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: 30 October 2018

Appeal Ref: APP/X0415/W/17/3187052
Land southeast of Huge Farm, Chesham Road, Bellingdon, Chesham, Buckinghamshire, HP5 2XW.

- 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 Ms Emma Stratford and Mr Paul Ford against the decision of Chiltern District Council.
- The application Ref. CH/2017/0817/FA, dated 28 April 2017, was refused by notice dated 12 July 2017.
- The development proposed is 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.

Decision

1. The appeal is dismissed insofar as it relates to Erection of a 4-horse stable block with hay store and tack room, and the associated access track and hardstanding. The appeal is allowed insofar as it relates to the proposed manege and planning permission is granted for formation of a 50m x 25m manege at Land southeast of Huge Farm, Chesham Road, Bellingdon, Chesham, Buckinghamshire, HP5 2XW in accordance with the terms of the application, Ref CH/2017/0817/FA, dated 28 April 2017, and the plans submitted with it so far as relevant to that part of the development hereby permitted and 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: Site Location Plan ABS005-100-01-C, Site Block Plan ABS005-200-01-C, and Manege Section Details and Timber Fencing ABS005-500-01 .

   3) No development shall take place until details of the colours of the surface material and wooden fencing for the manege have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.

Application for costs

2. Applications for costs were made by Ms Emma Stratford and Mr Paul Ford against Chiltern District Council and by Chiltern District Council against Ms Emma Stratford and Mr Paul Ford. These applications are the subject of separate Decisions.

Preliminary matters

3. The appeal concerns 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. It is in the Green Belt and Chiltern Area of Outstanding Natural Beauty (AONB). When the application was refused the land benefitted from an LDC 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. The use for which the LDC was sought was for a non-commercial equestrian use only, and an appeal was made in July 2017 against the Council's refusal to grant the LDC in the terms sought. I allowed that appeal by decision dated 12 September 2018[1] and issued an LDC for use of the land for "Private equestrian use for the keeping, exercising, schooling and riding of horses". Hence the present appeal does not involve any material change of use of the land, and the Council's reason for refusal on this basis can be set aside.

4. However, before the present appeal was made planning permission was granted in October 2017 for the erection of a two horse stable block with attached hay barn, sited close to Chesham Road frontage and involving the removal of two existing structures in the field, a field shelter and a hay barn. The two-stable block with hay barn has now been built and is in use. It is in a part of the field where built development is not proposed in the present application, save for a small portion of the access track. The existing development on the site is not physically incompatible with the appeal proposal.

5. In view of the material changes in circumstances arising from the implementation of the October 2017 planning permission and the success of the LDC appeal, I sought the views of the appellants and the Council, specifically on the question of whether the proposal was considered to be inappropriate development in the Green Belt and how it would interact with the implemented planning permission for the two-stable block.

6. The Council now considers that, as I understand it, a 4-stable/ haystore/tack room building, in its proposed location close to the hedgerow in the southern corner of the field, would be acceptable as not being detrimental to Green Belt openness provided that the existing 2-stable block was removed or relocated to the opposite side of the field close to the hedgerow, but it maintains its objection to the manege on the basis of harm to the character of the AONB. It submitted that a maximum of 4 stables would be more than sufficient to meet the appellants' needs given the size of the field and the number of horses said to have been regularly exercised on the appeal site. The appellants advised that they have no need at present for both the existing and proposed buildings, that it would make no practical or financial sense at this time to construct 4 more stables and another hay store, nor would it make sense to erect the appeal building where proposed when the existing stables are at the opposite end of the paddock. They proposed a compromise solution whereby a 3-4 stable block with tackroom would be erected close to the existing building, with

[1] Appeal Ref. APP/X0415/X/17/3184571

the manege to be sited alongside. A revised layout plan to this effect was submitted.

7. However, the revised layout and scale suggested is substantially and materially different to that which was originally proposed. To take it into account at this stage would deprive those who should have been consulted on the changed development of the opportunity of such consultation. For this reason, having regard to the principles established in the case of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37] I consider that it would not be appropriate to consider this appeal on the basis of the revised layout submitted. If the appellants wish the revised layout to be considered the appropriate means would be to make a fresh planning application.

8. No achievable mechanism has been proposed which would prevent the erection of the proposed building in addition to the existing building, should planning permission be granted. I have considered whether the imposition of a Grampian condition would be acceptable or appropriate, but in the circumstances, and in view of the appellants' fair expression of the practical and financial considerations involved, I have concluded that it would not be useful. Accordingly I have proceeded with the appeal on the basis that the proposed development would be in addition to that now permitted and erected.

Reasons

9. The main issues are whether the proposal would be inappropriate development in the Green Belt, the effect on the openness of the Green Belt, whether the development would preserve the character of the AONB, and whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

10. The relevant development plan policies are: Policy GB2 of the Chiltern District Local Plan (LP) which sets out the general presumption against inappropriate development in the Green Belt. It specifies the categories of development that are not considered inappropriate, which includes new buildings to provide essential facilities for outdoor recreation, subject to preserving the openness of the Green Belt and not conflicting with the purposes of including land within it; and LP Policy LSQ1 and Policy CSW22 of the Core Strategy for Chiltern District (CS) which are concerned with conserving the natural beauty of the AONB landscape.

11. Although some are dated, these policies are broadly consistent with the National Planning Policy Framework (NPPF), which was revised in July 2018, albeit the NPPF (paragraph 145) approach to the provision of facilities for outdoor recreation is that they should be appropriate rather than essential. The types of facilities proposed in this case are appropriate for outdoor recreation, but they will nonetheless be inappropriate development in the Green Belt if they do not preserve the openness of the Green Belt or conflict with the purposes of including land within it. I consider that the proposed building is of a scale that materially reduces Green Belt openness on the site, and its siting with the manege on the opposite side of the field from the existing stable and hay store would result in a proliferation of buildings and structures within the site which would not be consistent with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. As such it would be inappropriate development which is harmful by definition.

12. The proliferation of buildings and structures on the site as a whole, which would be apparent from both Chesham Road and the public footpath running alongside the opposite field boundary, particularly in winter when the screening by deciduous hedgerows would be much reduced, would also adversely affect the open character of the field and the contribution it makes to the character and natural beauty of the AONB landscape, contrary to the aims of LP Policy LSQ1 and CS Policy CS22.

13. Justification for the development is the need for the facilities, but by the appellant's own account the overall extent of development on the site would go beyond their needs. I consider therefore that there are not material considerations to outweigh the harm by reason of inappropriate development, loss of openness, conflict with the purposes of including land within the Green Belt and the adverse impact on the character and natural beauty of the AONB.

14. However, the overall harm is mainly due to the extent of buildings on the site. Given that access, yarding, stables and a hay store are already present, I consider that the manege can be viewed as physically and functionally separate from the other aspects of the proposal, namely the proposed building, access and yard. The manege itself would not materially reduce Green Belt openness or appear as encroachment on the countryside, and with appropriate surface materials and fencing would not appear incongruous or discordant in the landscape, such that it would conserve the natural beauty of the AONB landscape. When viewed on its own I consider that it would not be inappropriate development and it would not conflict with the development plan, read as a whole. A split decision is therefore justified, and accordingly I shall grant planning permission for the development so far as it relates to the manege, subject to the standard commencement condition, one requiring accordance with the application plans, and a condition requiring approval of surface material and fencing, in the interests of preserving landscape beauty, and I shall dismiss the appeal so far as it relates to the rest of the proposed development.

Paul Dignan

INSPECTOR

The Planning Inspectorate

Costs Decisions

Site visit made on 21 August 2018

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 30 October 2018

Costs application in relation to Appeal Ref. APP/X0415/W/17/3187052
Land southeast of Huge Farm, Chesham Road, Bellingdon, Buckinghamshire, HP5 2XW.

- The applications are made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- **Application A** is made by Ms Emma Stratford and Mr Paul Ford for a full award of costs against Chiltern District Council.
- **Application B** is made by Chiltern District Council for a full award of costs against Ms Emma Stratford and Mr Paul Ford.
- The appeal was against the refusal of the Council to grant planning permission for Erection of a 4-horse stable block with hay store and tack room and formation of a 50m x 25m manege.

Decisions

1. The applications for an award of costs are refused.

Application A

2. Parties to a planning appeal are normally expected to bear their own costs, but costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense.

3. Prior to the planning application detailed above, the appellants made an application for an LDC seeking to establish that the use of the land for private equestrian purposes was lawful by virtue of immunity from enforcement. The Council considered that the site, a field or paddock, had been in part-equestrian and part agricultural use for the relevant period and issued an LDC to that effect. The planning application the subject of this appeal was subsequently refused but a later application for a smaller equestrian building on the site was approved. It is argued that the issuing of the LDC and the granting of permission for a stable block on the site established the equestrian credentials of the site, and that it was therefore unreasonable not to grant planning permission for the larger development proposed.

4. It can be inferred from the appellants' submissions that they also consider the decision by the Council to refuse the LDC application in part to have been unreasonable, but while I came to a different view on the evidence that was before me, I could see nothing unreasonable in the Council's approach and the decision it made. The material circumstances pertaining at the time of the Council's consideration of the merits of the proposed development included national planning policy that excluded material changes of use in the Green Belt from the list of development that was not inappropriate, and a development that involved a material change of use in view of the LDC as it

stood, along with considerable additional built development. The development required very special circumstances to exist, but the considerations put forward were far from compelling.

5. Being inappropriate development, the substantial weight of the definitional harm alone had to be clearly outweighed by the other considerations, and I am satisfied on the basis of the Council's defence of its reasons for refusal that it exercised its planning judgement in a reasonable manner. This was not a case where development which should clearly have been permitted having regard to the development plan, national policy statements and any other material considerations was prevented or delayed. I find the allegation of unreasonable behaviour in refusing the application to be unsubstantiated, and it follows that the basis for an award of costs is not met.

Application B

6. The Council considers that the planning application was ill-conceived in the first place since it was predicated on the LDC application having been wrongly determined. It claims that the appellants, who were professionally represented, effectively ignored the LDC as issued and the sensible approach would have been to appeal that first.

7. As the Government's Planning Practice Guidance points out, an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. It may have been more straightforward to follow the staged approach advocated by the Council, but this was not a case where the appeal stood no prospect of success or where there was inadequate supporting evidence.

8. Overall, my conclusion is that unreasonable behaviour on the part of the appellant leading to wasted or unnecessary costs for the Council has not been demonstrated, and it follows that an award of costs is not warranted.

Paul Dignan

INSPECTOR

The Planning Inspectorate

Appeal Decisions

Hearing Held on 4 September 2018

Site visit made on 3 & 4 September 2018

by Chris Preston BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2018

Appeal A
Ref: APP/X0415/C/17/3190005
Land at OS Parcel 2814, opposite Tiles Farm, Asheridge Road, Asheridge, Buckinghamshire HP5 2XB

- 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 appeal is made by Mr Mark Loveridge against an enforcement notice issued by Chiltern District Council.
- The enforcement notice, numbered 2017/00224/AB/EN/1, was issued on 13 October 2017.
- The breach of planning control as alleged in the notice is: Without planning permission:
  (1) The material change of use of the Land from agriculture to a sui generis mixed use for the keeping and grazing of horses and a residential caravan park for occupation by gypsies and travellers by the stationing of a mobile home and two touring caravans in residential occupation on the Land (the "Unauthorised Use"); and
  (2) Integral to the Unauthorised Use the installation of lighting and operational development comprising the erection of close boarded fencing and gates (the "Unauthorised Works") the approximate positions of which are shown between the points marked "A-B-C" and "D-E" on the plan attached marked "Plan B".
- The requirements of the notice are:
  (5.1) Cease the Unauthorised Use of the Land for the stationing of caravans for residential purposes;
  (5.2) Remove from the Land all caravans, mobile homes, any associated bases, skirts or screens and other domestic paraphernalia, including but not limited to, lighting not reasonably required in connection with any agricultural use of the Land;
  (5.3) Demolish or dismantle all close boarded fencing and gates erected as shown marked between points A-B-C and D-E on Plan B; and
  (5.4) Remove from the Land all debris and materials arising as a result of compliance with steps 5.2 – 5.3 above.
- The period for compliance with the requirements is 6 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal B
Ref: APP/X0415/C/17/3190019
Land at OS Parcel 2814, opposite Tiles Farm, Asheridge Road, Asheridge, Buckinghamshire HP5 2XB

- 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 appeal is made by Mr Mark Loveridge against an enforcement notice issued by Chiltern District Council.

