The Planning Inspectorate

Appeal Decision

Site visit made on 14 August 2018

by Thomas Shields MA DURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2018

Appeal Ref: APP/X0415/C/17/3186760
233 Berkhampstead Road, Chesham, HP5 3AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
- The appeal is made by Mrs Lauren Hamilton against an enforcement notice issued by Chiltern District Council.
- The enforcement notice was issued on 31 August 2017.
- The breach of planning control as alleged in the notice is the erection of two single storey rear extensions, first floor rear extension, rear dormer with Juliet balcony in the positions as shown on drawing No. 1004 submitted as part of application CH/2016/2142/FA.
- The requirements of the notice are: Remove the first floor rear extension as shown on drawing No. 1004 submitted as part of application CH/2016/2142/FA as the "proposed" extension and restore the roof to its original alignment in accordance with details shown on drawing No. 1004 CH/2016/2142/FA as the existing elevation.
- The period for compliance with the requirements is 3 months.
- The appeal proceeds on the grounds set out in section 174(2)(a) (c) (e) (f) and (g) of the Act. The application for planning permission deemed to have been made under section 177(5) of the Act falls to be considered.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice as corrected and varied is upheld as set out below in the Formal Decision.

Decision

1. It is directed that the enforcement notice be corrected in Section 3 by deleting the words "with Juliet balcony".

2. It is directed that the enforcement notice be varied in Section 6 by deleting the words "3 months" and substituting instead "6 months".

3. Subject to the correction and variation the appeal is allowed and planning permission is granted on the application deemed to be made by section 177(5) of the Act insofar as it relates to the erection of two single storey rear extensions and a rear dormer at 233 Berkhampstead Road, Chesham, subject to the following condition:

    1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, no windows shall be inserted in either flank elevations of the dormer roof extension hereby permitted.

4. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to be made by section 177(5) of the Act insofar as it relates to the erection of the first floor rear extension.

The enforcement notice

5. The allegation at Section 3 of the notice describes the development subject of the alleged breach of planning control as being the erection of two single storey rear extensions, a first floor rear extension, and a rear dormer with Juliet balcony. However, there was no Juliet balcony in place, as alleged, at the time of my visit to the appeal site, nor is one present in any of the photographs submitted in evidence. I am satisfied that removing "Juliet balcony" from the allegation would not prejudice either party's case and I have therefore corrected the notice accordingly using powers available to me under section 176(1) of the Act.

The appeal on ground (e)

6. Ground (e) concerns whether a copy of the enforcement notice was properly served as required by section 172 of the Act. Section 172(2) provides that a copy of an enforcement notice shall be served (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person with an interest in the land. The appellant states that she never received a copy of the notice; that she found a notification slip at the unoccupied appeal property and was informed later at the post office that the notice had been returned to the Council.

7. Service of an enforcement notice can be achieved by sending it to the person on whom it is to be served in a prepaid registered letter, or by the recorded delivery service, addressed to that person at their usual or last known place of abode, as provided by section 329(1)(c). The Council say this is what they did and have provided copies of the certificates of service[1] dated 1 September 2017.

8. The Courts have held that *sending* the notice in such a manner is sufficient to comply with the service requirements of the Act, and that it is not necessary to demonstrate that the person actually received it. A copy of the notice was also sent by post to the appellant's agent on 1 September 2017[2].

9. Notwithstanding the above, the appellant in any event discovered the existence of the notice and was able to lodge the appeal within the specified time limits. Her interests have not therefore been prejudiced. Hence, even if there were failure of service, I would disregard it under my powers in section 176(5) of the Act.

10. The appeal on ground (e) therefore fails.

The appeal on ground (c)

11. The ground of appeal is that the matters alleged in the notice to have occurred do not constitute a breach of planning control. The onus of proof lies with the appellant, and the test of the evidence is on the balance of probability.

12. The appellant argues that the rear dormer roof extension is "permitted development" by virtue of Article 3 and Class B, Part 1, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. The dormer roof extension and a single storey rear extension with two

[1] Council's Appendix 4
[2] Council's Appendix 3 – letter to agent enclosing a copy of the enforcement notice

rooflights, is shown in the approved plans attached to permission Ref: CH/2016/0784/FA. He contends on this basis that they benefit from planning permission and so do not constitute a breach of planning control.

13. It is not argued by the appellant, and there was no evidence that I could see on site, that that the alterations to the property comprising the two single storey extensions, the first floor extension, and the dormer roof extension were carried out as single individual operations at different times. I take the view therefore that the alterations and extensions to the property comprised a single building operation.

14. In this regard it is clear that there are variations between the as-built development and that shown in the approved plans (CH/2016/0784/FA) - the single storey extension adjacent to No. 231 has a single level roof instead of two higher and lower levels, there are three non-approved windows in its rear and side elevations, and the large first floor extension is clearly much larger than as approved. Taken together, these are not minor variations from the approved plans. In accordance with long established Court judgments I find that the development as a whole is substantially different to that which was approved and hence does not benefit from permission Ref: CH/2016/0784/FA.

15. Taken in isolation, a dormer roof extension, such as the one in this case, could be constructed as permitted development. However, where it forms an integral part of a larger single building operation which is unauthorised, as I have found to be the case here, it also forms a part of that unauthorised development. Hence, it does not benefit from planning permission as argued.

16. The appeal on ground (c) therefore fails.

The appeal on ground (a)/deemed application for planning permission

17. An appeal on ground (a) is that planning permission should be granted for the development set out in the breach of planning control at Section 3 of the (corrected) notice. Thus, planning permission is sought for the as-built two single storey extensions, first floor rear extension, and rear dormer.

18. I note the objections from the occupiers of the neighbouring property at No. 231 regarding the window in the rear end elevation of the adjacent single storey extension, but windows in such positions at the rear of houses are commonplace and do not in my view unacceptably affect privacy. I find that to be the case here. The separate outhouse building referred to is not subject of the enforcement notice.

19. I am also mindful that the development on site, other than the first floor extension, is the same or very similar in scale and appearance to that approved by the extant planning permission, and that the dormer roof extension could have been constructed, in different circumstances, as "permitted development" as I have explained under the ground (c) appeal. In any event, the Council's objections do not extend to all of the development carried out on site. It is important to note that the Council's requirements at Section 5 of the notice require only the removal of the first floor extension and restoration of the roof to its original alignment.

20. Turning then to the first floor rear extension, I consider it to be excessively bulky and out of scale with the proportions and character of the host dwellinghouse. As such it detracts from the character and appearance of the

area. Also, its height coupled with its rear-ward projection has an oppressive and overbearing effect when viewed from the rear gardens of the adjoining properties, particularly so in the case of No. 231. It thereby results in significant harm to the living conditions of the occupiers of those properties.

21. Although the rear elevation window at first floor is unlikely to enable any significantly greater overlooking and loss of privacy to neighbours than previously existed, the side window in the extension faces directly towards and overlooks the rear garden of No. 231. This results in both a real and perceived loss of privacy for those occupiers. I acknowledge that if permission were granted a planning condition could be imposed to secure the removal of that side window; however that would not overcome my concerns regarding the extension's impact on the character and appearance of the host property and the area, or the harm to the living conditions of adjoining occupiers I have described.

22. The appellant refers to the two storey extension at No. 235 in comparison to the appeal scheme. However, that is an end property where the rear projection is not along the boundary between properties. It was also granted planning permission some considerable time ago in the context of local and national planning policies which are now out of date. It does not add any significant weight in support of allowing the appeal for the first floor extension subject of this appeal.

