from Warrender Road along a new access driveway and the new dwellings would be sited a substantial distance back from the street when compared to the existing properties. This lack of direct road frontage would not be characteristic of the existing dwellings on Warrender Road.
7. Furthermore, the overall layout and feel is one which would be a small backland style development accessed down a relatively long driveway. Whilst the position of the dwellings means that they would not be prominent or readily visible from the street, they would be visible from a number of existing residential properties. The limited views which would be available along the driveway would be dwellings isolated from the streetscene. Taking the above into account, the development would be harmful to the overall character and appearance of the area.
8. My attention has also been drawn to two recent permissions¹ for the redevelopment of 75 Lye Green Road which would include two dwellings which would back onto the appeal site.
9. The existing property at No 75 is sited in a tandem manner, and the permissions granted utilise the same access road, albeit with a greater intensity of development than the existing situation. Whilst the presence of this tandem development weighs in favour of the appeal proposal, to my mind, it does not provide a compelling reason to allow this appeal.
10. Turning to the width of the proposed plots, these would be similar to those in the development at No 75, although from the evidence before me the overall site is narrower where the front of the appeal dwellings would be sited. I have also had regard to the spacing between the proposed dwellings and that to the boundaries of the appeal site.
11. Notwithstanding the slightly narrower part of the site, the proposal would not appear to be significantly different to that permitted by the Council at No 75 which backs onto the appeal site. Taking account the proximity of that development to the appeal proposal I consider that the width and spacing around the dwellings does not weigh against the appeal scheme. However, that does not outweigh the harm I have already identified.
12. In addition to the above, I have been referred to several other appeal decisions², including one in relation to the now constructed 2A Warrender Road.
13. From the limited information before me, the Chartridge Lane and Denham Lane sites appear to be located within an area where there is a much greater degree of tandem development when compared to the current appeal site. The Berkeley Avenue case is over 10 years old and prior to the first Framework, whilst the Sutton Coldfield case relates to a larger development where the proposal also creates a new cul-de-sac. In respect of the Warrender Road decision, this relates to a scheme which had a street frontage and is significantly different in character to the current appeal scheme. Moreover, each application must be considered on its individual merits.

¹ References CH/2016/2230/FA and CH/2018/0366/FA

² References APP/P4605/A/11/2150763, APP/X0415/W/15/3135882, APP/X0415/A/05/1184634, APP/X0415/A/08/2067031/NWF and APP/X0415/W/17/3187480

14. For the above reasons the development would harm the character and appearance of the area and would be contrary to Policies GC1 and H3 of the Chiltern District Local Plan 1997 (including alterations adopted 29 May 2001) (LP) and Policy CS20 of the Core Strategy for Chiltern District 2011 which amongst other matters seek to ensure that new development is compatible with the character of the area and those features which contribute to local distinctiveness. The proposal would also be at odds with the 2018 Framework which has similar underlying aims.

Living Conditions

15. Plot 1 of the proposed development would be sited close to the rear boundary of 79a Lye Green Road. From the evidence before me, the height of the dwelling would be around 8.4 metres (to ridge) and around 4.4 metres to eaves. The dwelling would be around 7.1 metres in width and around 14 from front to rear.
16. Whilst the new dwelling would be sited at the bottom of the garden of No 79a, it is significant that the garden area of No 79 is in the region of 27 meters long. To my mind, given this distance, the proposed dwelling would not appear as being excessively large or overbearing from the rear of that property or from the main part of the rear garden.
17. It is noted that the elevation facing No 79a has kitchen and reception room windows at ground floor and a dormer at first floor with windows to the bathroom and an en-suite. However, both of these first floor windows would be obscure glazed and be of a non-opening design below 1.7 metres from the first floor level. With that in mind, there would not be any significant overlooking potential to the rear garden of No 79a or adjoining properties.
18. Turning to the effect of the development on the occupiers of No 6, the new access driveway would be located close to the side elevation of the property which has two large windows in it. However, both of the rooms which these windows serve are dual aspect with further windows to the front and rear.
19. The proposal also includes a new fence and hedgerow between the property and the access driveway itself which would provide a degree of noise mitigation. Taking this into account, and given the limited scale of the development, any noise from vehicles would not be significant and as such would not give rise to a significant level of harm to the occupiers of No 6.
20. Finally, in respect of the effect on the occupiers of No 8, the principal impact would be from traffic traversing the access driveway. However, it is significant to note that a significant proportion of that driveway would be alongside an existing part of the dwelling, garage and driveway.
21. Taking this into account, and that the main part of the rear garden area would be away from the new driveway, any increase in noise and disturbance from vehicles would be minimal and would not result in any material harm to the living conditions of the occupiers of No 8.
22. For the above reasons the development would not harm the living conditions of the occupiers of 79a Lye Green Road, 6 or 8 Warrender Road and would therefore accord with Policy GC3 of the LP which amongst other matters seeks to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.