- The enforcement notice, numbered 2017/0224/AB/EN/2, was issued on 13 October 2017.
- The breach of planning control as alleged in the notice is: Without planning permission, operational development comprising:
  (1) The laying of hardstanding ("the Hardstanding"), the approximate position of which is shown cross-hatched on the plan attached marked "Plan B" ("Plan B"); and
  (2) The construction of a timber pergola structure the approximate position of which is shown marked "PS" on Plan B.
- The requirements of the notice are:
  (5.1) Demolish the pergola structure and remove all resultant debris from the Land;
  (5.2) Take up and remove the hardstanding from the Land;
  (5.3) Rip the soil from the part of the Land where the Hardstanding has been removed pursuant to paragraph 5.2 to alleviate compression of the ground;
  (5.4) Where the hardstanding formerly stood restore the Land to its level prior to the laying of the hardstanding (commensurate with adjacent ground level); and
  (5.5) Remove from the Land all debris and materials arising as a result of compliance with steps 5.3 to 5.4 above.
- The period for compliance with the requirements is: For requirements 5.1 to 5.2, 6 months from the date the notice takes effect and; for requirements 5.3 to 5.5 9 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal C
Ref: APP/X0415/W/17/3189060
Bramley Apple Paddocks, Asheridge Road, Chesham, Bucks HP5 2XB

- 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 Mark Loveridge against the decision of Chiltern District Council.
- The application Ref CH/2017/1648/FA, dated 26 August 2018, was refused by notice dated 13 October 2017.
- The development proposed is described on the application form as: Material change of use of land to a mixed use as a residential caravan site for two gypsy families with a total of up to 3 caravans, including no more than one static caravan, and for the keeping of horses. Laying of hardstanding and provision of means of foul drainage.

Decisions

Appeal A

1. It is directed that the enforcement notice be varied by the deletion of the words "6 months from the date on which this notice takes effect" in relation to the time period for compliance at section 6 and the substitution of the following words: For step 5.1, 12 months from the date on which this notice takes effect and, for steps 5.2 to 5.4, 15 months from the date on which this notice takes effect". Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. It is directed that the enforcement notice be varied by the deletion of paragraphs 6.1 and 6.2 relating to the time periods for compliance at section 6 and the substitution of a new paragraph 6.1 containing the following words: "Within 15 months from the date on which this notice takes effect". Subject to that variation the appeal is dismissed and the enforcement notice is upheld,

and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

3. The appeal is dismissed.

Preliminary Matters and Main Issues

4. Three appeals are before me for determination, two were made against enforcement notices that have been served by the Council and the other against the refusal to grant planning permission. I have referred to them as Appeal A, B and C, as set out in the banner heading above.

5. The breach of planning control to which Appeal A relates includes a material change of use and operational development (the erection of fencing). That to which Appeal B relates is purely aimed at operational development including the formation of an area of hardstanding and the erection of a pergola. Appeals have been made on ground (a) in relation to both appeals. Where a ground (a) appeal is made, planning permission is sought for the matters specified in the alleged breach of planning control.

6. The fact that two separate notices were served has resulted in separate appeals and two deemed planning applications. In essence, the appellant is seeking planning permission for the use of the land and associated operational development as a whole. His case has been submitted in a way that treats the development in Appeals A and B as one entity as has the Council. However, although the two appeals are inextricably linked I must determine each appeal, and each deemed planning application, on its own merits. That said, given the close relationship between the operational development and the use of the land it would be artificial to consider the two appeals completely independently of one another. Consequently, I have considered both appeals together within the main body of my decision using sub-headings to distinguish between the two.

7. The description of the development for which planning permission was sought in Appeal C includes the material change of use of land to a mixed use as a residential caravan site and for the keeping of horses and associated operational development, including fencing, additional hardstanding and a sewage treatment plant, as shown on the site layout plan submitted with the application. With the exception of the pergola, which was not part of the application, the proposals are essentially a composite of the development enforced against in Appeals A and B. The site area and use of the land is the same but there are differences in terms of the proposed landscaping which was put forward to mitigate the visual impact of the scheme.

Main Issues

8. The site is situated within designated Green Belt. Under the terms of the National Planning Policy Framework (the Framework), new development should be considered as "inappropriate" in the Green Belt unless it falls within a limited number of exceptions. Those exceptions are listed at paragraphs 145 and 146 of the revised version of the Framework which was published in July 2018.

9. Paragraph 143 identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

10. In most respects, the exceptions at paragraphs 145 and 146 are the same as those set out in paragraphs 89 and 90 of the former version of the Framework. However, paragraph 146(e) of the revised version allows for material changes of use of land provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it – those purposes being set out at paragraph 134. There was no exception relating to material changes of use in the former version of the Framework but such an exception was included within Planning Policy Guidance Note 2 – Green Belts – which had been Government guidance prior to the publication of the Framework in 2012.

11. Interestingly, due to its vintage saved policy GB2 of the Chiltern District Local Plan (1997) (the Local Plan) reflected the guidance in PPG2 and allows for material changes of use of land, which maintain the openness of the Green Belt and do not conflict with the purposes of including land within it. Whereas that criteria was out of step with the original version of the Framework, the policy is, once again, consistent with national policy.

12. The approach to material changes of use in the Framework has potential relevance because part of the development involved in Appeals A and C relates to the material change of use of land.

13. Within his appeal statement, which was submitted when the former version of the Framework was in place, the appellant accepted that the development in all three appeals amounted to inappropriate development. Both parties were given the opportunity to comment on the revised Framework in advance of the Hearing. No further comments were submitted on behalf of the appellant and, at the Hearing, the agent confirmed his view that the development amounted to inappropriate development. He accepted that there has been some harm to the openness of the Green Belt and the dispute between the parties was not with regard to the question of whether the proposals were inappropriate development but the degree of weight that should be attached to any harm arising from a loss of openness and encroachment into the countryside.

14. I see no reason to take a different view. In terms of Appeal A, there can be no doubt that the three caravans associated with the material change of use (one static and two touring units) have had an impact on the openness of the Green Belt on account of their physical size and visual impact. The associated fencing and landscaping has also enclosed the site and, of itself, has reduced openness. The residential use of the land has also had an urbanising effect on the former paddock and represents encroachment into the countryside, contrary to one of the core purposes of the Green Belt, as listed at paragraph 134(c) of the Framework.

15. In terms of Appeal B, the pergola has had a small effect upon openness and the new areas of hardstanding have enabled the residential use to expand onto areas of the site that were formerly used for grazing resulting in encroachment into the countryside. Thus, the development in both appeals represents inappropriate development within the Green Belt. Given that Appeal C is

essentially a composite of the two enforcement appeals the same conclusion applies.

16. On that basis, the main issues in respect of Appeals A and C are:

    i) Whether the appellant/ occupants of the caravans fall within the definition of "gypsies and travellers" as set out in Annex 1 of Planning Policy for Traveller Sites (PPTS).

    ii) The effect of the development on the openness of the Green Belt and on the purposes of including land within the Green Belt;

    iii) The effect on the setting of adjacent listed buildings;

    iv) The effect on the character and appearance of the area and on the Chilterns Area of Outstanding Natural Beauty (AONB);

    v) Whether the location of the site would facilitate sustainable modes of travel, having regard to the distance from local shops and services;

    vi) The effect of the development on highway safety;

    vii) If the appellant/ occupants of the caravans meet the definition of gypsies and travellers, as defined by the PPTS, whether there is a need for additional gypsy and traveller sites in the area and, if so, whether the Council can identify a supply of sites to meet those needs;

    viii) The weight to be attached to the personal circumstances of the appellants, having particular regard to the best interests of the children; and

    ix) Whether the harm to the Green Belt by way of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other material considerations such that very special circumstances exist to justify the proposals.

17. Not all of those main issues apply to Appeal B. Whilst the hardstanding and pergola are related to the residential use of the site the use could continue if those elements were removed, either by stationing the caravans on grass or on the pre-existing area of hardstanding. Thus, main issues (i) and (v) to (viii) do not apply to Appeal B because they relate to the principle of the use of the land and the implications of that use in terms of traffic generation and travel patterns.

i) Whether the appellant/ occupants of the caravans fall within the definition of "gypsies and travellers" as set out in Annex 1 of Planning Policy for Traveller Sites (PPTS)

18. The Council assessed the development on the basis that the occupants of the site fell within the definition of gypsies and travellers at Annex 1 of the PPTS but, within its statement, raised concerns that insufficient evidence had been presented to enable a firm conclusion to be drawn on the issue. I can understand the Council's position because, at the time the planning application was submitted, very little supporting information was provided.

19. The design and access statement submitted included details of the proposed occupants who, at that time, were intended to be Mr and Mrs Loveridge and

their five children and Mr Alan Hughes. I understand that Mr Hughes is the fiancé of the Loveridge's eldest daughter. The document explained that Mr Loveridge made his living carrying out building and roofing work and that he also buys and sells horses. Mr Hughes was said to be a horse trader. Both were said to be of a nomadic way of life, travelling for an economic purpose, including regular visits to horse fairs, beginning in May and running through to October. In terms of ethnic background, the agent stated that they were Romany Gypsies.

20. If Mr Loveridge and Mr Hughes' lifestyles were as described they would fall within the definition on account of the regular travelling pattern and the fact that their travels had a clear economic purpose. Relevant case law has held that travelling does not have to be the primary or major source of family income but should have an economic purpose and be more than a hobby. Due to the regular pattern of travel and the importance of the horse fairs in terms of buying and selling horses that would appear to be the case.

21. The written information was supplemented by oral evidence of Mr Loveridge at the Hearing. He noted that the majority of his work as a roofer was undertaken in the local area but indicated that he would generally be away for 3 or 4 months in a year and that he would seek to generate work on his travels by distributing flyers wherever he was at a particular time. Mr and Mrs Loveridge confirmed that the family travel together and that the school age children have been given dispensation to travel by the school.

22. Using this year as an example Mr Loveridge said that they had travelled to Stow-on-the-Wold in May for between one and two weeks, followed by a 6-7 week period commencing in June and travelling to Epsom, Kenilworth and Appelby. They had travelled to visit family in Bournemouth for 2 weeks in August and he intended to travel to Bournemouth and Cornwall in October, at which time he would be undertaking roofing work.

23. Mr Hughes was said to be away travelling at the time of the Hearing but Mr Loveridge suggested that his work also involved a mixture of building work and buying and selling horses and that he would travel regularly for work related purposes. Whilst it was intended that Mr Hughes would live at the site in future, that would only occur when he and the Loveridge's daughter had married.

24. I appreciate that the evidence I have to go on is largely oral and was not given under oath due to the nature of the Hearing procedure. However, no evidence to the contrary has been submitted that would lead me to doubt that the lifestyle pattern of the occupants, or intended future occupants in Mr Hughes' case, is as described.

25. Information has been provided by an interested party to show that Mr Loveridge's business, "Stay-Dry Roofing" is registered to a residential property in Slough. A Land Registry search relating to the purchase of the appeal site has also been provided which indicates that Mr Loveridge's address at the time he purchased the land was the same residential address in Slough. At the Hearing Mr Loveridge indicated that his parents live at that address and his agent stated that the family had been living in caravans in the back garden prior to moving to the appeal site.