23. For these reasons I find that the first floor extension results in significant harm to the character and appearance of the host dwelling and the surrounding area and to the living conditions of neighbouring occupiers. As such the extension conflicts with the requirements of Policies GC3, H13 and H14 of the Chiltern Local Plan. It also conflicts with the Council's residential Extensions and Householder Development SPD (2013) and with the provisions of section 12 of the National Planning Policy Framework (2018) which seeks to secure good design as a key aspect of sustainable development, and a high standard of amenity for existing and future users.

24. In consideration of all these matters I come to the conclusion that a split decision should be issued which allows the appeal on ground (a) and grants planning permission for those elements of the development that the Council have not sought to enforce against, those being the single storey rear extensions and the dormer roof extension; and which dismisses the appeal and refuses planning permission for the first floor rear extension.

25. I will impose a condition prohibiting the insertion of any windows in the flank walls of the dormer roof extension, that being necessary to prevent wider overlooking and loss of privacy for occupiers of adjoining properties.

The appeal on ground (f)

26. An appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The appellant argues that requirement to remove the first floor extension is excessive.

27. The appellant's reference to permitted development and a fall-back position are arguments which are more properly relevant to the appeal under made under ground (a) that planning permission should be granted. The appeal on ground

(a) in this case, insofar as it relates to the first floor extension, has been dismissed for the reasons I have already set out.

28. The purposes of an enforcement notice are set out in section 173 of the Act. They are either to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Given that the Council has not sought to enforce against all of the development carried out, instead requiring removal only of that element of the development they consider results in harm to amenity, the purpose clearly falls within s173(4)(b).

29. Given the harm I have identified to the character and appearance of the host dwelling and to the living conditions of neighbouring occupiers, I consider that there are no lesser alternative requirements which could be imposed that would overcome that harm. As such, the removal of the extension is the minimum necessary to remedy the injury to amenity and therefore is not an excessive requirement.

30. The appeal on ground (f) fails.

The appeal on ground (g)

31. The ground of appeal is that the period of time for compliance with the notice falls short of what should reasonably be allowed.

32. The Council seeks compliance with the notice requirements within 3 months. The appellant seeks a period of 9 months.

33. I agree that a reasonable period of time should be allowed in order to secure and schedule materials and to engage a suitable builder in order to complete the required remedial works. With that in mind compliance would be difficult to achieve within 3 months. However, the proposed 9 months seems excessively long given the relatively limited scope of works to be carried out.

34. I consider that six months would be more reasonable in all the circumstances. Therefore, the appeal on ground (g) succeeds to this extent and I have varied the notice accordingly.

Thomas Shields

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 21 August 2018

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 12 September 2018

Appeal Ref: APP/X0415/X/17/3184571
Land southeast of Huge Farm, Chesham Road, Bellingdon, Chesham, Buckinghamshire, HP5 2XW.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
- The appeal is made by Ms Emma Stratford and Mr Paul Ford against the decision of Chiltern District Council.
- The application Ref. CH/2017/0224/EU, dated 5 February 2017, was refused in part by the Council by notice dated 27 April 2017.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is Private equestrian use for the keeping, exercising, schooling and riding of horses.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Preliminary matters

2. There are two appeals concerning the appeal site, this appeal and another, ref. APP/X0415/W/17/3187502, made under section 78 of the 1990 Act against the refusal of planning permission for "Erection of a 4-horse stable block with hay store and tack room and formation of a 50m x 25m manege on the established equestrian land southeast of Huge Farm at Chesham Road in Bellingdon." Both appeals were "linked" by the Planning Inspectorate and would normally be determined at the same time. Clearly my decision to issue an LDC in the terms originally sought is a material consideration in the section 78 appeal, but also the Council has in the interim granted planning permission for a smaller stable block on another part of the appeal site and this has now been erected. Since my decision on the merits of the section 78 appeal must take into account all material considerations relevant on the date of issue, and the position is now materially different to that when the appeals were made, I have sought further representations from the parties before I go on to determine appeal APP/X0415/W/17/3187502

3. Applications for costs were made by the appellants and Chiltern District Council against each other. These applications will be the subject of separate Decisions following the determination of appeal APP/X0415/W/17/3187502.

Reasons

4. The appeal concern a small field, about 0.64ha, on the southern side of Chesham Road, part of a larger landholding historically attached to nearby Huge Farm, but now owned by the appellants along with the neighbouring paddocks. Ms Stratford leased the land from October 2006 until they bought it last year. Before that members of the Stratford family had leased the land from the previous owners for a number of years. The appellants' evidence, in the form of statutory declarations from themselves and neighbours, with supporting photographs and some Land Registry details, indicates that the site has been used for horses since about 1993. The Council does not appear to dispute this, but came to the view that the presence of the horses on the site was not necessarily a non-agricultural use, or at least entirely so, noting in its officer's report that horses appeared to have been kept on the land for mainly grazing use, with schooling and grooming considered as being care of the horses. Some exercising of horses on the land that were stabled elsewhere was also accepted however, which appears to have led to the conclusion that there had been a material change of use of the land from agriculture to a mixed use of agriculture and a limited equestrian use. It considered that this use had subsisted for at least 10 years prior to the application and hence was immune from enforcement by virtue of section 171B(3) of the 1990 Act. It issued an LDC, in modified terms, certifying that the use of the land for 'agricultural purposes (including for the grazing of horses ponies) and for the keeping of up to four horses/ponies for private recreational non-commercial and non-professional purposes' was lawful due to immunity from enforcement.

5. The basis of the appeal is that the LDC should have been granted in the terms originally applied for, that is a non-commercial equestrian use only.

6. For the purposes of the 1990 Act, agriculture[1] 'includes … the keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), (and) the use of land as grazing land …'. However, the *Belmont Farm Ltd*[2] judgement makes it clear that horses kept for recreation are not 'livestock' for the purposes of the definition. The judgement in *Sykes*[3] established that simply turning horses out onto land with a view to feeding them from the land amounts to grazing. What does not fall within the definition of agriculture is the keeping of horses, and the *Sykes* judgement recognises that horses may be both grazed and kept in the same place. In determining which is the primary use, the question that must be addressed is "what is the purpose for which the land is being used?".

7. Land can be used for grazing if horses are turned onto it with the primary purpose of feeding them from it, but they can kept on it for some other purpose, such as exercise or recreation, when grazing may be more incidental and inevitable. Typically horse grazing as an agricultural activity would be a casual activity wholly dependent on the amount of grass available, whereas supplementary feeding of the horses would support the proposition that they were being kept on the land rather than merely grazing.

8. The supporting evidence in this case includes a list of horses that have been kept on the land over the years, since 1993, all of which are said to have been

[1] S.336(1) of the 1990 Act
[2] Belmont Farm Ltd v Minister of Housing and Local Government (1962) 13 P. & C.R. 417 QDB
[3] Sykes v Secretary of State for the Environment and Another [1981] 42 P & CR.

grazed, exercised, schooled, ridden and jumped on the land. Most are said to have lived on the field during their time there, though apparently the larger horses were also stabled nearby in rented stables, and it seems that overwintering on the land was not the general rule. There has evidently been a hay storage facility on the land for a number of years, there are photographs of horses on the site being fed hay, and there is not actually sufficient land[4] to graze the number of horses kept on it without supplementary feeding. It appears from the appellants' evidence, and there is no evidence to the contrary, that there have been horses on the land for most of the time since 1993, and that have been there primarily for recreation and leisure purposes rather than to graze the land.

9. I acknowledge that it can be difficult for local planning authorities to take enforcement action in circumstances such as this where a small number of horses are being kept on land without much in the way of physical infrastructure, and on any given day the horses could well appear to be there solely for grazing purposes. However, I am satisfied that there is sufficient evidence in this case to show, on the balance of probabilities, that the primary purpose for which the land was being used for well over 10 years continuously before the application date was the keeping of horses for private leisure and recreation purposes. As a material change of use of the land it is now immune from enforcement and therefore lawful by reference to section 191(2)(a) of the 1990 Act.