Planning balance

23. The Appellant has indicated that the Council is struggling to provide a satisfactory 5 year housing land supply. However, little evidence of this has been provided to me and the Council have not made any reference to this either in their Officers report or appeal statement, other than the proposal would make a valuable contribution to the local housing supply.
24. Reference is also made to the evidence base for the Council's new Local Plan and the need to identify further sites to meet the housing requirements up to 2036, including potential releases of land within the Green Belt and relying upon a neighbouring Council to provide housing to meet the needs of the area. However, this does not in itself indicate that there is a current shortfall in the five year supply of housing land. Therefore, from the limited evidence before me, it is unclear whether the Council does have a five year housing land supply.
25. Notwithstanding that, the 2018 Framework indicates that planning decisions should apply a presumption of sustainable development. For decision taking, where Development Plan policies which are the most important for determining the application are out of date³, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the 2018 Framework taken as a whole.
26. In this case, I have found that proposal would harm the character and appearance of the area. This factor weighs heavily against allowing the proposed development.
27. Notwithstanding that, the development would give rise to some minor social benefits in that it would provide much needed additional housing. The development would also bring some minor economic benefits through the construction process. These matters are in favour of the proposed development.
28. However, the provision of two additional dwellings would be unlikely to have any significant effect in reducing the deficit to the housing land supply for the Chiltern District should there be such a deficit. Against this background, the harm identified significantly and demonstrably outweighs the minor benefits when assessed against the policies in the 2018 Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

29. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

³ Footnote 7 includes situations where the local planning authority cannot demonstrate five year supply of deliverable housing sites.



Costs Decision

Site visit made on 17 July 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2018

Costs application in relation to Appeal Ref: APP/X0415/W/18/3194966 6 Warrender Road, Chesham, Buckinghamshire HP5 3NE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Visao Limited for a full award of costs against Chiltern District Council.
 - The appeal was against the refusal of planning permission for a new vehicular access and erection of two four bedroom detached houses including detached single storey pitched roof car port.
-

Decision

1. The application for a full award of costs is allowed in part in the terms set out below.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. I am also mindful of Paragraph: 049Reference ID: 16-049-20140306 of the PPG which indicates that a local planning authority would be at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal *on appeal* (my emphasis).
5. The Applicant submits that the Council acted unreasonably as their refusal contradicts planning approval CH/2016/2230/FA on the adjoining site and the comments of a planning Inspector in an allowed appeal on the same road (APP/X0415/A/05/1184634).
6. The Council has responded in that it considers it acted reasonably and that there are no grounds for an award of costs to be made, particularly as the Applicant has not clearly demonstrated how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. It is also stated

- that the appeal results from a difference in opinion as to the impact of the proposed development on the character of the area and neighbour amenity.
7. In respect of the first issue, there are some obvious similarities between the appeal development and that at 75 Lye Green Road. However, there are also differences in the two schemes, particularly in respect of the existing situation on site with the appeal scheme proposing a new access driveway to facilitate the tandem development.
 8. In terms of the impact on neighbour amenity, given the length of the rear garden at No 79a it was clear to me that a proposal of this scale would not have any significant impact on the amenity of the occupiers of that property. It is also significant that the Council reached a similar conclusion in respect of application CH/2016/2230/FA, albeit that this was to the rear of 77 Lye Green Road. Whilst the widths of the rear gardens of Nos 77 and 79a differ, it is clear that the length of the gardens indicate that there would not be any significant harm. In this respect, I find that the Council have acted unreasonably in coming to that conclusion with only limited evidence being submitted to justify the Councils stance. This unreasonable behaviour has resulted in wasted expense in the preparation of the appeal.
 9. In respect of the effect on the occupants of 6 and 8 Warrender Road, the Councils concerns arose from the fact that a new driveway was proposed between the two dwellings. The proposed development would have some impact in terms of increased noise and disturbance, but the level of harm is clearly a matter of judgement. Whilst I have found in favour of the Applicant in respect of these two properties the Council have, to my mind, provided sufficient justification in respect of this issue.
 10. The consistency concerns of the Applicant also relate to the character of area issue. However, as I have already identified there are differences between the appeal scheme and that at No 75. The Council have sufficiently articulated their concerns in this respect and it is clear that this is a matter of judgement for the decision maker.
 11. Turning to the appeal at 2A Warrender Road, I have noted in my decision that this proposal had a direct street frontage and was significantly different in respect of the overall impact to the character and appearance of the area. The fact that the property now constructed at No 2A is highly visible in the streetscene, and that the appeal proposal would not be owing to its backland nature, demonstrates the very material differences between the two developments.
 12. The Council have also identified the differences in circumstances in their appeal statement and to my mind given it sufficient consideration in the appeal process. Consequently, I find that no unreasonable behaviour in respect of this has been demonstrated in respect of this issue.