26. Again, I only have oral evidence before me in that respect but have no reason to doubt the evidence presented. Even if Mr Loveridge owns the house in Slough it does not discount him from the definition within the PPTS on account of his nomadic way of life and work related travel patterns. I also have no reason to doubt his ethnic background or the strong desire to reside in caravans over bricks and mortar accommodation.

27. Thus, based on the information before me I am satisfied that Mr Loveridge falls within the definition at Annex 1 of the PPTS. The family travel with him and would fall within the definition as dependants. Less evidence was presented with regard to Mr Hughes who was said to be living elsewhere at the time of the Hearing. However, the information presented indicates that he falls within the definition and I accept that version of events in the absence of anything to the contrary.

ii) *The Effect on the Openness of the Green Belt and the Purposes of Including Land Within it.*

Appeal A

28. Due to the way in which paragraph 146 of the Framework is framed any assessment of whether a material change of use or engineering operation amounts to inappropriate development must include an appraisal of whether the development would fail to preserve the openness of the Green Belt or conflict with the purposes of including land within it. As noted above, the appellant accepts that the development in all three appeals amounts to inappropriate development within the Green Belt and thereby acknowledges a degree of harm in those respects. He also accepts that substantial weight should be attributed to that harm.

29. His principal argument is that the degree of any additional weight that should be attributed as a result of loss of openness will be dictated by the degree to which the development causes harm, based upon its visual and physical impact.

30. Development can have an effect on the openness of the Green Belt in a physical and visual sense. In other words, a building that is erected on land that was previously free from development and open will have some impact on the openness of the Green Belt on account of its physical size. However, the courts have held that it is appropriate to take account of the visual impact of development when assessing the degree of any harm and two buildings or structures of the same dimensions could result in differing levels of harm depending upon where they were sited and their respective degree of prominence.

31. I accept that the majority of the land has remained open and used for the grazing and keeping of horses. Nonetheless, the development has resulted in a significant intensification in the use of the front section of the site, adjacent to Asheridge Road. The caravans themselves are not insignificant in terms of their size and they are visible from surrounding public vantage points, much more so than the pre-existing stable block which is tucked discreetly in the corner adjacent to the hedgerow.

32. The static unit in particular is set further into the site and is visible from the widened entrance, particularly when the gates are open. The gates and close-

boarded fencing further reduce openness and are particularly noticeable on account of their position at the entrance to the site and design which is intended to block views into the site.

33. In addition the static unit is clearly visible from the public footpath which runs through fields to the south and south-east of the site. In fact, Asheridge Road runs along a ridgeline and the land on either side of the road falls away. Having walked along the public right of way in an easterly direction the static unit was visible from numerous vantage points across the valley on account of its elevated position on top of the ridge, albeit that the visual impact diminishes the further away one is from the site.

34. Therefore, I disagree with the appellant's assertion that the site is discreetly located. It is in an elevated position in the landscape and close by the roadside. The screening offered by the hedgerows does not disguise the visual impact of the development completely and the caravans, particularly the static unit are visible from certain vantage points. I appreciate that a caravan site is a use of land and it may be possible to move the units and the static unit to a different position. However, no suggestion to that effect is before me and I am not satisfied that the impact would be reduced to any significant degree. If the caravans were located closer to the front of the site they may be more visible from the road whereas a location towards the rear may have greater impact from surrounding footpaths.

35. In addition, it appears to me that the various caravans and associated cars and domestic paraphernalia have had a cumulative impact which adds to the impact of the stable block. Instead of a single building surrounded by modest hardstanding and grazing land, the development now extends across a much wider area of the site and the eye is drawn to the new development. Whilst there are gaps between the caravans the over-riding impression of the front section of the site is of a developed residential space.

36. Therefore, I find that the harm to openness could not be described as small scale. Taking account of the local context I am of the view that the development has caused moderate harm to the openness of the Green Belt and, to the same degree, has resulted in encroachment of residential and built development into the countryside. In the round, the harm represents additional harm to the Green Belt, over and above the fact that the development is inappropriate. I attach moderate weight to that matter having regard to the scale of the impacts.

Appeal B

37. The hardstanding and pergola have had a relatively small impact on the openness of the Green Belt of themselves, although the top of the pergola was visible from surrounding footpaths and that adds to the cumulative impact of the caravans. The hardstanding has facilitated a moderate expansion of the residential use into the site, with associated encroachment into the countryside. In that sense, the knock on effects of the hardstanding have reduced the openness of the Green Belt because it has enabled the static unit and one of the tourers to be located more readily on the land and created an area for parking and the storage of other domestic items. Therefore, when viewed individually, the impact of the hardstanding and pergola have had a limited impact but the hardstanding in particular has helped to facilitate the moderately harmful impact of the development as a whole.

Appeal C

38. As noted above, the development as proposed in Appeal C is largely the same as that constructed on site, with the exception of the pergola and slight differences in the proposed boundary treatments. However, those differences do not fundamentally alter my assessment of the proposed development in relation to Appeal C and the presence of the caravans, landscaping and hardstanding, as proposed, would have a moderately harmful impact on openness and the encroachment into the countryside would not be lessened to any degree.

iii) The effect on the Setting of Adjacent Listed Buildings

Appeal A

39. Tiles Farm House and the associated barn and attached outbuilding are grade II listed buildings situated on the opposite side of Asheridge Road from the appeal site. The house is of 17th century origin with later additions and is of timber framed construction with a variety of walling materials including brick and flint and a tiled roof. The barn and outbuilding date from the 18th century and are also of timber framed construction with weather boarded external walls on a brick plinth and a tiled roof.

40. As is usual, the list entry descriptions of the buildings are essentially an inventory of the key features of interest in terms of the fabric of the buildings themselves. One needs to look beyond those descriptions in order to understand how the setting of the buildings contribute to their character.

41. In the glossary of terms at annex 2 of the Framework the setting of a heritage asset is described as:

    The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

42. The concept of setting is not restricted to a visual relationship but could include a range of factors that impact upon the way a heritage asset is experienced, including environmental factors such as noise or lighting, or matters of historical association, for example.

43. As noted above, Asheridge Road runs along a prominent ridgeline and the farmstead is situated at the end of the ridge before the road drops down sharply into Chesham to the south-east. At the request of the Council's heritage consultant I viewed the site from the opposite side of the valley in Chartridge and I also walked on the public footpath which runs past the south-east of the appeal site across to Bellingdon. From both of those aspects, the farmstead is conspicuous as a result of its sense of detachment and relative isolation in the landscape.

44. Insufficient information is before me to enable a full understanding of whether the prominent hill top location holds any significance in a historical functional sense. For example, if the farm was developed as a distinct unit following the enclosure of surrounding land. Further information of how the farm was developed would add to that understanding. Irrespective of that, the fact that the buildings are in a prominent hill top location, detached from surrounding

settlements, portrays a sense of status and enables the farmstead to be appreciated in its rural context.

45. At a more intimate level, the buildings have a close relationship with Asheridge Road, particularly the barn which sits directly adjacent to it. There is a sense of enclosure along the road but the comparatively isolated position of the buildings set them apart from nearby settlements, including Asheridge where buildings are clustered together along the roadside.

46. Consequently, I find that the countryside surrounding the farmstead plays a critical role in the setting of the listed buildings which appear as a detached and self-contained farmstead. I disagree with the appellant in his contention that the significance of the buildings has been substantially eroded through conversion to residential use. The barn conversion appears to have been thoughtfully considered and few alterations are apparent, particularly when viewed from the roadside where the weather boarding and tiled roof are prominent.

47. When viewed from the opposing valley sides the roofline of the barn and farmhouse are prominent on the ridgeline and the setting enables one to appreciate the buildings in their rural context.It may no longer be a working farm but the function of the buildings can be readily appreciated as a result of their design. In my view, the relationship with the surrounding fields is key to understanding and appreciating the historical function of the site, as is the sense of detachment.

48. The low key stable and paddock did not disrupt that sense of isolation and the grazing land did not alter the pastoral nature of the prevailing land use. In contrast, the residential use and associated development has significantly altered the character and feel of the land directly in the setting of the listed buildings. The caravans themselves are of modern utilitarian appearance with brightly coloured exteriors and materials that look out of place when set against the vernacular buildings opposite.

49. The increase in the area of hardstanding, the introduction of additional fencing and other domestic paraphernalia including the pergola have all markedly altered the appearance of the appeal site. Whilst an element is retained for grazing, the area closest to the listed buildings has a residential air that reduces the ability to appreciate the listed structures in their isolated context. The visual impact is noticeable from the roadside adjacent to the listed buildings, from surrounding footpaths and from within the listed buildings themselves.

50. Moreover, increased activity in terms of comings and goings and will have reduced the degree of tranquillity surrounding the listed buildings and associated lighting has heightened the visual impact of development at the site. Given the significance of the rural setting to the way in which the buildings are appreciated I find that the development has had a significant and harmful effect on the setting of the adjacent listed buildings.

51. Some of the harmful factors could be mitigated to an extent through the use of conditions to require additional screen planting and a more appropriate lighting scheme to reduce light pollution. However, the site is in such close proximity to the listed buildings that those details would fail to make any notable difference. It would not be possible to fully screen the site and the effect on

the setting is not limited to matters of visual impact. The incursion of the residential use has increased activity at the site and fundamentally altered the rural context within which the buildings are appreciated.

52. For those reasons, the development has caused harm to the setting of the adjacent listed buildings, contrary to the aims of policy LB2 of the Local Plan which states that planning permission will not be granted for any development that would adversely affect the setting of a listed building.

53. Further, the Framework identifies that great weight should be given to the conservation of heritage assets when considering the impact of proposed development. Any harm to the significance of a designated asset should require clear and convincing justification. Where a proposal would lead to less than substantial harm to the significance of a heritage asset that harm must be weighed against any public benefits of the proposal. I concur with the Council that the harm is less than substantial on account of the fact that it is localised, noticeable from specific vantage points and has not harmed the fabric of the buildings themselves.

54. However, no public benefits have been put forward by the appellant. Consequently, in accordance with the terms of the Framework, the harm to the significance of the listed buildings arising from the impact on their setting is a matter that attracts great weight.

Appeal B

55. The impact of the pergola and hardstanding is clearly more limited. The increased activity associated with the use of the land is not directly attributable to those elements. Nonetheless, the hardstanding does facilitate the positioning of the caravans and associated cars across a wider area of the site and the pergola emphasises the residential and domestic character at the front section of the land representing an incongruous feature when compared to the previous use as grazing land associated with the stable block.

56. Therefore, when viewed individually, the hardstanding and pergola have caused harm to the setting of the listed buildings, contrary to the relevant policies of the Local Plan and Framework, as set out above. Even though the individual harm is less than substantial that is still a matter that attracts great weight and no public benefits have been put forward.

Appeal C

57. The harm described in relation to Appeals A and B above relates not only to the visual impact of the development but also to the reduction in tranquillity of the area which is a key component in the setting of the listed buildings. The additional landscaping proposed in Appeal C would not mitigate for the change in the character of the site in that respect as the associated noise, lighting and comings and goings would be the same. I accept that a lighting scheme could be controlled by condition but it would be unreasonable to expect a residential site to be unlit after the hours of darkness. Even with careful thought a lighting scheme would emphasise the residential character of the site, in addition to lighting within the caravans and from car headlights when entering and leaving the site.

58. Moreover, any landscaping would need to be of an appropriate hedgerow mix to integrate with existing field boundaries. That would inevitably lead to a

reduction in any screening during the winter months. Thus, the proposed scheme put forward in relation to Appeal C does not alter my conclusions on the harmful effects on the setting of the listed buildings arising from the development that has already been carried out in relation to Appeals A and B. The detrimental effect on the setting of the listed buildings would be contrary to the relevant policies of the development plan and the Framework and no public benefits have been put forward to compensate for the less than substantial harm to the designated assets. That is a matter that attracts great weight.

iv) The effect on the character and appearance of the area and on the Chilterns Area of Outstanding Natural Beauty

Appeal A

59. The site is located within the Chilterns AONB. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs which have the highest status of protection in relation to those issues. Similarly, policy CS22 of the Core Strategy for Chiltern District (2011) (the CS) requires, amongst other things, that all proposals must conserve and enhance the special landscape character, heritage and distinctiveness of the Chilterns AONB.