10. I conclude accordingly, on the evidence now available, that the Council's refusal in part to grant a certificate of lawful use or development in respect of private equestrian use for the keeping, exercising, schooling and riding of horses was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Paul Dignan

INSPECTOR

[4] Where land is being used as grazing land, Defra's Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids – December 2017 recommends the provision of at least 0.5 hectares per horse.

The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 5 February 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use described in the first schedule, being a material change of use, has taken place on the Land described in the Second Schedule for a period of more than 10 years prior to the date of the application and is immune from enforcement action by virtue of section 171B(3) of the 1990 Act.

Signed

Paul Dignan
Inspector

Date 12 September 2018
Reference: APP/X0415/X/17/3184571

First Schedule

Private equestrian use for the keeping, exercising, schooling and riding of horses.

Second Schedule

Land southeast of Huge Farm, Chesham Road, Bellingdon, Chesham, Buckinghamshire, HP5 2XW

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The Planning Inspectorate

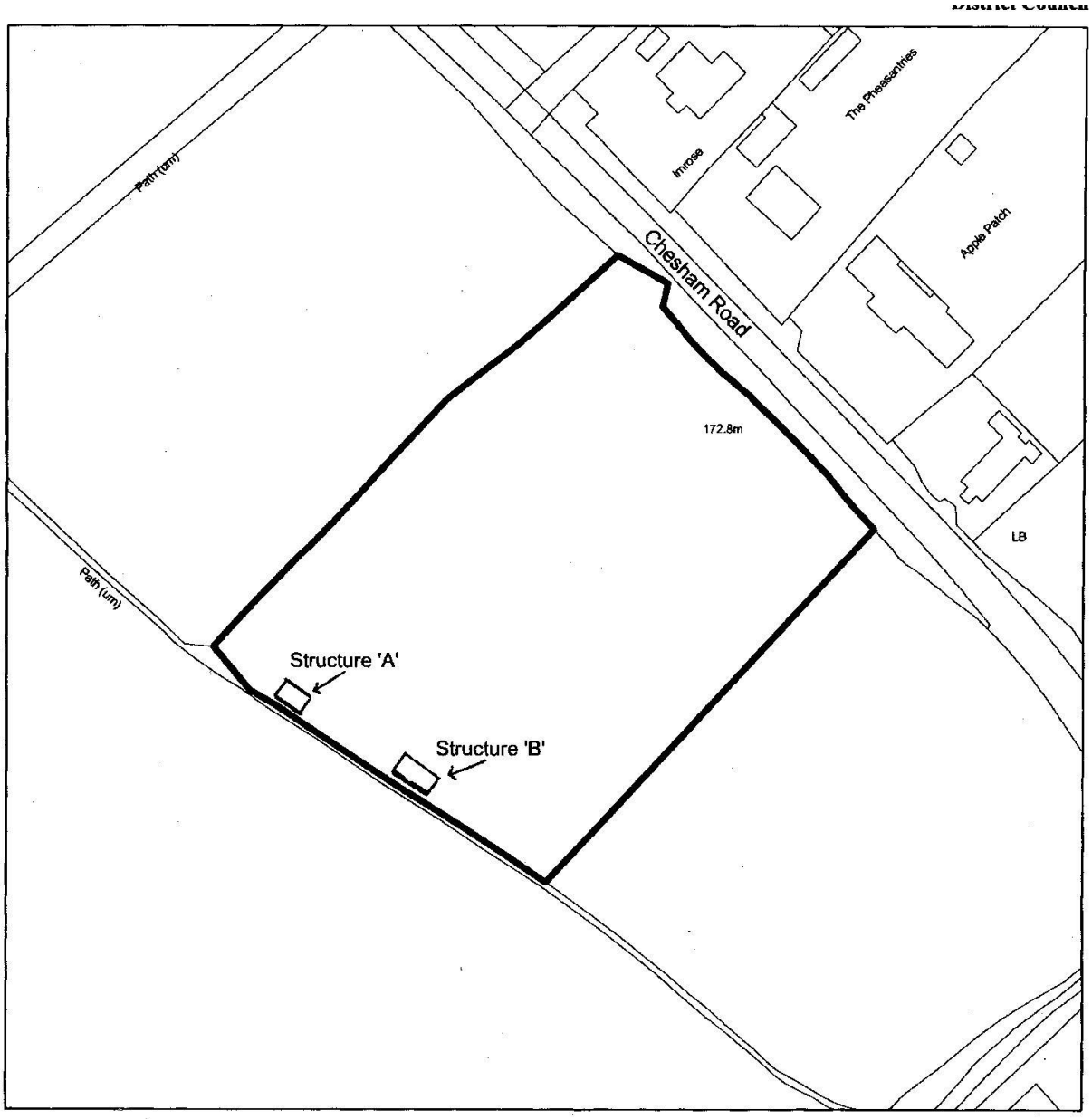
Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 September 2018

by Paul Dignan MSc PhD

Land southeast of Huge Farm, Chesham Road, Bellingdon, Chesham, Buckinghamshire, HP5 2XW

Reference: APP/X0415/X/17/3184571



The Planning Inspectorate

Appeal Decision

Site visit made on 4 September 2018

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2018

Appeal Ref: APP/X0415/W/17/3191293
Mulberry Lodge, 64A Wycombe Road, Prestwood, Great Missenden, Buckinghamshire HP16 0PQ

- 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 Eaden against the decision of Chiltern District Council.
- The application Ref CH/2017/1660/FA, dated 30 August 2017, was refused by notice dated 17 October 2017.
- The development proposed is replacement detached garage.

Decision

1. The appeal is dismissed.

Procedural and Background Matters

2. The development would involve the construction of a detached garage and the extension of a hardstanding adjacent to 64A Wycombe Road (No 64A), with the former replacing a timber shed. No 64A is a dwelling at the boundary between the built up area for Prestwood and the countryside, which is in the Green Belt. There is disagreement between the appellant and the Council as to No 64A's precise relationship with the Green Belt. That is because the Green Belt boundary shown on the adopted Policy Map (ie the paper version of the map) that accompanies the development plan is inconsistent with the boundary's alignment shown on the digital version of that map published by the Council. The development plan comprises the saved policies of the Chiltern District Local Plan of 1997, as altered in 2001 (the Local Plan) and the Core Strategy for Chiltern District of 2011 (the Core Strategy).

3. As digital versions of Policy Maps have no legal status the Green Belt boundary shown on the paper version of the development plan's Policy Map should be taken as being the authoritative representation of the boundary. Given the above mentioned inconsistency, at my request the Council has submitted an extract of what it considers is the currently adopted version of the 'Great Missenden and Prestwood Inset Map' (the Inset Map), ie that 'confirmed by the adoption of the Core Strategy'. The appellant, however, contends that the boundary shown on that Inset Map is incorrect, with it being contended that the black line depicting the Green Belt's boundary was added by the Council at some time after the Local Plan's adoption.

4. The Inset Map's submission with this appeal has therefore not resolved the disagreement about the Green Belt boundary's position within the vicinity of No 64A. However, even on the appellant's interpretation of the boundary, ie

the line shown on application drawing 17-7-31, around half of the garage subject to the appealed application would be in the Green Belt for the purposes of the extant development plan. On that basis I consider that the garage's construction would in part involve development within the Green Belt and that both local and national planning policies for the Green Belt are relevant to the determination of this appeal.

5. Further to the appeal's submission the Government published the revised National Planning Policy Framework on 24 July 2018 (the revised Framework). Given the reference to the previous version of the Framework in the reason for refusal, the appellant and the Council have been given the opportunity to comment on the relevant parts of the revised Framework. I have taken account of the comments that have been submitted in that regard.