Conclusion

13. Taking all of the above into account, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to dealing with the matter relating to the effect of the development on the occupiers of 79a Lye Green Road and therefore a partial award of costs is justified.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chiltern District Council shall pay to Visao Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the effect of the development on the occupiers of 79a Lye Green Road.
15. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Chris Forrett

INSPECTOR



Appeal Decision

Site visit made on 25 July 2018

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 August 2018

Appeal Ref: APP/X0415/D/18/3203994

Bendrose Laurels, White Lion Road, Little Chalfont, HP7 9LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs G & A Rickard against the decision of Chiltern District Council.
 - The application Ref CH/2018/0063/FA, dated 11 January 2018, was refused by notice dated 12 March 2018.
 - The development proposed is first floor extension with mansard roof and dormer windows on the sides, rear conservatory extension and new front porch.
-

Decision

1. The appeal is allowed and planning permission is granted for first floor extension with mansard roof and dormer windows on the sides, rear conservatory extension and new front porch at Bendrose Laurels, White Lion Road, Little Chalfont, HP7 9LJ, in accordance with the terms of the application Ref CH/2018/0063/FA, dated 11 January 2018, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 site plan, GR/CHILTERN/PLANNING/2017/027, GR/CHILTERN/PLANNING/2017/028 block plan, and sketch mansard-dormer comparison.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.
 - 4) Before the development hereby permitted is brought into use, all the first floor dormer windows on the western side shall be fitted with obscured glass and fixed permanently shut and shall be retained as such thereafter.

Main issues

2. I consider that the main issues in this case are a) whether the proposal constitutes inappropriate development in the Green Belt, b) if it is inappropriate development, its effect on the openness of the Green Belt, c) its effect on the character and appearance of the area, and d) 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.

Application for costs

3. An application for costs was made by Mr and Mrs G & A Rickard against Chiltern District Council. This application is the subject of a separate Decision.

Reasons

4. The appeal property is a bungalow with an open front porch, a rear conservatory, a garage and other outbuildings, set in a large garden. It has a large space in the roof, the potential usefulness of which is compromised by the lack of headroom resulting from the shallow pitch of the roof. It is one of a small group of houses served by a narrow access lane and separated by open fields from Amersham and Little Chalfont and from a large industrial estate to the east. It is within the Green Belt and the immediate surroundings are rural in character.
5. The National Planning Policy Framework (the Framework), updated in July 2018, sets out several categories of new buildings which are not inappropriate development in the Green Belt. It allows for the extension or alteration of an existing building provided that it does not result in disproportionate additions over and above the size of the original building.
6. The Council refers to local plan policies contained in the Chiltern District Local Plan (the local plan). This was adopted in 1997 and consolidated in 2007 and 2011. Policies GB2 and GB13 relate to development in the Green Belt and allow for extensions to dwellings which are subordinate in size and scale to the original dwelling and are not intrusive in the landscape.
7. The original building is defined in the glossary of both the original and updated Framework as "*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally*". Local plan policy GB13 defines "original" as "*a building existing on 1 July 1948, as existing on that date and, in relation to a building built on or after 1 Jul7 1948, as so built*". The supporting text to policy GB13 seeks to resist a significant cumulative increase in size resulting from a series of extensions to the original building. The policy is broadly consistent with the Framework.
8. Policy CS 20 of the Core Strategy for Chiltern District 2011 requires new development to be of a high standard of design.
9. The Framework does not provide any direction as to what may be regarded as a disproportionate addition, nor does it indicate how this should be measured, for example, by floor space or volume.
10. Bendrose Laurels is a replacement dwelling permitted in 1989. In accordance with the Framework and local plan policy GB13, this is the original building. A conservatory extension was permitted in 2002.
11. The proposed first floor extension would result in the creation of a mansard roof with three dormer windows to either side and a slight increase in ridge height, together with an enlargement of the conservatory and a new porch. Planning permission was granted in 2017 for the larger conservatory and the