60. The AONB covers a substantial area and no doubt its character will vary across its range. No landscape assessment was provided by either party in terms of the specific character of the local area. From my own observations, the area to the north-west of Chesham is a highly attractive and steeply undulating landscape, predominantly rural and made up of a patch work of relatively small fields surrounded by mature hedgerows and interspersed amongst occasional pockets of woodland on the valley sides. A number of distinct ridges stretch out to the north-west of Chesham, one along Asheridge Road, as described above and the others along the roads to Chartridge and Bellingdon. The result is a mixture of an intimate and enclosed landscape along rural lanes and footpaths with occasional far reaching views across the intervening valleys.

61. Tiles Farm is prominent from a number of those vantage points and the combination of vernacular buildings and the attractive landscape give this part of the AONB an extremely scenic quality. In addition to their heritage value, the listed buildings play an important role in shaping the character of the local landscape as a result of their design, materials and prominent location on the ridgeline. It is difficult to separate the buildings and the landscape in any assessment. The landscape contributes to the setting of the building and the buildings are an integral and historic part of the landscape.

62. I have described how the sense of detachment is important to the setting of the listed buildings. The incursion of the residential caravans and associated structures has harmed that relative sense of isolation and, in heritage and landscape terms, the location is particularly unsuited to a caravan site where structures, by their nature, will inevitably be of modern, modular, appearance.

63. In that sense the harmful impact on the setting of the listed buildings also manifests as harm to the local landscape. The appearance of the caravans contrasts awkwardly against the more traditional materials of adjacent buildings and, as set out in relation to Green Belt issues, the site is more prominent that suggested by the appellant. The fact that the access has been

widened at the entrance opens up views of the caravans, particularly the static unit and of the increased area of hardstanding and associated domestic paraphernalia which has a somewhat cluttered appearance.

64. Illumination during hours of darkness also draws attention to the site and emphasises the suburban nature of the development to the detriment of the tranquil rural character of the vicinity. That is in stark contrast to the character of the site before the development took place. Photographs provided depict a discreet entrance leading to a five bar gate with a generally open paddock beyond, broken up only by open post and rail fencing.

65. I note that paragraph 26(d) of the PPTS states that caravan sites should not be enclosed with so much hard landscaping to give the impression that the occupants are isolated from the rest of the community. That may be a tacit acknowledgement that some degree of visibility is to be expected when dealing with sites in a rural area. However, it does not express support for harmful development within the context of an AONB which is afforded the highest level of protection in terms of landscape conservation. For the reasons given I find that the development has caused significant harm to the scenic beauty of the local landscape within the vicinity of the site, contrary to the aims of the Framework, policy CS22 of the CS and policy LSQ1 of the Local Plan.

Appeal B

66. As in relation to the impact upon the Green Belt and listed buildings, the impact of the pergola and hardstanding on the landscape character and scenic beauty of the AONB is less harmful when compared to the wider development of the site including the material change of use and fencing. Nonetheless, the hardstanding and pergola add to the sense of urbanisation, particularly when viewed from the entrance to the site. The hardstanding is also integral to the intensification in the use of the land, with associated light pollution and increased activity. Those impacts have had an adverse effect on the scenic quality of the landscape in a visual sense and in terms of its tranquil character, particularly noting the context of the site adjacent to Tiles Farm and the importance of the listed buildings in shaping the character of the landscape.

67. Consequently, the development has caused moderate harm to the scenic beauty of the local landscape within the AONB, contrary to the aims of the Framework and the relevant policies of the Local Plan.

Appeal C

68. The changes to boundary treatments and additional landscaping proposed in relation to Appeal C do not alter my conclusions on the harmful effect of the development. The site is prominent in the landscape, even in the summer months when hedgerows are in full leaf and any screening would be reduced in the winter period. The suggested layout would not mitigate for the harm caused by the increased clutter and visual impact of the caravans, or the change in the prevailing character resulting from increased activity and light pollution.

69. Overall, the proposal would cause significant harm in the local context to the scenic beauty of the local landscape within the AONB, contrary to the aims of the Framework and the Local Plan.

v) Whether the location of the site would facilitate sustainable modes of travel, having regard to the distance from local shops and services (applicable only to Appeals A and C)

70. When describing the relative sense of detachment of Tiles Farm, in terms of the setting of the listed buildings, I was referring primarily to the visual impression of the buildings and how they sit in the landscape. Notwithstanding the fact that Tiles Farm and the appeal site are visually detached from surrounding settlements the actual distance to the centre of Chesham, which has a full range of facilities, is not substantial. In fact, many of the dwellings which stretch out from the town along the roads leading to Chartridge and Bellingdon are equally as far from the centre of town even though they may feel as if they are part of the setttlement.

71. Asheridge Road is a relatively quiet lane and it is not inconceivable that residents could walk or cycle to reach local services. However, as with most rural locations I recognise that the majority of trips are likely to be taken by car. Even so, distances are not substantial and I find that the development is not isolated in the sense of paragraph 79 of the Framework. In addition, I am mindful that paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Considering those matters and the scale of the development I am satisfied that the use will not lead to unduly unsustainable patterns of travel.

vi) The effect of the development on highway safety (Applicable to Appeals A and C)

72. Asheridge Road is a single track rural lane which is subject to a speed limit of 40mph. I concur with the assessment of the Buckinghamshire County Council Highways department (BCC Highways) that the mixed use of the site as a residential caravan site and grazing land is likely to generate more vehicular trips than the former use of grazing land and stabling, particularly having regard to the likely comings and goings associated with three caravans.

73. Based on the nature of the road and guidance in Manual for Streets, BCC Highways considers that visibility splays of 2.4m x 79m would be required to provide a safe access. Those splays are achievable to the left when exiting the site but visibility to the right is severely hampered by the hedgerow on adjoining land. BCC Highways estimate that the achievable splays in that direction are in the region of 2.4m x 10m. In their view, a suitable vehicle speed for that level of visibility would be 10mph, significantly less than the 40mph limit.

74. The appellant does not dispute the measurements in terms of visibility for exiting vehicles but points out that the road is relatively straight such that forward visibility is good for vehicles passing in both directions. In his view, the access can be seen from at least 75m away from the south-east or the north-west. He also contends that the reality of the nature of the road in terms of its restricted width dictates that drivers are unlikely to travel at the 40mph speed limit.

75. I accept that forward visibility is such that oncoming drivers would be able to detect a vehicle waiting in the entrance to the site from some distance such that they could adjust their speed accordingly. However, that assumes that the exiting vehicle was already in situ in an around the entrance to the site at a

point when the oncoming vehicle was a safe distance away on the highway. The potentially hazardous situation would arise if a vehicle exited the site suddenly when the on-coming vehicle was in close proximity to the access such that it had little time to adjust. That is more likely for a vehicle approaching from the north-west because the adjacent hedgerow obscures views of the access to a greater degree and due to the fact that exiting vehicles have limited visibility in that direction such that they will be required to edge out into the road without full awareness of whether an on-coming vehicle is approaching.

76. Moreover, the assertion relating to vehicle speeds is not supported by any statistical evidence. Although narrow the road is relatively straight in the vicinity of the access and during the time of my visits I noticed that vehicle speeds appeared to vary quite widely, no doubt reflecting the attitude of the particular driver. I do accept that there are many access points along Asheridge Road and that many of those would not meet modern highway standards. Most drivers will drive with caution along such lanes to take account of such circumstances. Whilst residents highlighted historic accidents elsewhere in Asheridge Road there appear to be no accident records of incidents in the vicinity of the appeal site.

77. Having noted those matters, the fact that there have been no accidents to date does not dictate that the access would be safe into the future. Whilst my concerns are tempered to a degree by the generally low levels of traffic on the lane and the fact that many drivers will drive according to the circumstances, I cannot conclude that the access is safe due to the substandard levels of visibility. Accordingly, the increased use of the access is detrimental to highway safety of road users and contrary to the aims of policy TR2 of the Local Plan which states, amongst other things, that satisfactory access onto the highway network should be provided.

vii) Whether there is a need for additional gypsy and traveller sites in the area and, if so, whether the Council can identify a supply of sites to meet those needs (Applicable to Appeals A and C)

78. Paragraph 9 of the PPTS identifies that local planning authorities (LPAs) should set pitch targets for gypsies and travellers, as defined in Annex 1, which address the likely need for permanent and transit accommodation in their area. In addition, in producing their Local Plans, paragraph 10 requires LPAs to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets.

79. In that context, policy CS14 of the CS is not up to date because the evidence base upon which it relies was the 2006 Gypsy and Traveller Accommodation Assessment (GTAA) for the Thames Valley region. The preamble to the policy notes that the evidence base did not include any assessment for gypsy and traveller pitches beyond 2016 and that further studies would be carried out as part of an emerging Development Plan Document (DPD) to assess the pitch requirement up to 2026. The wording of the policy itself notes that sites for gypsies and travellers will be allocated in a DPD.

80. The Council is intending to identify and allocate sites through the emerging Chiltern and South Buckinghamshire Local Plan. The Local Development Scheme envisaged that plan being submitted to the Planning Inspectorate in December 2018 with an estimated adoption date of November 2019. However,

I was informed at the Hearing that progress is on hold pending the outcome of highway modelling work and that a submission some time in 2019 was likely, albeit that the timescale is currently uncertain. By the Council's admission the eventual adoption of the document is unlikely before 2020. That would be 9 years after the adoption of the CS which, through policy CS14, committed the Council to producing a DPD. To my mind, that represents a failure of policy to provide for sites to meet the needs of gypsies and travellers.

81. Thus, there is no up to date assessment of need that has been tested through the development plan and no allocated sites to meet that need. In that respect, the Council accepts that it cannot demonstrate a five-year supply of deliverable sites[1].

82. I have been referred to an updated GTAA, which was commissioned by the Council in association with neighbouring authorities, and published by Opinion Research Services (ORS) in February 2017 (the 2017 GTAA)[2]. The 2017 GTAA is intended to be used as the evidence base to aid the future preparation of development plan policies and/or DPDs and the Councils have jointly prepared a 'Green Belt Development Options Appraisal' (November 2017) (the Options Appraisal) to examine potential release of land from the Green Belt for various purposes, including gypsy and traveller accommodation.

83. However, the emerging plan is at an early stage in preparation and, as noted, will not be submitted for examination until at least 2019. Accordingly, I can give little weight to the content of the emerging policy because it is not certain how the Council will decide to proceed in terms of the options for the release of land and any interested parties will need to be given the opportunity to comment on the content of any policy prior to examination by the relevant Inspector. Similarly, interested parties would be able to make submissions relating to the robustness of the evidence base behind any policies, including the 2017 GTAA. Until such time as the evidence base has been examined and found to be sound the precise extent of future need for gypsy and traveller accommodation will remain uncertain.

84. It appears to me that the Local Plan examination is the most appropriate place to conduct that exercise because all interested parties will be able to contribute such that the Inspector can obtain a wide spectrum of opinion. Inevitably, when determining a planning or enforcement appeal, the submissions before me are more focussed on the case for specific parties.

85. In this case the agent for the appellant has made a number of criticisms of the 2017 GTAA, specifically regarding the methodology used by ORS in compiling the data. Those criticisms stem primarily from the conclusion of ORS that none of the existing households on sites within the Chiltern area meet the definition of gypsies and travellers in Annex 1 of the PPTS. On account of that finding ORS conclude that there is no need for any future accommodation for gypsies and travellers that meet the definition.