6. The appellant has drawn attention to the planning permission (CH/2017/2073/FA) granted by the Council on 8 January 2018 for a detached garage adjacent to No 64A (the extant garage permission). While a copy of the planning permission concerning the extant garage permission was submitted shortly after the appeal's lodging no drawings relating to that development were provided. Accordingly at my request, and for the purposes of clarification, the appellant has provided a copy of the drawings referred to in the extant garage permission[1]. In that regard the design of the garage concerning the appeal development is the same as that subject to the extant permission, with the only difference between the proposals concerning the garage's siting.

Main Issues

7. The main issues are:

- whether the garage would be inappropriate development in the Green Belt having regard to the development plan policies and the revised Framework;
- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the Chilterns Area of Outstanding Natural Beauty (the AONB); and
- if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development within the Green Belt

8. Saved Policy GB2 of the Local Plan indicates that development in the Green Belt is inappropriate and will therefore be refused unless it would be within one of six categories (exceptions), the most relevant to this case being the third exception. The third exception states that planning permission may be granted for the limited extension, alteration or replacement of existing dwellings in accordance with Policies GB6, GB7, GB12, GB13 and GB15 of the Local Plan. Saved Policy GB15 of the Local Plan concerns 'ancillary residential

[1] Drawings 17-11-3 and 17.8.29

buildings within the curtilage of an existing habitable dwelling in the Green Belt' and states, amongst other things, the construction or extension of ancillary non-habitable buildings within domestic curtilages, such as detached garages, will generally be permitted when such buildings would be both small and subordinate in scale to the original dwelling.

9. Paragraph 143 of the revised Framework states that inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances. However, paragraph 145 of the revised Framework lists seven exceptions for development that may, in certain circumstances, be regarded as being not inappropriate in the Green Belt. Paragraph 145's fourth exception (paragraph 145(d) specifically relates to replacement buildings and states 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'. I consider it appropriate to assess the appeal development against the provisions of paragraph 145(d), rather than the paragraph 145(c), the third exception (the extension or alteration of a building etc). That is because the garage subject to the appealed application would replace an existing building.

10. The age of Policies GB2 and GB15 mean that they are reflective of the national policy that was stated in Planning Policy Guidance 2 'Green Belts' (PPG2). However, PPG2 was replaced by the Framework (first published in March 2012), which itself has now been replaced by the revised Framework. Policies GB2 and GB15 are therefore not written in the same terms as paragraph 145(d) of the revised Framework because the latter does not draw a distinction between residential and non-residential buildings, nor does it make reference to freestanding buildings needing to be within 'domestic curtilages'. There is therefore some inconsistency between the wording of the saved Local Plan policies and paragraph 145(d) of the revised Framework.

11. The revised Framework is a material consideration of great weight. As there is a degree of inconsistency between the development plan's policies and the revised Framework, I consider it apt to apply greater weight to paragraph 145(d) than Policies GB2 and GB15, having regard to paragraph 213 of the revised Framework.

12. Given the wording of paragraph 145(d) I am of the opinion that the question as to whether the land on which the garage would stand does or does not form part of No 64A's garden to be of no particular significance. I shall therefore make no further reference to that matter other than to comment that it would appear to be capable of resolution, one way or the other, via the submission of a lawful development certificate application, as alluded to in the Council's letter responding to correspondence dating from 28 April 2003[2].

13. The garage would be materially larger than the shed it would replace, with the former being 24.75 square metres (sq.m) and the latter being 6.0 sq.m[3].

14. Given the difference in the size between the existing and replacement buildings I conclude that the garage would be inappropriate development in the Green Belt for the purposes of paragraph 145(d) of the revised

[2] Appendix 3 of the appellant's appeal statement
[3] Floor areas based on the dimensions and area quoted in 'The Proposal' section of the Design and Access Statement submitted with the appealed application

Framework. There would also be some conflict with Policy GB2 of the Local Plan because of the development's inappropriateness in the Green Belt. The development because of its inappropriateness would, by definition, be harmful to the Green Belt and paragraph 144 of the revised Framework states that substantial weight should be given to that harm.

Green Belt openness

15. Paragraph 133 of the revised Framework states that openness is an essential characteristic of the Green Belt. As the garage would add to the amount of built development in the Green Belt there would be some loss of openness. However, the garage would of itself be modest in scale and I therefore conclude that this development would have a small harmful effect on the Green Belt's openness.

Effect on the AONB

16. Within an AONB there is a general duty to have regard to the purpose of conserving and enhancing AONB's natural beauty (Section 85 of the Countryside and Rights of Way Act 2000 [the CROW Act]). Saved Policy LSQ1 of the Local Plan addresses development within the AONB and restates the aforementioned general duty. Policy LSQ1 goes onto state that new development within the AONB should conserve, and where considered appropriate and practicable enhance the special landscape character and high scenic value of the AONB. Policy LSQ1 indicates that development will be refused when the objectives of conserving and enhancing the AONB would not be met, unless very exceptional circumstances can be demonstrated that would outweigh the landscape objectives.

17. Paragraph 170a) of the revised Framework states that planning policies and decisions should contribute to '… protecting and enhancing valued landscapes …'. Paragraph 172 states that 'Great weight should be given to conserving and enhancing landscape and scenic beauty in … Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues …'. I consider that Policy LSQ1 is consistent with the paragraphs 170a) and 172 of the revised Framework.

18. While the new garage, of itself, would be of a limited size its construction would be associated with the extension of No 64A and the conversion of its existing garage into habitable accommodation, in the event of planning permission CH/2017/1661/FA (the conversion permission) being implemented. The implementation of both the conversion permission and the appeal development would to a degree increase the amount of built in the AONB, in a location at the edge of Prestwood's built up area where there is a transition to essentially undeveloped countryside beyond the settlement.

19. The garage benefiting from the extant permission could be built behind the garage subject to this appeal. Under the terms of the extant garage permission it would be necessary for that building to be constructed to accord with the approved drawings. However, subsequent to that garage's construction, under the terms of its permission, there would be no conditional requirement for it to be used for vehicle parking or any other specified use. The garage subject to the extant permission would therefore be capable of being used for purposes other than parking, were another garage to be constructed in front of it. If the building benefiting from the extant garage

permission was to be constructed together with the extensions forming part of the conversion permission and the appeal development then I consider the cumulative effect would be incompatible with conserving and enhancing the AONB's natural beauty.

20. I am mindful of the fact that the appellant has stated at the final comments stage there is no intention to build both garages. However, for so long as the existing garage permission remained extant, its implementation would remain a possibility. I consider that the construction of both garages would be harmful for the AONB, because collectively their presence would not accord with the general duty. In that regard just because new development would largely be screened from view would not of itself make it permissible when the general duty is applied.

21. It would be unlawful for me to impose a planning condition with the effect of extinguishing the extant garage permission. The extinguishment of the extant garage permission could only be secured either by the appellant entering into a planning obligation under Section 106 of the Act or the Council or the Secretary of State revoking the permission, respectively under Sections 97 and 100 of the Act. There is, however, a liability for compensation to be paid when a planning permission is revoked under Sections 97 or 100. The appellant's statement that two garages would not be built does not amount to something that I consider I can rely on.

22. For the reasons given above I conclude that the appeal development, in combination with the other extant approved developments relating to No 64A, would have the potential to unacceptably harm the character and appearance of the AONB. I therefore consider that the appeal development would be contrary to Policy LQS1 of the Local Plan and paragraphs 170a) and 172 of the revised Framework because it would not conserve and enhance the special landscape character and scenic quality of the AONB. I consider that shortcoming of the development attracts substantial weight.