- porch together with three large dormer windows in each side of the roof (CH/2017/1573/FA).
12. The 2017 planning permission is a material consideration in this case. On the basis of the information before me and my observations at the site, the difference between that scheme and the current proposal is that between the permitted dormers and the proposed mansard roof form. I consider that the proposal would result in a relatively small increase in floor area and volume compared with the permitted scheme. It would appear somewhat bulkier but not significantly more so than the permitted scheme.
 13. The extension would enable a more efficient use of the space in the roof by increasing the headroom and thus allowing for easier internal circulation and improved building standards, including insulation.
 14. The appellants state that the proposal, together with the earlier conservatory, would result in a cumulative increase of 41.7% in floor area or 53.3% increase in volume over the replacement dwelling. I consider that this would not be a disproportionate addition to the dwelling. The house stands in a large plot at the end of a narrow lane and is partially screened by mature trees. I consider that the proposal would be subordinate to the size and scale of the original dwelling and that it would not be intrusive within the rural landscape. It would not compromise any of the purposes of the Green Belt set out in the Framework.
 15. I conclude that the proposal is not inappropriate development and in this respect it would be consistent with the Framework, local plan policies GB2 and GB13 and Core Strategy CS20.
 16. Concerns have been expressed by neighbouring residents regarding the potential for overlooking their properties from the dormer windows on the western side. The submitted plans indicate that the windows would be obscure glazed and fixed. However, it is not clear that this refers to all the relevant windows. These windows would not be the only means of providing light and ventilation to the rooms within and the matter can be resolved by the imposition of a condition requiring the installation and retention of fixed, obscured windows.
 17. For the reasons given above, the appeal is allowed.

Conditions

18. I have considered the conditions put forward by the Council, having regard to the tests set out in the Framework. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. A condition relating to the materials is necessary in order to ensure the satisfactory appearance of the development. It is necessary and reasonable to impose a condition requiring the dormer windows in the western side to be of obscured glass and fixed shut in order to protect the amenities of neighbouring residents.

PAG Metcalfe

INSPECTOR



Appeal Decision

Site visit made on 20 August 2018

by **Ian McHugh Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 September 2018

Appeal Ref: APP/X0415/D/18/3203852

Pennington, Ashwells Way, Chalfont St Giles, HP8 4HR

- 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 Mrs Rachel Nelson against the decision of Chiltern District Council.
 - The application Ref CH/2018/0301/FA, dated 6 February 2018, was refused by notice dated 4 May 2018.
 - The development proposed is a proposed garden room.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that the planning application form, the Council's decision notice and the appeal form each describe the proposed development differently. In my decision, I have used the description contained in the planning application form i.e. a garden room.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal property is a detached dwelling, which is situated in a residential area. The dwelling faces Ashwells Way with its front garden sloping down towards the highway. Ashwells Way is characterised by dwellings that vary in terms of their size and appearance, but the front gardens of properties along Ashwells Way are generally devoid of built development (apart from boundary walls and fences). In the immediate vicinity of the appeal site, the front gardens provide a spacious appearance to the streetscene.
5. The proposal is to erect a detached, single-storey timber building within the front garden of the appeal property. It would be positioned close to the front boundary adjacent to the highway.
6. Saved Policy H20 of the adopted Chiltern District Local Plan (LP) states that proposals for residential outbuildings should be modest in size and subordinate in scale compared to the existing dwelling. In addition, Policy GC1 of the LP and Policy CS20 of the Council's Core Strategy require new developments to be of high quality design.