86. I have not been provided with the interview results and it is difficult to make a detailed assessment but it does seem unusual that none of the 26 households that were identified were considered to fall within the definition. ORS did not

[1] Paragraph 10.9 of the Planning Committee Report dated 12 October 2017 and paragraph 5.21 of the Council's appeal statement

[2] Aylesbury Vale, Chiltern, South Bucks and Wycombe District Councils Gypsy, Traveller and Travelling Showpeople Accommodation Assessment, February 2017, produced by Opinion Research Services

manage to interview 9 of those households and, in the absence of an interview, have made the assumption that none of them meet the definition. However, Mr Brown also acts for the family in relation to the private site at Three Oaks Farm. He notes that a planning application has been submitted to extend the site on account of existing overcrowding and that the Council has not disputed that the residents meet the definition in Annex 1.

87. Similarly, ORS found that the family residing at the Waggoners Bit Stables site in Coleshill did not meet the definition. However, when permission for that site was granted at appeal the Inspector noted that the appellant and his wife regularly attended fairs to 'carry out trading'[3]. A planning application for a permanent permission is with the Council for consideration and there is no indication that their lifestyle has changed since that time.

88. The Inspector in a recent appeal relating to a site in Bicester found that the approach of ORS to 'unknown' households was likely to lead to an under-estimate of need[4]. He noted that planning permission had been granted for 28 pitches in Aylesbury Vale since the 2017 GTAA had been published and the residents of all of those pitches were found to meet the definition in contrast to the findings of ORS who concluded that none of those households met the definition. I appreciate that case was in the neighbouring district but the 2017 GTAA was a cross boundary study and the methodology was the same.

89. On the basis of the above, it seems likely that at least a proportion of existing sites will be occupied by families who fall within the definition. The failure to take account of the future needs of those families in terms of pitch provision leads me to conclude that the study underestimates the future needs of gypsies and travellers who fall within the PPTS definition.

90. Moreover, where the head of a family has ceased to travel permanently, thereby taking he/she outside of the definition, ORS assume that there will be no need for future accommodation arising from that household. Mr Brown asserts that it should not be assumed that any children currently living with parents would not wish to travel for an economic purpose simply because their parents had ceased to travel at the time the interviews were undertaken. I can see some logic in that argument, particularly if the parents have had to cease travelling due to ill health as opposed to a desire for a different lifestyle. On reaching adulthood the children may well wish to revert to travelling as a way of life.

91. Mr Brown also claimed at the Hearing that there was evidence of overcrowding at the Three Oaks site which has planning permission for 6 pitches. He suggested that 16 families were living at the site, giving rise to a need for 10 pitches. In addition, he pointed to the sites at Green Acres Farm and Waggoners Bit Stables which have temporary permission for three pitches in total and unauthorised sites including the appeal site and a site in Little Missenden which both contain one pitch. In his view, that points to an immediate need for 15 pitches.

92. Much of that information was delivered orally at the Hearing and it is difficult to attach significant weight to it without further information being available regarding the circumstances of the particular families involved. Nonetheless,

[3] Appeal references APP/X0415/C/10/2142047 & APP/X0415/A/10/2142288: Paragraph 6 of the decision
[4] Appeal reference APP/J0405/W/18/3193773

the issues raised do heighten my caution relating to the assumptions as to the status of households in the 2017 GTAA.

93. Therefore, on the information before me it seems likely that the future need for sites of gypsy and traveller families who meet the PPTS definition will be somewhat greater than that predicted in the 2017 GTAA. The local plan examination will be the appropriate place for a full assessment of those future needs and all parties will have the opportunity to present information in that respect. My decision does not fetter that process because I can only determine the current appeals on the information before me. However, on the basis of that information, the Council cannot demonstrate a five-year supply of deliverable sites and it accepts that further sites will need to be provided to meet future needs[5].

94. In terms of alternative provision, it is likely to be at least 2 years before any additional sites will be allocated through the development plan. In that context, the sites referred to in the Options Appraisal cannot be considered deliverable because they are not available now, as required by the PPTS[6]. The Council did not identify any other additional sites within its statement but suggested at the Hearing that planning permission has been granted for an additional 5 pitches at a site known as The Orchards in Chalfont St. Peter. According to the 12th October committee report, that site is allocated in the Chalfont St. Peter neighbourhood plan as a traveller site.

95. It is not clear, from the information presented, whether those additional pitches could be considered to be available. The Council did not seem fully aware of the circumstances relating to the site and the Mr Brown suggested that the site was in the ownership of a traveller family and, as such, that it was highly unlikely that it would be available to the appellant who is of Romany Gypsy heritage. Moreover, the 2017 GTAA noted that extended families were living on some of the pitches at the site. Although ORS identified 5 pitches, 9 interviews were carried out. That is perhaps an indication that there is overcrowding at the current site and it may be that the extension will simply meet the needs of the current occupants. On the limited information available, I am not satisfied that the site should be considered available.

96. In view of the above, I conclude that there is an unmet need for additional sites to meet the needs of gypsies and travellers, including the appellant and his family, within the Chiltern district and the Council cannot demonstrate a supply of sites to meet that need. That is a matter that weighs in favour of the appeals.

97. That said, prior to moving onto the site the appellant was living in Horton, near Slough, some distance from the Chiltern area. I appreciate that there is no requirement for an appellant to demonstrate a need for a particular site or that no other site is available having regard to relevant case law in the *South Cambridgeshire* judgement[7]. I also acknowledge that it is an unrealistic burden to place on an appellant to demonstrate that no sites are available elsewhere. Nonetheless, the present site is located within the Green Belt where there are clear policy constraints against inappropriate development. I have also

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[5] Paragraph 5.18 of the Council's appeal statement

[6] Footnote 4 to paragraph 10 of the PPTS states that, to be considered deliverable, sites should be available now, offer a suitable location for development and be achievable with a realistic prospect that development will be delivered on the site within 5 years.

[7] South Cambridgeshire v SSCLG & Brown [2008] EWCA Civ 1010

identified other planning constraints in terms of the AONB and setting of the listed buildings.

98. Much of Chiltern District lies within the Green Belt and the AONB and the Council appear to accept that new sites will need to be located within the Green Belt judging by the Options Appraisal. However, that is a matter for the plan led approach which is consistent with paragraph 17 of the PPTS which states that alterations to Green Belt boundaries should only be made in exceptional circumstances through the plan-making process and not in relation to a planning application.

99. The same constraints may not apply to other districts within the wider area. Unlike the *South Cambridgeshire* case the family in this instance did not have any local family ties to the area prior to moving onto the site. Mr Loveridge acknowledged that point at the Hearing. Thus, prior to moving onto the land there was no particular reason why the search for alternative sites should have been limited to those within Chiltern district. The appeal statement submitted on behalf of the appellant only assess the availability of sites within Chiltern district and limited information was presented at the Hearing to detail the extent of any alternative site search.

100. It does not appear that the family are/ were on a Council waiting list prior to moving to the site although Mr Loveridge did say that he had been on the waiting list in relation to a site in Datchet in the past. He also referred to searching on property websites but acknowledged that he hadn't been to view any other sites because none were available. However, little information has been presented to demonstrate how rigorous the search was. For example, there is no indication that the appellant enquired with neighbouring authorities or local agents as to the availability of sites within the wider area. The absence of detail to substantiate what alternatives were investigated is a relevant consideration in the planning balance particularly when viewed in the context of the clear breach of Green Belt policy and other planning constraints.

viii) Personal Circumstances and Human Rights (Applicable to Appeals A and C)

101. As noted above, the family did not have any specific local connection to Chesham prior to moving to the site. Nonetheless, two of the children are now enrolled in a local school and the family is registered with a local doctor's practice. The youngest daughter in particular was said to be mixing well and partaking in after school activities and clubs.

102. Mr and Mrs Loveridge did state that the children have dispensation to be absent from school when the family are travelling which is typically a period of 3-4 months a year according to the account of Mr Loveridge, albeit over the summer months when school would be closed for a number of weeks in any event. Whilst that may impact upon educational attainment it appears to me that having a settled base for the remainder of the year would help to facilitate school attendance when compared to a life by the roadside.

103. Mr Hughes was living elsewhere at the time of the Hearing and little information about his needs has been presented. He may wish to reside at the site in future if and when he marries the Loveridge's eldest daughter but the timescale for that is not clear and he is not in need of accommodation at the site at the time of my decision. Thus, his personal circumstances do not add

any significant weight in the planning balance. In any event, I understand that the eldest daughter is now 18 and lives in one of the two touring units, with the two boys in the other and the parents and younger children in the static caravan. Thus, the presence, or otherwise, of Mr Hughes does not alter the scope of the appeals in terms of the number of caravans required on the site.

104. Whilst I have queried the thoroughness of the search for alternative sites it is clear that none are available within the Chiltern District and I do accept that alternative sites with planning permission, including land for keeping horses which is an integral part of the use, as likely to be difficult to come by. Mr Loveridge stated that the family could not move back to their previous address near Slough due to a family dispute and it also appears that there were potential enforcement issues relating to the residential use of caravans within the rear garden of the house. Consequently, if I were to dismiss the appeals and uphold the enforcement notices it seems likely that the family would resort to roadside living, at least in the short term, as suggested by Mr Loveridge.

105. The implications in that regard would have significant consequences for the home and family life of the family and it is clearly a circumstance where Article 8 Convention Rights are engaged[8]. Article 8 imposes a positive obligation to facilitate the Gypsy way of life and, as a minority group, special consideration should be given to their needs and lifestyle. In that respect, the family have a clear preference for living in caravans as part of the traditional gypsy way of life and the option of living in bricks and mortar accommodation would not facilitate that lifestyle.

106. In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of children must be a primary consideration in all actions made by public authorities. I must consider the Article 8 rights of the children in that context. No other consideration can be treated as inherently more important than the best interests of the children. However, such matters are not necessarily determinative and may be outweighed by other considerations.

107. In other words, rights under Article 8(1) are qualified rights and, in appropriate circumstances, interference may be justified in the public interest. Regulation of land use through development control measures is recognised as an important function of Government and is necessary to ensure the economic well-being of the country. In that sense, the regulation of development for legitimate planning aims can be said to be in the public interest. The aim is to strike the right balance between the general interests and rights of the wider community and the requirement to protect an individual's private rights. Central to the principle of a fair balance is the doctrine of proportionality.

108. I am very mindful of the human rights of the family and must also have due regard to the protected characteristics of Gypsies in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010.

109. In view of the above, continued occupation of the site would facilitate the gypsy way of life of the family. In the absence of any clear alternative provision that would meet the needs of the family I conclude that it would be in the best interests of the children and their well-being to remain at the site due to the

[8] Article 8 of the European Convention on Human Rights, enshrined into UK law b the Human Rights Act 1998

fact that a settled base would encourage attendance at school. Whilst the family are registered with the local doctor's practice no specific health needs were raised that would dictate a particular need to live at the site as opposed to elsewhere. Notwithstanding that point, the personal circumstances of the appellant and his family, particularly the interests of the children, are matters that attract significant weight in the planning balance. I attach limited weight to the needs of Mr Hughes who was living elsewhere at the time of the Hearing.

ix) The Planning Balance

Appeal A

110. The development amounts to inappropriate development that has resulted in a moderate degree of harm to the openness of the Green Belt. I am required to attach substantial weight to any harm to the Green Belt in reaching my decisions. Inappropriate development should not be approved except in very special circumstances. Such circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm arising from the development, is clearly outweighed by other considerations.

111. The adjacent listed buildings are of significant importance in their own right as a result of their age, design and vernacular style and there is a synergy between the setting of the buildings and the landscape character of the area. For the reasons given, the development at the appeal site has caused substantial harm to the setting of the listed buildings. Whilst the harm to the significance of the assets is less than substantial I must attach great weight to it having regard to the statutory duty at section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Where a development would lead to less than substantial harm to a heritage asset, that harm should be balanced against any public benefits arising from the proposal. In this case, the benefit of the use of the site would be private and no public benefits have been put forward.