Other Considerations

23. Irrespective of the outcome of this appeal there is an extant permission for the construction of a garage. That garage would enable covered parking to continue to be available to No 64A's occupiers in the event that the extant garage conversion permission was implemented. The garage subject to the appealed application would be located forward of the garage benefiting from the extant permission and the appellant has submitted that there are two reasons why the former is required. Those reasons being '… to allow direct access from the ground floor of the house into the main garden, without having to cross the parking area or blocking the view of the garden from windows in the converted garage'[4].

24. However, no explanation has been given as to why crossing the domestic parking area to get to the garden would be problematic. While the siting of the garage subject to the extant permission might have some effect on the outward views from the habitable accommodation to be provided in the converted garage, on the evidence available to me I am not persuaded that any effect on those views would be severe. I am therefore of the opinion that

[4] Paragraph 6.3d of the appellant's appeal statement

very little weight should be attached to the appellant's justification for the appeal development.

Conclusions

25. The appeal development would have a limited effect on the openness of the Green Belt. That development would nevertheless amount to inappropriate development in the Green Belt for the purposes of the local and national planning policy that I have referred to above. That inappropriateness would be harmful for the Green Belt and the revised Framework states that substantial weight should be attached to Green Belt harm. I have also concluded that there would be potential for unacceptable harm to be caused to the AONB's character and appearance.

26. I consider that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2018

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary

Decision date: 3 October 2018

Appeal Ref: APP/X0415/W/18/3201708
Hall and Premises, Park Road, Chesham HP5 2JE

- 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 Mus'ab Panjwani against the decision of Chiltern District Council.
- The application Ref CH/2018/0104/FA, dated 18/01/2018, was refused by notice dated 21 March 2018.
- The development proposed is partial rebuild including minor extension and roof alterations to form loft storage area.

Decision

1. The appeal is allowed and planning permission is granted for partial rebuild including minor extension and roof alterations to form loft storage area at Hall and Premises, Park Road, Chesham HP5 2JE in accordance with the terms of the application, Ref CH/2018/0104/FA, dated 18/01/2018, 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: 2453-1-GA1, 2453-1-EX1 and 2453-1-A4-LOC1.

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

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

Main Issue

3. The main issue is the effect of the proposed development on the setting of the listed buildings at Nos. 1-2 and 3-4 Park Road.

Reasons

4. The appeal site comprises of a single storey detached community building located at the rear of a terrace of Grade II listed cottages at Nos. 1-2 and 3-4 Park Road. The timber clad community building, which has suffered extensive fire damage, serves as a classroom and store in association with Rawdhah Academy, a D1 institute providing an Islamic learning centre. The appeal building would be separated by the narrow rear gardens, outbuildings and a single access track running alongside No. 1 Park Road. The immediate area is in mixed use and does not have a clearly defined architectural character.

5. The appeal building is surrounded by a large corrugated steel Rawdhah Academy assembly building to the west, a two storey end terrace residential property to the north, commercial car repair premises to the north-east and the car parking and bin storage area associated with a three storey block of flats to the east. The significance of the surrounding buildings is derived from their substantial scale and modern design built on varying levels, which contrasts with the more traditional appearance of the adjacent two storey listed cottages. The significance of the 18th Century listed cottages to the south of the appeal building is derived from their group value with coloured washed brick work and old tiled pitched roofs that can appreciated from both outside as well as within the site. This provides a varied context and palette of materials in the immediate surroundings.

6. The proposal would involve internal alterations and the construction of a partial first floor extension with small front projection over the northern end of the building to create a new loft storage area. The building would be predominantly constructed from dark timber cladding with a pitched grey felt gabled end roof with a maximum ridge height of about 4.75m.

7. The proposed extension and alterations would be seen in the context of the current varied architectural styles around the proposed extension and in the surrounding area. Given the modest scale and position of the proposed extension and the screening provided by the buildings and landscaping around the site and topography of the site and immediate surroundings, there is only limited inter-visibility of the proposed extension in the streetscene and the surrounding area. Given this context, to my mind, the development would not be unsympathetic to the streetscene nor would it appear out of place when taking into account the overall character of the area.

8. Against this backdrop, the scale, form and design of the proposed extension, set back behind the existing listed cottages, would not appear significantly out of place or excessive in relation to the built form of the appeal building and the adjacent properties. The modest overall increase of the first floor extension together with the use of matching materials and fenestrations would ensure the proposal would sit relatively unobtrusively against the existing simple form of the appeal building. This would allow the proposed extension to achieve an appropriate degree of subordination to the listed buildings at Nos. 1-2 and 3-4 Park Road and as such would have a neutral material impact on the setting of the adjacent listed buildings.

9. I therefore consider, on this matter, in accordance with the clear expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990, that the setting of the listed buildings would be preserved. For the same reasons, the

development would accord with paragraphs 193 and 194 of the Framework in not harming the significance of the designated heritage asset or its setting.

10. Consequently, I conclude that the proposed development would not have a harmful effect on the setting of the listed buildings at Nos. 1-2 and 3-4 Park Road. It would be consistent with the overall aims of Saved Policy LB2 of the Chiltern District Local Plan 1997 (including the alterations adopted 29 May 2001) Consolidated September 2007 and November 2011. This policy seeks to ensure that any development in the vicinity of a listed building would not adversely affect the setting of that listed building.

Other Matters

11. I have noted the objections from the local residents and the Chesham Town Council to the proposal. These include the impact on the amenities of neighbouring properties, impact on the setting of the listed buildings, character of the area, overdevelopment, parking and traffic, impact on right of way and the disturbance during the construction works.

12. However, I have addressed the matters relating to the setting of the adjacent listed buildings and the character of the area in the main issue above. The other matters raised did not form part of the Council's reasons for refusal. I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal and can be dealt with by planning conditions where appropriate. In addition, I have considered the appeal entirely on its own merit and, in the light of all the evidence before me, this does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

13. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. A condition requiring matching external materials is necessary, in order to protect the setting of the listed buildings and character and appearance of the area.

Conclusion

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

David Troy

INSPECTOR

The Planning Inspectorate

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: 10 September 2018

Appeal Ref: APP/X0415/D/18/3204202
15 Tylers Hill Road, Chesham, HP5 1XH

- 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 Passingham against the decision of Chiltern District Council.
- The application Ref CH/2018/0354/FA, dated 26 February 2018, was refused by notice dated 23 April 2018.
- The development proposed is a hip to gable roof extension and front and rear dormer windows and rooflight to facilitate a loft conversion.

Decision

1. The appeal is allowed and planning permission is granted for a hip to gable roof extension and front and rear dormer windows and rooflight to facilitate a loft conversion at 15 Tylers Hill Road, Chesham, HP5 1XH, in accordance with the terms of the application Ref CH/2018/0354/FA, dated 26 February 2018, subject to the following conditions:

    1) The development hereby permitted shall begin no 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: Drawing Numbers – THR PA 01 REV B; THR PA 02 REV H; and THR PA 03 REV D.

    3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposal on the appearance of the existing dwelling.

Reasons

3. The appeal property is a detached bungalow with a hipped roof. It faces Tylers Hill Road and is positioned within a relatively large plot. Adjoining properties are similar in appearance, but I noted during my site visit that a number have been altered and extended. Indeed, the appeal property has received a large single storey flat-roofed extension at the rear. Within the wider area, properties vary in terms of their age, size and appearance. The site is within the Green Belt.

4. My attention has been drawn to an extant planning permission for extensions at the dwelling, which was granted planning permission by the Council on 23 February 2018 (reference CH/2017/2188/FA). This approved development is for the erection of two dormers at the front of the property and alterations to the roof to form a part gable/part hip. In addition, the approved plans show two dormers on the rear, which the Council has confirmed would be permitted development. The Council has also confirmed that converting the hipped roof to a gable would be permitted development.