7. In addition, I have also considered the provisions of paragraph 127 of the National Planning Policy Framework 2018 (the Framework). This seeks, amongst other things, to ensure that developments add to the overall quality of the area and are sympathetic to local character.
8. In reaching my decision, I have taken into account the relatively low height of the proposed building; the possibility of it being screened by planting; and that due to ground levels, the proposed outbuilding would not be highly visible from neighbouring properties. I also note that no objections have been raised by third parties. My attention has also been drawn to other developments within the front gardens of properties in the wider area. However, these are on Kings Road, where the character of the streetscene is, in my view, different to that of Ashwells Way.
9. Notwithstanding the appellant's arguments in favour of the development, I consider that the proposed position of the outbuilding would be significantly at odds with the pattern and layout of development along Ashwells Way. Despite the relatively small size of the structure, it is my opinion that the development would appear incongruous and visually intrusive in the streetscene. Furthermore, I am not persuaded that landscaping would adequately mitigate the significant harm that I have identified. The proposal would therefore conflict with Policy GC1 of the LP, Policy CS20 of the Council's Core Strategy and with the Framework, as referred to above.

Conclusion

10. For the reasons given above, it is concluded that the appeal should be dismissed.

Ian McHugh

INSPECTOR

Appeal Decision

Site visit made on 28 August 2018

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2018

Appeal Ref: APP/X0415/D/18/3205621
Halvorsen, Chiltern Road, Amersham HP6 5PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs K Riches against the decision of Chiltern District Council.
 - The application Ref CH/2018/0560/FA, dated 26 March 2018, was refused by notice dated 29 May 2018.
 - The development proposed is for the erection of a detached single garage with basement store.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the appeal proposal upon the character and appearance of the area.

Reasons

3. The site is situated within a low density residential street of an Arcadian nature with well established, predominantly laurel hedging to frontages. Many dwellings have garages although these tend to be integral or located to the side of their respective dwellings. I did note on my site visit that the garages which serve Caxton House and The Croft are located within their front gardens, but nonetheless I consider that these do not form the predominant pattern of development in the locality, and in any event each case must be assessed on its own merits.
4. Halvorsen is of a contemporary design and includes a wide garage door opening to its principal elevation. It too is partially bounded by laurel hedging to each side of its driveway entrance which is of a sufficient width to allow clear views of the front garden and parking area serving the appeal property. Consequently, I consider that the garage would be quite exposed within the street scene, notwithstanding the mature hedging to the side boundaries of the front garden and by reason of its forward siting, in close proximity to the highway, would fail to respect the prevailing pattern of development in the locality.
5. Whilst I acknowledge that the proposed garage would be for a single car, it is nonetheless, of a reasonable width and whilst the flat roof with sedum planting would soften its visual appearance, nonetheless it would not mask the visual

impact of the elevations. I say this, notwithstanding the fact that I accept that the garage would appear subordinate to its host dwelling and the form and detailing of the proposal would be sympathetic to the contemporary architecture on the site.

6. I cannot however agree that the proposed garage would form a positive feature in the street scene, and find that by reason of its proposed siting would be contrary to the prevailing pattern in the locality and harmful to the character and appearance of the wider area. The proposal conflicts with Policy CS20 of the Core Strategy¹ and Policy GC1 of the Local Plan² which together stipulate that the Council require that new development within the District is of a high standard of design which reflects and respects the character of the surrounding area and those features which contribute to local distinctiveness. It also falls foul of criterion c of the latter policy, which states that the siting of new buildings should be in accordance with the siting of any existing adjoining buildings and if fronting a road, the scale and alignment of the road in which they are to be located.
7. In addition, in respect of the Council's Residential Extensions and Householder Development Supplementary Planning Document – Adopted 10 September 2013, where concerning garages and outbuildings, paragraph 38 (ii) stipulates that care needs to be taken in their siting, particularly in areas characterised by open frontages which are clear of built form. In these areas the SPD stipulates that it unlikely to be acceptable to site a garage forward of a dwelling as it would disrupt the existing pattern of development. I have already acknowledged that the site is enclosed by hedging but, nonetheless, the proposed garage would still be clearly visible from the street and the general area is characterised by frontages which are clear of built form.

Conclusion

8. Therefore, having regard to the above and all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR

¹ Local Development Framework Core Strategy for Chiltern District Adopted November 2011

² Chiltern District Local Plan Written Statement Adopted 1 September 1997 (including alterations adopted 29 May 2001) and consolidated September 2007 and November 2011