112. The AONB is a designation that attracts the highest status of protection and I attach great weight to the harm in that regard. The harm in those respects could not be mitigated by the use of conditions.

113. In addition, visibility when exiting from the site is substantially below modern highway standards. Whilst there are moderating factors such as the narrow nature of the lane and good levels of forward visibility the increased use of the access still poses a danger to road users and highway safety. I attach moderate weight in that regard.

114. In respect of all of those matters, the development is contrary to the relevant policies of the development plan, as identified above. Statute requires that proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. The appellant contends that the development plan is not up to date due to a failure to provide for the accommodation needs of gypsies and travellers and that restrictive policies within it relating to Green Belt and the AONB should be afforded reduced weight on account of the likelihood that any new sites to meet those needs will have to be located within areas covered by those designations.

115. The Council cannot demonstrate a supply of sites to meet the needs of gypsies and travellers and there has been a long standing policy failure to

address the issue. In that sense, the Local Plan is out of date. Given the high proportion of land within the District that is covered by the designations it is likely that allocations may need to be made within the Green Belt in order to meet future needs. That said, the PPTS is clear that any alteration to the Green Belt boundary should be made through the plan making process and not in response to a planning application.

116. In addition, the presumption in favour of sustainable development at paragraph 11 of the Framework states that, where development plan policies which are most important for determining the application are out-of-date planning permission should be granted unless the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development proposed. That includes policies relating to the Green Belt, AONBs and designated heritage assets.

117. Given the harm that I have identified in those respects the balance at paragraph 11(d)(ii) of the Framework is not applicable. Notwithstanding the position relating to the supply of sites it remains the case that planning permission should not be granted except in very special circumstsances. The wording of policy GB2 of the Local Plan is consistent with the wording of the Framework in setting out how development proposals should be assessed and I attach significant weight to the policy accordingly. Similarly, the wording of policy CS22 is consistent with the Framework with respect of the AONB and I can find no support for the notion that reduced weight should be given to the harm to the landscape in national policy.

118. However, the policy failures identified are matters that add significant weight to the appellant's case due to the lack of availability of alternative sites to meet local needs. That weight is tempered by the fact that the needs, at the time of moving onto the site, were not limited to the Chiltern district and the fact that limited detail has been provided regarding the attempt to find sites with planning permission, or where planning permission may have been possible to secure, outside of the Green Belt within the wider local area.

119. Nonetheless, the family presently have a settled base at the appeal site and that has enabled three of the children to enrol in school. It is in their best interests to continue with their education and, at least in the short term, dismissal of the appeals would be likely to lead to roadside living which would be disruptive in that regard. Those matters attract significant weight in favour of the development.

120. Harm to the Green Belt, the AONB, and the setting of the listed buildings are all matters that attract great or significant weight individually. The totality of the harm in those respects, when added to the moderate weight to matters of highway safety, is extremely significant. In my view, the combined harm substantially outweighs the material considerations in favour of the development in terms of the personal circumstances of the appellant and his family. In short, due to the number of planning constraints, the location of the site is highly unsuitable for the development in question. Given that the harm arising is not clearly outweighed by the benefits, the very special circumstances needed to justify the development have not been demonstrated.

Appeal B

121. The hardstanding and pergola amount to inappropriate development in the Green Belt. The pergola also has a limited impact on the openness of the Green Belt and the hardstanding and pergola combined have a detrimental effect on the setting of the listed buildings and the character of the AONB as a result of the increased urbanisation of the land and introduction of domestic paraphernalia. The development is contrary to the relevant policies of the development plan in those respects. In line with the requirements of the Framework and statutory scheme I must attach great weight to the harm to the heritage assets, great weight to the harm to the AONB and substantial weight to the harm to the Green Belt.

122. Whilst the harm to heritage assets is less than substantial, no public benefits have been advanced in support of the development. The only rationale behind that development is to serve the residential use of the site. Having concluded that the harm arising from that use clearly outweighs the benefits there is no justification, in planning terms, for the development to which Appeal B relates and the very special circumstances needed to justify it have not been demonstrated.

123. That would indicate that planning permission should be refused.

Appeal C

124. For the reasons set out above, the landscaping scheme and layout put forward in relation to Appeal C has not led me to alter my conclusions on the harmful effects of the development. Thus, there is no difference in the weight and balance of the relevant material considerations in relation to Appeal C when compared to Appeal A. My conclusions in respect of Appeal A apply equally to Appeal C and the very special circumstances needed to justify the development have not been demonstrated.

Temporary Permission

125. During the discussion on potential conditions the appellant's agent put forward a suggestion that a temporary permission be considered, in the event that I was not minded to grant permission for permanent occupation. That suggestion applied to all three appeals. No rationale for that was advanced in the statement of case but I understand that the aim would be to allow the family to continue to reside at the site and for the children to continue their schooling until such time as sites could be allocated to meet local needs through the emerging local plan. A period of 3 to 5 years was suggested.

126. Having regard to the personal circumstances and human rights of the family, including the best interests of the children, that option would undoubtedly be less disruptive than the possible resort to road side living. The children would still be able to continue education if not living at the site but the practicalities would no doubt be more difficult.

127. However, the significance of the harm that I have identified overwhelmingly suggests that the site is inherently unsuitable for the unauthorised use. Even though the weight I attach is reduced due to the fact that the identified harm would only be felt for a temporary period, the combined weight of harm to the Green Belt, heritage assets, the AONB and highway safety would clearly outweigh the benefits of the development. Very special circumstances would

not exist to justify the grant of planning permission for the use of the site, even for a temporary period. In the absence of very special circumstances for the continuation of the use of the site there would be no justification for the continued presence of the hardstanding and pergola in relation to Appeal B.

Proportionality Assessment

128. A refusal to grant planning permission for the family to continue to reside at the site would undoubtedly engage Article 8. The proportionality assessment required by Article 8 necessitates a balancing exercise to ascertain whether the rights of the occupiers would be disproportionately interfered with should planning permission be refused.

129. In making that assessment I have had regard to the personal circumstances described and the positive obligation to facilitate the gypsy way of life. Weighed against that is the public and community interest. Regulation of land through the planning system can be said to be in the public interest with the legitimate aims of protecting the economic well-being of the country and public safety.

130. Economic well-being would encompass protection of the environment through the avoidance development that would cause harm to the Green Belt, the landscape character and scenic beauty of the AONB and the setting of heritage assets. Public safety would encompass risks associated with highway safety. For the reasons set out above, the harm arising from the development in respect of those matters is substantial and the legitimate aims of protecting the environment and public safety attract great weight.

131. Having regard to the balance of personal interests, including the best interests of the children, against the public interest I find that the interference with the home and family life of the family is necessary and proportionate having regard to legitimate land use planning objectives. Whilst the balance is slightly different, my conclusions in that regard would apply equally to a temporary planning permission. I remain of the view that the interference would be necessary and proportionate having regard to legitimate land use objectives.

132. Accordingly, to dismiss Appeal A on ground (a) and uphold the enforcement notice and to dismiss Appeal B would not result in a violation of the rights of the occupants under Article 8.

Appeals A and B on Ground (g)

133. The enforcement notice in relation to Appeal A provides for a period of six months for compliance with its requirements. In Appeal B, the notice gives 6 months to demolish the pergola and take up the hardstanding and 9 months for the remaining requirements including the turning over of the soil, the restoration of the land to its former condition and the removal of all debris and associated material from the land. The issue is whether the compliance periods are reasonable and proportionate.

134. The appellant does not dispute that the time periods are sufficient in terms of the ability to carry out the physical works. However, at the Hearing, the agent requested that a period of 18 months be granted to give more time for alternative sites to be sought.

135. The Planning Practice Guidance (PPG) confirms that there is a clear public interest in enforcing planning law and planning regulation in a proportionate way. It also identifies three reasons for effective enforcement; to tackle the unacceptable impact on the amenity of the area; to maintain the integrity of the decision making process; and to help ensure public acceptance of the decision making process is maintained[9]. All three of those criteria apply in this instance and the site is within the Green Belt, the AONB and adjacent to listed buildings, all of which attract a high level of protection through national and local planning policy. There are very strong reasons for remedying the breach of planning control in the shortest period.

136. The Article 8 Convention right is relevant to ground (g) because the residents would stand to lose their settled base and home. A short compliance period probably would result in a greater level of interference with their Convention rights whereas a longer period may help them to find accommodation elsewhere.

137. Clearly there is a conflict between the public and private interests. As a general rule extending a compliance period beyond a year usually has to be justified by exceptional circumstances and periods beyond that should be considered on the basis of a temporary planning permission as opposed to an extension of time under ground (g). For the reasons set out above, I am not satisfied that planning permission should be granted for a temporary 3 to 5 year period. I also find that the 18 month period to be excessive, having regard to the scale of harm and the need for effective enforcement.

138. It is a difficult balance to strike. I am particularly mindful of the needs of the children and the fact that a six month period for the cessation of the use would effectively mean that they were forced from their home part way through the school year, due to the time of my decision. A period of 12 months for the cessation of the use as a residential caravan site would enable them to complete the current school year and give the appellant time to search for alternative accommodation. In my view that strikes a reasonable and proportionate balance. It would be difficult to take up the hardstanding whilst the use is continuing and there will no doubt be a desire for security during that period. Consequently, I consider that a further 3 month period should be given, after the use has ceased to complete the other requirements and return the land to its former condition.

139. In effect, that would result in a 15 month compliance period for the steps required in Appeal B and a staged 12 and 15 month compliance period for Appeal A. The appeals succeed to that extent and I shall vary the terms of the notice accordingly.

Overall Conclusions

Appeals A and B

140. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variations to reflect my conclusions in relation to the appeals on ground (g) and refuse to grant planning permission on the deemed planning applications.

[9] Paragraph: 005 Reference ID: 17b-005-20140306

Appeal C

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

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Phillip Brown	Agent
Mr Mark Loveridge	Appellant
Mrs Lucy Loveridge	Wife of appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Kirsty Elliot	Principal Enforcement Officer
Mr Tristan Higgs	Buckinghamshire County Council Highway Officer
Ms Helen Harding	Principal Policy Officer
Ms Cathryn Murray	Heritage Consultant

INTERESTED PERSONS:

Cllr Rose	Local ward member
Mr Robert Freeman	Local resident
Ms Jackie Harrowman	Local resident
Mr Robert Matthews	Local resident
Mr Andrew Molle	Local resident (on behalf of Mr & Mrs Donaldson)
Mr Paul Wright	Parish Councillor
Mr John Chile	Local resident
Mrs Robinson	Local resident

List of Documents Submitted at the Hearing

1) Copy of appeal decision reference APP/J0405/W/18/3193773 relating to Murcott Road, Arncott, Bicester.
2) Extract from the Chalfont St. Peter Neighbourhood Plan (2013-2028)
3) Letter from the School Administrator at Ivingswood Academy, dated11 July 2018
4) Letter from the GP Partners at The Gladstone Surgery, dated 03 September 2018

The Planning Inspectorate

Appeal Decision

Site visit made on 3 September 2018

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2018

Appeal Ref: APP/X0415/W/18/3199086
Land off Chessfield Park, to the rear of 87 Amersham Road, Little Chalfont, Bucks, HP6 6RX

- 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 Martin Stent against the decision of Chiltern District Council.
- The application Ref CH/2017/1909/FA dated 7 September 2017, was refused by notice dated 29 November 2017.
- The development proposed is described on the application form as "Creation of a detached chalet bungalow (2 bed) with associated amenity, parking and access".

Decision

1. The appeal is dismissed.

Procedural matter

2. The revised Framework[1] was published on 24 July 2018. I subsequently gave the main parties the opportunity to comment on this and have taken the response received from the appellant into account.

Main issue

3. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is an area of land that previously formed part of the rear garden to No 87 Amersham Road. It is enclosed by timber fencing and fronts onto Chessfield Park, a post-war estate consisting of detached houses, chalet-bungalows and bungalows with open-plan front and side gardens. The Townscape Character Assessment[2] describes it as a post-1976 small area of infill development.