5. The appeal proposal is to convert the existing hipped roof into a gable roof on either side and to construct two pitched roof dormers at the front with a flat-roofed dormer at the rear. The proposed development would create two additional bedrooms, plus a bathroom.

6. As the property is situated within the Green Belt, there would normally be a requirement to assess whether the proposal would be inappropriate development within the Green Belt, with regard to the Development Plan and paragraph 145 of the National Planning Policy Framework 2018 (the Framework), taking into account the scale of existing and proposed extensions in comparison to the original dwelling. However, Saved Policy GB12 of the adopted Chiltern District Local Plan (LP) allows for extensions to dwellings in the Green Belt that are within the built up part of Tylers Hill, provided they do not extend the built form into adjoining open land. The Policy places no restrictions on the size of an extension. Consequently, the Council assesses such proposals with regard to their appearance and effect on neighbours.

7. In my opinion, the scale of the existing and proposed extensions to the appeal dwelling would normally conflict with paragraph 145 of the Framework as they would be disproportionate additions over and above the size of the original building.

8. However, it is a statutory requirement that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise. The provisions of the Framework are a material consideration but, in this instance, I give greater weight to Policy GB12 of the LP. The Policy is part of an adopted Local Plan (which will have been independently examined) and it is commonly used for decision making by the Council. The Council has confirmed that it does not consider the proposal to be inappropriate development within the Green Belt, because it accords with Policy GB12. In this instance, I agree with this conclusion.

9. The Council considers that the proposed rear dormer would be a dominant, obtrusive and incongruous form of development because of its overall bulk and size. It argues that it would conflict with Policy CS20 of the adopted Core Strategy and with Policies GC1, H13, H15 and H18 of the LP. These policies generally seek to ensure that new development and extensions are of high quality design; respect the character of the area; and respect the scale of existing dwellings. Policy H18 of the LP specifically states that large dormers will be refused. In addition, paragraph 127 of the Framework states that planning decisions should ensure that developments are visually attractive and that they add to the overall quality of the area.

10. The above policies are complemented by the Council's Supplementary Planning Document – Residential Extensions 2013 (SPD). This guidance states that

large flat-roofed dormers are not encouraged, because they often appear bulky and overly dominant in the roof-slope.

11. In my opinion, the scale and form of the proposed rear dormer would be a visually dominant structure and it would appear out of scale with the existing building, because of its overall width and height. Consequently, I consider that it would conflict with the policies of the Development Plan, the Council's SPD and with the Framework, as referred to above.

12. However, in reaching my decision, I have given weight to the 'fall-back' position that exists because of the permission previously granted by the Council and the works that could be carried out as permitted development (referred to in paragraph 4 above). Although the dormer, subject to this appeal, would be larger than the combined size of the two dormers that would be permitted development and it would cover a greater area of the roof, I am not persuaded that the difference in appearance would so significant as to justify a refusal of planning permission. Furthermore, the proposed dormer would not be visible from public viewpoints and it would be seen in the context of the existing large flat- roofed extension, which, in my opinion, is also out of scale and at odds with the character and appearance of the original dwelling.

Conditions

13. The Council has suggested conditions in the event of the appeal being allowed. These have been considered in the light of the advice contained within the Planning Practice Guidance.

14. A condition requiring the development to be carried out in accordance with the approved plans is necessary, for the avoidance of doubt and in the interests of proper planning.

15. To ensure a satisfactory appearance, a condition requiring the use of external materials to match the existing dwelling is also necessary

Conclusion

16. For the reasons given above, it is concluded that the appeal should be allowed.

Ian McHugh

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 4 September 2018

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2018

Appeal Ref: APP/X0415/D/18/3208355
1 Coat Wicks, Seer Green HP9 2YR

- 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 A Brewis against the decision of Chiltern District Council.
- The application Ref CH/2018/0507/FA, dated 16 March 2018, was refused by notice dated 14 May 2018.
- The development proposed is two storey and single storey side extension.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The development would involve the construction of an essentially two storey, side extension. The extension would, all bar 200mm[1], occupy the width of the side garden of the property (No 1)[2]. The extension's front and rear elevations would be set back from No 1's principal front and rear walls, while the addition's ridge line would be set a little below that of No 1.

4. No 1 occupies a prominent position, being at the northern end of the row of houses on the western side of Coat Wicks. No 1's side elevation fronts onto Farmers Way and Coat Wicks, like Godolphin Road, Culvers Croft, Barrards Way and Stable Lane, is orientated at right angles to Farmers Way. The houses at the end of the aforementioned streets, where they immediately adjoin Farmers Way, have purposefully been sited with side elevations that are set back from the back edge of the pavement. Those set backs being a means of creating some relieving space within the streetscene.

5. I consider the extension's siting would not be respectful of the purposefully planned and well established layout within this housing estate, given that its flank wall would be in such close proximity to the back edge of the pavement. I am mindful of the fact that the house opposite No 1, 1 Godolphin Road, has a two storey side extension. However, I consider the appeal development would not be comparable with that neighbouring addition because the latter is

[1] As quoted by the Council
[2] As quoted by the Council

respectful of the layout of the houses in the area, given the generous set back from the back edge of the pavement.

6. The setting back of the extension's front and rear elevations, together with its lowered ridge are intended to make the extension appear as though it would be subordinate to No 1. However, given that No 1 does not have a particularly deep floorplan and having regard to this house's simple gable ended form, I consider that the extension would have the appearance of being oddly proportioned relative to the original house. I am therefore of the opinion that this extension would have a contrived appearance, which would not integrate well with No 1 or Farmer Way's streetscene. In that regard I observed no other additions of the intended form within the vicinity of No 1.

7. While there are three mature Sycamore trees within the verge immediately adjacent to No 1, those trees would provide limited screening for pedestrians using that pavement. The Sycamore trees would provide some screening for the extension from further afield, but only at times when these trees were in leaf. I am therefore not persuaded that the presence of the verge trees provides a justification for granting planning permission for the extension.

8. I conclude that the development would unacceptably harm the character and appearance of the area. I therefore consider that the development would be contrary to saved Policies GC1, H13, H15 and H16 of the Chiltern District Local Plan of 1997, as altered in 2001, Policy CS20 of the Core Strategy for Chiltern District of 2011 and the Council's Residential Extensions and Householder Development Supplementary Planning Document of 2013. That is because the design of the development would not be of a high standard and the extension would not be respectful of the streetscene, having regard to its prominence and siting and its proportions and form relative to No 1.

Other Matter

9. Any issues that the appellant may have with the manner in which the Council determined the planning application are not relevant to the determination of this appeal and are therefore not for me to comment on.

Conclusion

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

Grahame Gould

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2018

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/X0415/D/18/3206814
33 Grimsdells Lane, Amersham HP6 6HF

- 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 A Ventress against the decision of Chiltern District Council.
- The application Ref: CH/2018/0600/FA dated 1 April 2018, was refused by notice dated 29 May 2018.
- The development proposed is erection of first floor rear extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (Framework 2018) came into force on 24 July 2018 and from that date policies within the Framework 2018 are material considerations which should be taken into account in decision making. Although the Council's reason for refusal did not specifically refer to the National Planning Policy Framework 2012 extant at the time of the decision, both the Appellant and the Council referred to it in their documentation. From reading all the information before me from the Appellant and the Council, I am satisfied that the revised Framework 2018 carries forward the main policy areas from the earlier Framework, as relevant to this appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the living conditions of the adjoining neighbours at No 31 Grimsdells Lane, with particular regard to outlook.

Reasons

4. The appeal property is a semi-detached property on the south side of Grimsdells Lane in a predominantly residential area, within an Established Residential Area of Special Character as well as within the Weller Estate Conservation Area. The property has previously been extended and altered, including with a single storey rear extension. The proposal would provide a first floor rear extension under a hipped roof along part of the rear elevation over the existing single storey rear extension. It would be slightly set in from the western side elevation of the property and set further away from the eastern boundary with No 35 Grimsdells Lane.

5. The adjoining detached property at No 31 Grimsdells Lane is sited further forward in its plot. As a result, the first floor extension would be broadly in line with the rear terrace to No 31. Although the proposal would be set in from the side elevation of the appeal property and the hipped roof would be subservient in form to the main roof, I consider that the combined effect of its height, depth and proximity to the side boundary would have an enclosing and overbearing effect for the neighbours at No 31 both in terms of the outlook from windows to rear facing bedrooms at first floor level as well as rear facing rooms at ground floor and particularly those rooms closest to the common boundary.

6. Furthermore, the height and proximity of the solid massing of the proposal would also be visually intrusive and have an uncomfortable and enclosing effect for the neighbours from within the rear garden area, and particularly when using their rear terrace area, closest to their house. These impacts would, in my view, materially harm their living conditions.

7. I therefore conclude that the proposal would harm the living conditions of the neighbours at No 31 Grimsdells Lane, with particular regard to loss of outlook. This harm would conflict with Policies GC3, H13 and H14 of the Chiltern District Local Plan - 1997 (including alterations Adopted 29 May 2001, Consolidated September 2007 & November 2011) (Local Plan) and the Residential Extensions and Householder Development Supplementary Planning Document (September 2013) as well as the Framework 2018, all of which, amongst other things, seek for a high quality design which respect the amenities of existing and future occupiers.

8. The reason for refusal also refers to Policy GC2 of the Local Plan but this is specific to ensuring that proposals do not adversely affect levels of daylight and sunlight to neighbouring properties. This has not been raised as an issue and I have no reason to take a different view.

9. I have taken into account the permission granted by the Council for a first floor rear extension, under its reference, CH/2017/1651/FA, of similar dimensions but located further away from the boundary with No 31. It is sometimes the case, particularly where properties are sited close to each other, that the effect on the living conditions of immediate neighbours can be altered by relatively small scale changes to a proposal and that is my finding in this case. The existence of the earlier permission does not therefore persuade me that this proposal should be granted, given the harm I have concluded in respect of the proposal before me.

10. The Appellant has referred me to other extensions undertaken in the vicinity. Each proposal must be judged under its individual merits. Nonetheless I have taken these into account on the basis of the information provided. However, I do not know the relationship with adjoining properties in both cases and my consideration has been specific to the planning merits of the proposal before me.

Other Considerations

11. The appeal property lies within designated heritage asset of the Weller Estate Conservation Area. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of such

areas. The Conservation Area comprises two separate areas and primarily records the development of 'Metroland' in this local area, the 1930s suburban development, associated with the expansion of the railway as commuter routes to London. Despite subsequent alterations, many of the houses, including the appeal property, are semi-detached and characterised with large areas of sloping roofs, and rendered walls with front bays. Given its siting at the rear and its small scale in relation to the property I do not consider that the proposal would harm the significance of the Conservation Area and would therefore preserve its character and appearance. The Council also raised no concern in this regard. However, my findings in this regard do not outweigh the harm I have concluded under my main issue.

12. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 4 September 2018

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2018

Appeal Ref: APP/X0415/D/18/3207928
8 Beech Tree Road, Holmer Green, Buckinghamshire HP15 6UZ

- 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 Paul Gardner against the decision of Chiltern District Council.
- The application Ref CH/2018/0709/FA, dated 1 May 2018, was refused by notice dated 26 June 2018.
- The development proposed is first floor front and side extension, two storey side extension and glass conservatory replaced with tiled roof.

Decision

1. The appeal is dismissed.

Procedural Matter

2. At the time of my site visit no one was present at the premises (No 8). I was, however, able to gain access to 10 Beech Tree Road (No 10), with a visit to that property having been requested by the Council. Given the living conditions issue raised in the Council's reason for refusal, I am content that having visited No 10 and viewed No 8 from the public highway I can determine this appeal without prejudice to the parties, notwithstanding the fact that I was unable to view No 8 internally.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of No 10, with particular regard to light and outlook.

Reasons

4. No 8 is one of a pair of 'linked' detached houses. No 10 being the other linked house. The development would involve the construction of a wrap-around first floor front and side (west) extension, with a two storey side extension immediately behind the existing garage and alterations to the roof of the rear conservatory. The two storey extension would tie into the first floor addition.

5. Within No 10's eastern (side) elevation there is a ground floor living room/study window and a first floor bedroom window. No 8 has similar side windows. The flank wall of the first floor and two storey extensions would be inset by 1.0 metre from the boundary between Nos 8 and 10. I estimate that would mean that the first floor elements of the development would be approximately 4.5 metres from No 10's living room and bedroom windows. Given the proximity, height and depth of the first floor side elements of the

development I consider it likely that those elements would unacceptably affect the receipt of natural light to and outlook from No 10's windows. Those adverse effects would be of particular significance to any user of what is No 10's middle bedroom because it only has one window.

6. I recognise that No 10's substantial patio Bay tree has some implications for the receipt of light to and outlook from that property's side windows. However, that tree is capable of being pruned and or could be removed were the occupiers of No 10 to consider it was having too great an effect on their living conditions. By contrast the first floor parts of the development would be permanent and immovable. I therefore consider that the tree's implications for the receipt of light to and outlook from No 10 would not be comparable with the effects of the extension. The absence of an objection from the occupiers of No 10 does not persuade me that the development would not harm their living conditions.

7. Having regard to the scale and siting of the first floor front extension relative to No 6, I consider that this element of the development would not harm the living conditions of the occupiers of No 6.

8. Reference has been made to the side extension that has been built at No 19. However, I do not consider that extension to be directly comparable with what is being proposed for No 8. That is because the house next to No 19's extension has no first floor windows in its side elevation, based on what I was able to see from the street.

9. I therefore conclude that the development would unacceptably affect the living conditions of the occupiers of No 10, when regard is paid to the receipt of light to and outlook from that house's side windows. I therefore consider that the development would be contrary to saved Policies GC2, GC3, H13 and H14 of the Chiltern District Local Plan of 1997, as altered in 2001, and the Council's Residential Extensions and Householder Development Supplementary Planning Document of 2013. That is because the development would not safeguard the living conditions of the occupiers of No 10, with particular regard to the receipt of natural light and outlook.

Conclusion

10. For the reasons given above I conclude that this appeal should be dismissed.

Grahame Gould

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 24 September 2018

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/X0415/D/18/3206778
Peterley Fourways Cottage, Wycombe Road, Prestwood HP16 0HJ

- 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 & Mrs Starling against the decision of Chiltern District Council.
- The application Ref: CH/2018/0771/FA dated 30 April 2018, was refused by notice dated 28 June 2018.
- The development proposed is single storey rear and double storey side extension, change in access to the loft room and new garage.

Decision

1. I dismiss the appeal in so far as it relates to single storey rear and double storey side extension, change in access to the loft room.

2. I allow the appeal in so far as it relates to a new garage and planning permission is granted for new garage at Peterley Fourways Cottage, Wycombe Road, Prestwood HP16 0HJ in accordance with the terms of the application, CH/2018/0771/FA dated 30 April 2018, subject to the following conditions:

    1) The development hereby permitted shall begin not later than three years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plan in so far as it is relevant to that part of the development hereby permitted: 217.040-1A.

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall accord with those shown on Plan 217.040-1A.

Preliminary Matters

3. The appeal proposals relate to two discrete elements, namely a proposed extension to the main house and a proposed detached garage. Although they have been presented together within one application and subsequent appeal, I have been given no reason in the information before me to suggest that the two parts of the proposal could not be considered separately.