5. A significant feature of the estate is the gaps between properties, many filled by driveways and garages, which creates a consistent rhythm of built form and space between properties, particularly at first floor level. The area to the rear of Nos 81 to 91 Amersham Road, which consists of long undeveloped rear gardens and fronts onto Chessfield Park, is characterised by its open, verdant

[1] National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018
[2] Chiltern Townscape Character Assessment, Chiltern District Council, February 2011

appearance and a mature hedge adjacent to the footway (although a section of this has been removed along the frontage of the appeal site).

6. The proposed dwelling, with its steep pitched roof and box-dormer windows, has been designed to reflect the architectural form of the neighbouring chalet-bungalows at Nos 81 and 83 Chessfield Park. It would also have a similar orientation to the houses on the opposite side of the road and be set back from the highway with an open-plan front garden. As a consequence, the detailed design and layout of the dwelling would be acceptable.

7. However, in the absence of a more comprehensive scheme that incorporates the adjacent undeveloped rear gardens, it is my view that the dwelling would appear isolated against the open character of this part of Chessfield Park. This would as a consequence accentuate the prominence of the development and give it an intrusive presence in the streetscene.

8. My attention has been drawn to other planning application and appeal decisions on the site and I recognise that the appellant has amended the scheme to attempt to address previous concerns. However, whilst the recent appeal decision is an important consideration, I have assessed the proposal on its own merits in the light of all the evidence which is now before me.

9. In view of the above, I conclude that the development would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policies GC1 and H3 of the Local Plan[3] and Policy CS20 of the Core Strategy[4], which collectively seek, amongst other things, to ensure that new development is of a high quality design that respects the character and appearance of the surrounding area.

10. I also find that the scheme conflicts with Paragraphs 124, 127 and 130 of the Framework which collectively seek, amongst other things; (a) visually attractive development that is sympathetic to local character and respects the established pattern of buildings and spaces; (b) the creation of a strong sense of place; and (c) the refusal of permission for poorly designed development that fails to take the opportunities available to improve the character and quality of an area.

Other matters

11. Given my conclusion on the main issues that the development is unacceptable, the other matters raised by interested parties have not been central to my decision. Accordingly, there is no need for me to consider them further as it would not alter the outcome of the appeal.

Planning balance

12. In accordance with paragraph 68 of the Framework, I have given great weight in my assessment to the benefits of using suitable small and medium sized sites within existing settlements for homes, and also recognise that the proposal is located in a sustainable location where the principle of development is acceptable.

[3] Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011
[4] Core Strategy for Chiltern District, adopted November 2011, Chiltern District Council

13. However, for the reasons set out above I conclude that the environmental harm to the character and appearance of the area would significantly and demonstrably outweigh the amount of social and economic benefits that the development would contribute, namely, the provision of an additional dwelling, an efficient use of land without eroding the Green Belt, and local employment during construction.

Conclusion

14. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 25 October 2018

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 31 October 2018

Appeal Ref: APP/X0415/D/18/3208810
Dalzell, Village Way, Little Chalfont HP7 9PU

- 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 Tara Botwright against the decision of Chiltern District Council.
- The application Ref: CH/2018/0369/FA dated 27 February 2018, was refused by notice dated 23 May 2018.
- The development proposed is extension.

Decision

1. The appeal is allowed and planning permission is granted for extension at Dalzell, Village Way, Little Chalfont HP7 9PU in accordance with the terms of the application, Ref: CH/2018/0369/FA dated 27 February 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 following approved plans: 2016/VIL/01/B; 2017/BOT/01/A Existing Roof Plan Location Map; 2017/BOT/01/A Proposed Roof Plan Location Map; 2017/BOT/01/A Proposed Floor Plans; 2017/BOT/01/A Proposed Elevations; 2017/BOT/01/A Existing Floor Plans; 2017/BOT/01/A Existing Floor Plans (showing Existing Elevations).

    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.

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, the Council referred to it in the Officer's report. 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.

3. The Council's decision notice amplified the description of development as set out on the application form to refer *to part two storey/part first floor side extension incorporating covered storage area.* My decision is based on all the information before me. Two plans were titled Existing Floor Plans although one of them showed Existing Elevations and I have indicated that accordingly in the decision.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the existing dwelling and of the local area.

Reasons

5. The appeal property is a detached two storey property with a single garage to the side and set within a generous plot. It is situated within Village Way a no through 'circular' residential road with a diverse range of individual residential properties, all in a very verdant setting. The diversity is exemplified not only in the individual size and style of the properties but also in the plot sizes and siting of the properties within their plots, resulting in some dwellings having much larger and more open margins to their side boundaries than others.

6. The proposal would replace the single side garage with a two storey side extension, running back from the front wall of the property to beyond the rear of the existing rear conservatory addition. At the front the main gable roof would be continued over the extension with a pitched gable roof set a lower level over the rear addition. The design would seek to incorporate features from the main house and matching materials to reflect the design and style of the existing property. I am therefore satisfied that the proposal would respect the character and appearance of the existing property.

7. As a result of its siting, it would bring built development closer to the side boundary with the adjoining property to the west, Shortmead. This property is centrally sited in a large plot but with single storey accommodation extending towards the shared boundary with the appeal property. Given the siting and layout of the adjoining property, there would remain a generous spacing between the two properties. The existing relationship with the property on the other side would be unaffected. In street scene views along Village Way I am satisfied that the property as proposed to be extended would not appear cramped within its plot or out of character with the varied pattern of development in the immediate vicinity.

8. The proposed extension would respect the guidance in the Council's adopted Residential Extensions and Householder Development SPD (2013) (SPD) which at paragraph 34 (i) states that two storey side extensions *should be designed having regard to the prevailing character of the locality, especially with regard to the gaps and spaces between existing buildings in the area, in order to respect the surrounding pattern of development.* The Council has referred to the specific guidance regarding the inclusion of a minimum 1m gap between first floor extensions and side boundaries, but this appears to be guidance specific to buildings *in a definable visual row* which is not relevant in this case. It is my view that the wide variety in the siting of dwellings within their plots and in their relationship with neighbouring properties is a characteristic element of the pattern of development in Village Way. The appeal property as

proposed to be extended would continue to respect this pattern of development.

9. I therefore conclude that the proposal would respect the character and appearance of the existing property as well as of the local area. There would be no conflict with Policies GC1, H13, H15 and H16 of the adopted Chiltern District Local Plan 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011, Policy CS20 of the adopted Core Strategy for Chiltern District (2011), the SPD as well as the Framework 2018, all of which seek a high quality of design which respects the local context.

10. I have sympathy with the Appellant's family related reasons for seeking the proposed extension, but my decision is based solely on the planning merits of the proposal.

Conditions and Conclusion

11. In terms of conditions, I agree with the standard conditions proposed by the Council. Matching materials with the existing dwelling are required in the interests of protecting the character and appearance of the existing property and of the local area. I also agree that a condition to list the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

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

L J Evans

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: 12 October 2018

Appeal Ref: APP/X0415/D/18/3206564
The Kiln, 3 Shire Lane, Cholesbury, Tring Buckinghamshire HP23 6NA

- 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 Matt Lorimer against the decision of Chiltern District Council.
- The application Ref: CH/2018/0400/FA dated 2 March 2018, was refused by notice dated 8 May 2018.
- The development proposed is detached 4 car garage, extension of existing gravel drive.

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. The Council's reason for refusal referred to the National Planning Policy Framework 2012 extant at the time of the decision, and 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

3. 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 landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty;

   c) Other considerations; and

   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

4. The appeal property is a semi-detached residential dwelling, which has been previously extended, in a small group of dwellings within a rural area, where individual and small clusters of dwellings are interspersed with open farmland and woodland. It lies within the Green Belt and within the Chilterns Area of Outstanding Natural Beauty (AONB). The two pairs of semi-detached dwellings, including the appeal property, are set back from the lane, behind a deep grass verge and the front gardens to the properties. As existing, ancillary structures to serve the properties, including garages, are generally set behind the front building line to the properties; this siting contributes to the openness of the lane. The proposal relates to the erection of a four bay detached garage to the side of the large plot, partly sitting forward of the main house, together with the extension of the existing gravel drive.

5. 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'. As the proposed garage would be for a use incidental to the enjoyment of the dwelling on the site and within its curtilage I consider it appropriate to consider it under this exception.

6. The Council has referenced a number of policies relating to the Green Belt in its decision notice. Policy GB2 of the adopted 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 ancillary non-habitable buildings within the curtilage of an existing dwelling, Policy GB15 of the Local Plan sets out that these can be considered acceptable where the building is small in size and subordinate to the original dwelling.

7. The proposed garage would be almost double the length of the main part of the house, extending almost from the rear wall of the main body of the house towards the front boundary of the site. Given its length and height in relation to the scale of the dwelling, it would be neither small in size nor subordinate to the original dwelling. 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.

8. The Appellant has contended that the proposal should be considered as a replacement structure for the garden shed under another of the exceptions listed at paragraph 145 of the Framework 2018 which includes for the replacement of a building provided the new building is in the same use and not

materially larger than the one it replaces. Although I agree that the shed and the proposed garage both fall to be considered as structure for a use incidental to the enjoyment of the dwelling house, the proposal would fail the second part of the exception as it is clearly significantly larger than the shed. It would therefore fall to be considered as inappropriate development for the purposes of the Framework, applying this exception. The Appellant also acknowledges that the proposal represents inappropriate development.

Issue b) Openness and AONB

9. 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 under my first issue. I have also considered whether there is any other harm.

10. The addition of further built development on the site, with the consequent increase in the bulk and massing of built form within the curtilage 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.

11. The site falls within the AONB. Given its length as well as its overall scale and relationship with the main dwelling, it would be a visually intrusive and bulky structure in this rural area and out of scale with the residential dwelling it would serve. It would be particularly incongruous in views when approaching from the north-west along Shire Lane. I do not therefore consider that it would respect the landscape and scenic beauty of the AONB. This would conflict with Policies CS20 and CS22 of the adopted Core Strategy for Chiltern District 2011 and Policies GC1 and LSQ1 of the Local Plan as well as the Framework 2018, all of which seek a high quality of design which respects the local context, with particular reference to respecting the landscape and scenic beauty of the AONB. This adds to the harm I have already concluded.

Issue c) Other Considerations

12. The Framework 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.

13. Whilst I agree that the proposal would be set against a wooded backdrop and partially screened from views along the front of the site, it would be fully visible in views when approaching along Shire Lane from the north-west. Notwithstanding the quality of the design, it would be a visually incongruous feature which would be over dominant in relation to the size of the dwelling and detract from the openness of the Green Belt and visual qualities of the AONB. I do not therefore afford weight to the Appellant’s contention that it would not adversely affect the character and appearance of the local area, given the harm I have already concluded.

14. It has been suggested that the ability to park cars under cover within the garage would represent a visual improvement of benefit to the AONB. However, the garage would be a permanent structure whereas the occupancy

of the house and the number of cars to be parked on site may change over time. I can therefore only give very limited weight to this argument in favour of the proposal.

15. The Appellant has referred me to a planning permission granted by the Council for a detached double garage with roof storage area and extension of existing gravel driveway in January 2017 under its reference CH/2016/2094/FA. Although this would also be sited forward of the dwelling and would be higher than the proposal, it would be smaller in overall scale compared with the proposal before me. A Lawful Development Certificate has also been granted for the erection of a four bay garage to the rear of the property in June 2017 under the Council's reference CH/2017/0668/SA. The Appellant has contended that in the event planning permission were refused for the garage the subject of the appeal, that the erection of these two buildings would be the fallback position. It may indeed be the case that the Appellant would undertake both these projects although I note that the structure at the rear of the garden would necessitate disruption of the existing garden area. Nonetheless I have considered the proposal against this potential fallback position.