4. The revised National Planning Policy Framework (Framework 2018) came into force on 24 July 2018 and from that date policies within the Framework 2018 are material considerations which should be taken into account in decision making. Although the Council's reason for refusal did not specifically refer to the

National Planning Policy Framework 2012 extant at the time of the decision, both the Appellant and the Council referred to it in their documentation. From reading all the information before me from the Appellant and the Council, I am satisfied that the revised Framework 2018 carries forward the main policy areas from the earlier Framework, as relevant to this appeal.

Main Issues

5. The main issues in this appeal are:

a) Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;

b) Its effect on the openness of the Green Belt and on the scenic and landscape beauty of the Chilterns Area of Outstanding Natural Beauty;

c) Other considerations;

d) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Issue a) Whether inappropriate development

6. The appeal property is a detached dwelling, which has previously been extended on the corner of Wycombe Road with Perks Lane. The house together with its main garden, parking area and existing garage are approached from the access off Perks Lane. It lies within the Green Belt and within the Chilterns Area of Outstanding Natural Beauty (AONB).

7. The Framework 2018 sets out the government's planning policies to secure sustainable development. Paragraph 133 sets out the great importance that the Government attaches to Green Belts and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 confirms that *inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*. Paragraph 145 sets out that the construction of new buildings is inappropriate except for a limited number of exceptions including the extension or alteration of a building providing that it does not result in disproportionate additions over and above the size of the original building. The Framework does not define further the term 'disproportionate' but does define 'original building' as a building as it existed on 1 July 1948, or if constructed after 1 July 1948, as it was built originally.

8. The Council has referenced a number of policies relating to the Green Belt in its decision notice. Policy GB2 of the adopted Chiltern District Local Plan 1997 with alterations adopted in 2001 and consolidated in September 2007 and November 2011 (Local Plan) sets out the categories of development that may not fall to be considered as inappropriate development. Although the policy significantly predates the Framework 2018, for the particular purposes of this appeal, category c referring to the limited extension, alteration and replacement of existing dwellings in accordance with other stated policies (including GB13 and GB15) provides a similar exception to the relevant part of the Framework 2018.

In respect of residential extensions, Policy GB13 states that extensions to dwellings in the Green Belt will be permitted provided they are subordinate to the size and scale of the original dwelling; are not intrusive in the landscape and comply with other stated policies in the Plan. 'Original' has the same definition as set out in the Framework. The Council's refusal notice also refers to The Residential Extensions and Householder Development Supplementary Planning Document 2013, although it is not clear what additional guidance this contributes in this particular case.

9. The Council has indicated that the proposal 'would more than double the size of the original dwelling' but has given no further information to substantiate this statement, except for referring to a permission granted and implemented in the late 1980s for a first floor rear extension. The Appellant has provided further and more detailed information which indicates that the original dwelling has been extended in 1987 and that together with the proposal the cumulative increase would be a 44.4% increase in floor area, compared with the position at 1948. On the basis of the limited information before me, I have no reason to take a different view.

10. The Appellant has suggested that the rule of thumb locally and nationally is 50% increases being acceptable; however, this is not part of either national or local policy. It is my view that in addition to arithmetic calculations it is necessary to look at the proposals in terms of their relationship to the original dwelling with particular reference to bulk, scale and massing. In this respect, the scale of the two storey side and rear addition would be a very bulky extension; the width of the gable end would be larger than the existing two storey rear gable and would be out of scale with the smaller proportions of the original dwelling. Although views from the front and side are limited, the massing of the proposed extension would appear as a substantial and bulky addition in relation to the proportions and form of the dwelling. Furthermore, there would be an awkward juxtaposition at roof level between the existing property and the new roof which would exacerbate the bulky form of the proposal. I do not therefore consider that the proposed extension would appear subordinate to the size and scale of the original dwelling.

11. Taking all these matters together, in terms of floor area as well as its resultant bulk and massing, I have no doubt that the proposed extension would be a disproportionate addition over and above the size of the original dwelling and so would be inappropriate development for the purposes of the Framework and Local Plan policy.

12. With regard to the replacement garage, I have not been provided with a copy of the policy itself, but I am advised that Policy GB15 of the Local Plan refers to the erection of ancillary outbuildings within the curtilage of a dwelling house and that these can be considered acceptable where the building is small in size and subordinate to the original dwelling. The proposed garage would replace the existing garage. Whilst it would be larger than existing, it would in my view remain a suitably located, small and subordinate structure to the original dwelling. It would also not materially harm the openness of the Green Belt.

13. For these reasons taken together, I am satisfied that the proposed replacement garage would not be inappropriate development for the purposes of the Framework and Local Plan policy. There is therefore no need for this part of the development to be justified by special circumstances.

Issue b) Openness

14. Inappropriate development is, by definition, harmful to the Green Belt, as set out within the Framework, and in accordance with that guidance, I therefore attach substantial weight to this harm which I have concluded in respect of the extension to the house. I have also considered whether there is any other harm.

15. The addition of further built development on the site in the form of the proposed extension to the dwelling, with the consequent increase in the bulk and massing of the property, would inevitably lead to some reduction in openness, which is the essential attribute of the Green Belt. This harm to openness would therefore add to the harm I have already concluded.

16. Although it would be a bulky addition to the existing building which would be seen in short views of the property, I do not consider that it would detract from the landscape and scenic beauty of the AONB, given its confined location, with other development surrounding.

17. Similarly given its small scale and siting I am also satisfied that the proposed garage would not result in any harm to the landscape and scenic beauty of the AONB. There would be no conflict in respect of either element of the overall proposal with Policy CS22 of the adopted Core Strategy for Chiltern District 2011 and Policy LSQ1 of the Local Plan as well as the Framework 2018, in terms of respecting the landscape beauty and distinctiveness of the AONB.

Issue c) Other Considerations

18. The Framework 2018 indicates at paragraph 144 that substantial weight should be attached to any harm to the Green Belt. Very special circumstances to justify such development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I now turn to the other considerations in support of the development which have been put forward.

19. The Appellant has drawn my attention to three other permissions in close vicinity of the appeal site, which have been granted permission for extensions to residential dwellings. Each proposal must be considered on its individual merits but I have, nonetheless, and notwithstanding the very limited information before me, taken these other developments into consideration. However, the Framework sets out a clear approach for considering development proposals in the Green Belt to ensure that the openness of the Green Belt is protected. The existence of other extensions permitted and undertaken does not therefore add weight in support of this specific proposal before me for an extension to the property on the basis of my findings.

20. I understand that the Appellant sought initial advice from the Council by way of the Council's telephone service. Whilst I have sympathy with the Appellant in this regard, it does not provide any weight in support of the proposal which I have considered on its planning merits.

21. I also have sympathy with the family related reasons for seeking the extension, but the harm I have concluded would endure long after these personal reasons have ceased to be material. Accordingly, only very limited weight can be afforded in favour of the proposal on this matter.

Issue d) Balancing of Considerations and whether very special circumstances exist.

22. I have already found that substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the proposed extension to the dwelling. The harm from loss of openness adds to the harm by reason of inappropriateness. The totality of the harm I have concluded is not clearly outweighed by the other considerations. I do not find that the very special circumstances required to justify the proposed development of the extension to the dwelling exist.

Conditions

23. In respect of the proposed garage, I agree with the Council that in the interests of protecting the appearance and character of the local area, a condition should be imposed to require the materials to accord with those shown on the plan submitted. I have also added a condition to specify the approved plan for the avoidance of doubt and in the interests of proper planning.

Conclusions

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed in so far as it relates to the proposed garage but should fail in so far as it relates to the proposed extension to the dwelling.

L J Evans

INSPECTOR