16. I agree with the Appellant that the combined effect of building out both these permitted structures would introduce more built development onto the site, compared with the proposal before me, and would therefore have a greater harmful impact on openness in absolute terms and comparing the extent of built to undeveloped site coverage. The Framework 2018 confirms that one of the essential characteristics of the Green Belt is its openness and therefore this benefit adds weight in favour of the proposal.

17. However, this benefit would be tempered in my view, by the greater adverse effect from the proposed siting of the proposal before me, particularly on the scenic beauty and visual distinctiveness of the AONB. The four bay garage would be largely screened from view to the rear of the house. I acknowledge that the permitted double garage with storage over would be higher than the proposed garage and would also have an external staircase. However, it would be materially smaller in scale and particularly in length and in my view the height difference would not alleviate the harm from the size and particularly the length of the proposed garage, both taken on its own and in relation to the main house. As a result and overall, only limited weight is afforded to the fallback position compared with the proposal before me.

18. The Appellant has also submitted a unilateral undertaking to remove all other structures on the site within 6 months of implementation of the permission and to agree to the removal of permitted development rights under Schedule 2 Part 1 Class E of the GPDO 2015. However, the existing structures on the site are generally small scale and most would appear to need to be removed to implement the schemes already permitted. Given the prior existence of the lawful development certificate I am not persuaded that the offer to agree to the removal of permitted development rights as set out above would be beneficial. Furthermore, I am not persuaded that this would overcome the harm I have already concluded from the proposed siting of the four bay garage under this appeal. This therefore limits the weight I can give to the provisions of the unilateral undertaking.

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

19. 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 garage. The harm from loss of openness and to the landscape and scenic beauty of the AONB both add 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.

20. 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 27 September 2018

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2018

Appeal Ref: AAP/X0415/D/18/3205771
14 Hillside Close, Chalfont St Giles, HP8 4JN

- 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 S Macrae against the decision of Chiltern District Council.
- The application Ref CH/2018/0569/FA, dated 27 March 2018, was refused by notice dated 22 May 2018.
- The development proposed is the erection of a single storey shed.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey shed at 14 Hillside Close, Chalfont St Giles, HP84JN, in accordance with the terms of the application Ref CH/2018/0569/FA, dated 27 March 2018 , subject to the following condition:

   1) The development hereby permitted shall be carried out in accordance with the following approved plan: Drg No. 2498-PL-101

Procedural Matter

2. The description of the development given by the Council on its decision notice differs from that stated on the planning application form. The normal practice is that the description is taken from the application form unless it is inaccurate. In my opinion, the planning application form is an accurate description. Therefore, I have determined the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, including the effect of the development on the setting of the Chalfont St Giles Conservation Area (CA).

Reasons

4. The appeal site comprises land at the front of the appeal property. It is within the ownership of the appellant, but is separated from the dwelling by a shared pathway that also serves neighbouring dwellings. The site fronts onto Deanway, which is one of the main roads into and out of Chalfont St Giles. It is elevated above Deanway and is substantially screened by trees and vegetation, including a relatively young laurel hedge.

5. The property also has a rear access, which leads off Hillside Close. The western boundary of the CA is on the opposite side of Hillside Close.

6. The proposal is to erect a timber shed with a flat felted roof. I noted at my site visit that the shed was substantially built. However, this does not affect my view about the proposal.

7. The Council contends that the positioning of the shed at the front of the property and close to Deanway would be prominent and intrusive in the streetscene. It also argues that it would be harmful to the setting of the CA, as it would not preserve the views into or out of the CA.

8. The Council refers to a number of its Development Plan policies in its reason for refusal. These policies generally seek to ensure that new development is of a high standard of design; is in character with the area in which it is located; and is in scale with its surroundings. Of particular relevance are policies H20 and CA2 of the adopted Chiltern Local Plan, which require ancillary residential buildings to be subordinate in size; and development to preserve or enhance views into or out of conservation areas.

9. I have also taken into account the advice contained in the Council's Supplementary Planning Document – Residential Extensions and Householder Development. This seeks to ensure that outbuildings are modest in size and do not disrupt the established pattern of development.

10. I acknowledge the Council's view that the positioning of the shed is somewhat unusual, given that the property has a rear garden that can be accessed off Hillside Close. I also accept that ancillary residential buildings on the fronts of properties are not common in the vicinity of the appeal site and, therefore, the proposal would be at odds with the prevailing pattern of development.

11. However, the building is relatively small in scale and it is well screened by hedging and other vegetation. Because of the screening, it is barely visible from Deanway and only partially visible from Hillside Close. Furthermore, I have no reason to think that the laurel hedge and other vegetation will be removed. Consequently, there is no harm to the character or appearance of the area.

12. The CA comprises the historic core of Chalfont St Giles. It also includes a field, which is located on the opposite side of Hillside Close, adjacent to 'Milton's Cottage'. The Council's Conservation Area Appraisal/Plan states that the field provides a setting for the cottage. Given my findings above, regarding the visual effect of the proposal, I consider that any existing views into or out of the CA would be preserved and the significance of the heritage asset would not be harmed.

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. As the shed has been partially constructed, there is no need for the standard condition regarding commencement of the development.

15. 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.

16. The Council has also suggested that a condition be imposed regarding the use of external materials that would match the existing building. However, the proposed materials are clearly stated on the planning application form and they have been used in the construction to date. Accordingly, I consider that the condition is unnecessary.

Conclusion

17. 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 25 October 2018

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 November 2018

Appeal Ref: APP/X0415/D/18/3208538
160 Chartridge Lane, Chesham HP5 2SE

- 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 Gill against the decision of Chiltern District Council.
- The application Ref: CH/2018/0570/FA dated 27 March 2018, was refused by notice dated 15 June 2018.
- The development proposed is two storey side and single storey rear extension, open porch to front.

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, the Council referred to it in the Officer's report. 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.

3. The proposal includes for a front porch and although shown on the proposed elevations, it is not included on the proposed floor plans.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the living conditions of the neighbours at No 164 Chartridge Lane with particular regard to outlook and light/overshadowing.

Reasons

5. The appeal property is a two storey semi-detached dwelling with an attached garage on a long plot on the south west side of Chartridge Lane. There are a variety of detached and semi-detached houses and bungalows on both sides of the road, with an irregular front building line, particularly along this section of the road, including the appeal property. The proposal would replace the garage with a side extension which would wrap around the rear of the property at

ground floor with a first floor extension along the side of the existing house. A front porch is also proposed.

6. The adjoining single storey property at No 164 is set further forward in its plot and close to the common boundary with the appeal property. As a result of the siting, the proposed extension to the appeal property would extend at both ground and first floor for a significant depth to the rear of the neighbouring property. Even taking into account the existing boundary treatment between the properties, I consider that the combined effect of the significant length and height of solid massing from the extended property close to the boundary would have an over bearing and enclosing effect on the outlook for the neighbours from their rear facing windows, and particularly the window closest to the appeal property, as well as from their garden area closest to the property. I have taken into account that No 164 benefits from a long garden to the rear with far reaching views, but there appears to be no basis to agree with the Appellants' contention that as a result the principal amenity value of the garden is not adjacent to the dwelling.

7. Given the orientation and siting of the two properties to each other, and notwithstanding the lack of technical information before me, it is my view that there would be increased overshadowing of the rear of No 164 and its rear garden area closest to the property during some parts of the day. In addition, I agree with the Council that the proposal at ground and first level would appear to breach Building Research Establishment guidance on daylight and sunlight, and would therefore result in a loss of light to the rear facing window closest to the boundary. This harm adds to the harm I have already found.

8. I therefore conclude that the proposal would materially harm the living conditions of the neighbours at No 164, with particular regard to loss of outlook as well as in respect of loss of light and increased overshadowing. This would conflict with Policies GC2, GC3, H13 and H14 of the Chiltern Local Plan Adopted 1 September 1997 (including Alterations adopted 29 May 2001) Consolidated September 2007 & November 2011 and the Residential Extensions and Householder Development SPD, as well as the Framework 2018, all of which seek for a high standard of design which respects the amenities of existing and future occupiers.

9. The Appellant has drawn my attention to other permissions granted which he considers are comparable to his own proposals, particularly in terms of the relationship with adjoining properties. Each proposal must be assessed on its individual merits. Nonetheless and on the basis of the very limited information provided, none of these other examples appear to me to be directly comparable with the proposal before me. They do not therefore persuade me that planning permission should be granted given the harm I have concluded.

10. I have also taken into account that the neighbours at No 164 did not raise an objection to the proposal. However, my decision is based on its planning merits. Furthermore, if granted and implemented, the development would endure for future occupiers. The absence of an objection from the neighbours does not therefore lead to me to a different conclusion.

11. I have been referred to a permission granted for a similar form of development with the reference CH/1984/1846. However, that decision would appear to have been granted over 30 years ago and has very limited bearing on my assessment of the planning merits now.

12. For the reasons given 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 27 September 2018

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2018

Appeal Ref: APP/X0415/D/18/3205766
17 Foxdell Way, Chalfont St Peter, SL9 0PL

- 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 Kalley against the decision of Chiltern District Council.
- The application Ref CH/2018/0656/FA, dated 9 April 2018, was refused by notice dated 12 June 2018.
- The development proposed is a replacement detached garage.

Decision

1. The appeal is allowed and planning permission is granted for a replacement detached garage at 17 Foxdell Way, Chalfont St Peter, SL9 0PL, in accordance with the terms of the application Ref CH/2018/0656/FA, dated 9 April 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 plan: Drawing No. GSB/17/2018/Garage.

   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 character and appearance of the area.

Reasons

3. The appeal property comprises a relatively large dwelling and garden, which is situated within a residential estate. The proposed garage site is in a visually prominent position, being close to the junction of Foxdell Way and Mark Drive. The surrounding area is generally characterised by detached properties, which vary in terms of their size and appearance.

4. The proposal is to remove an existing and somewhat unattractive flat-roofed double garage, which is positioned within the side garden and close to the junction. It would be replaced on the same part of the site by a larger double garage with a hipped roof.

5. The Council considers that the proposed garage would appear as a highly prominent and intrusive feature in the streetscene because of its size and

position on the site. The removal of existing planting would, in the Council's opinion, make the building more conspicuous.

6. Policies GC1 and H20 of the adopted Chiltern Local Plan and Policy CS20 of the adopted Core Strategy are most relevant to this appeal. Amongst other things, these policies seek to ensure that new development is of high quality design and that ancillary buildings are modest in size. In addition, policy H6 of the Chalfont St Peter Neighbourhood Plan requires development to be in character with the area.

7. In reaching my decision, I have also taken these into account the advice contained in the Council's Supplementary Planning Document – Residential Extensions and Householder Development (SPD). This seeks to ensure that garages and outbuildings are modest in size and do not disrupt the established pattern of development. The SPD stresses the need to take care when siting garages in front gardens.

8. Although detached garages within front and side gardens are not particularly common in the vicinity, the appeal site is distinctly different to the majority of other properties in the area, because of its width and corner positioning. Furthermore, there is already an existing, albeit smaller, double garage on the site. In my opinion, this existing garage detracts from both the appeal property and the streetscene.

9. The proposed building would be more visible in the streetscene, mainly because of its height, but that does not necessarily mean that it would be harmful. The land slopes downwards from the existing dwelling at number 17 Foxdell Way towards the site of the garage. In addition, the presence of hedging and vegetation, some of which will be retained, means that the replacement garage would not be overly dominant or intrusive when viewed from either Foxdell Way or Mark Drive. Furthermore, the overall design of the proposed garage, including its hipped roof and the use of brick and tiles in its construction, would not be at odds with the character and appearance of the area.

10. Consequently, I consider that the proposal would not be harmful to the character and appearance of the area and it would not conflict with the Development Plan or the Council's SPD, as referred to above.

Conditions

11. 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.

12. 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.

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

Conclusion

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

Ian McHugh

INSPECTOR