



---

# 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: 21 December 2018**

---

**Appeal Ref: APP/X0415/W/18/3195558**

**Land at the front of Highlands, Cherry Lane, Woodrow, Buckinghamshire, HP7 0QG**

- 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 Sir Scott and Lady Baker against the decision of Chiltern District Council.
  - The application Ref CH/2017/1442/FA, dated 25 July 2017, was refused by notice dated 15 December 2017.
  - The development proposed is described on the application form as "Conversion of a former poultry barn to a residential dwelling and the use of the adjacent hay barn for garaging whilst retaining the stable building".
- 

## Decision

1. The appeal is dismissed.

## Procedural matter

2. The appellant has submitted an updated structural inspection report with their appeal statement, followed by a timber report and further structural inspection report with their final comments. I am satisfied that the Council and third parties would not be prejudiced by my consideration of this additional information and as a consequence I have considered the appeal on this basis.

## Main issues

3. The Council has raised no concerns regarding the impact of the development on: - (a) the living conditions of neighbouring occupiers; (b) the local highway network; (c) ecology; and (d) flood-risk. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - the effect of the development on the openness of the Green Belt;
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

4. The appeal site is located within the Green Belt and Chilterns Area of Outstanding Natural Beauty (AONB). The poultry barn and hay barn are positioned to the south of Highlands, a large residential property. A long access road leading from Cherry Lane to Highlands would provide access to the site. The appellant states that the poultry barn is now used for storage purposes and that both barns have been in existence for more than 10 years, which is not disputed by the Council. The appeal site and both barns are set against the backdrop of mature trees to the west.
5. The locality is characterised by undulating open countryside, comprising agricultural fields, mature hedgerows, small clusters of trees and large woodland areas.

### *Whether the proposal would be inappropriate development in the Green Belt*

6. Policy GB2 of the Local Plan<sup>1</sup> states that there is a general presumption against inappropriate development in the Green Belt. It does however specify certain categories of development that are not considered inappropriate, such as the change of use of permanent and substantial buildings in accordance with Policy GB11. The latter policy states, amongst other things, that the Council will not regard the reuse of a non-residential building in the Green Belt for residential accommodation as inappropriate development, subject to a number of requirements, which include, amongst others, that the building is of permanent and substantial construction, and that the amount of work required to make it suitable for residential use should not be so substantial as to be tantamount to the construction of a new building.
7. Paragraph 146 of the Framework<sup>2</sup> states that reuse of buildings should not be regarded as inappropriate development in the Green Belt provided they are of permanent and substantial construction; they preserve its openness; and do not conflict with the purposes of including land within it.
8. On the basis of the evidence before me, I am satisfied that it would be technically possible to carry out additional works to both buildings to enable them to become residential accommodation and garaging. However, this alone is not sufficient for the development to comply with Policy GB11 of the Local Plan or Paragraph 146 of the Framework ie the fact that something can be repaired, or additional materials can be used to supplement those already existing does not in itself mean that the said works are limited. For compliance to be achieved, the decision-maker must be satisfied that the buildings in question are of permanent and substantial construction, and that the amount of works required for their new intended purpose are not so substantial as to be tantamount to the construction of a new building.
9. According to recent case law<sup>3</sup>, 'it is a matter of legitimate planning judgment as to where the line is drawn' between a conversion and rebuild, with the test focusing on one of substance, and not form. Having had regard to this case, planning policy, the submitted evidence and my on-the-ground assessment, it

---

<sup>1</sup> Chiltern District Local Plan, Written Statement, Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 and November 2011.

<sup>2</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018.

<sup>3</sup> *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

is my view that the poultry building is so skeletal and minimalist that the works needed to alter it to residential accommodation would be of such a magnitude as to constitute a rebuild for the following reasons:-

- Both structural reports state that the foundations beneath the slab would need underpinning, with the scale and extent such that I would consider these works to be substantial.
  - The drawings indicate that an entirely new blockwork inner skin wall would need to be constructed, together with the installation of new windows, doors, and wall and roof insulation.
  - Both structural reports state that additional timbers would need to be added to the roof and walls to assist in strengthening the existing structure to accommodate the increased loads, particularly that generated by the construction of an entirely new slate roof with felt and battens. Although no evidence has been provided that reveal the exact number of additional timbers or trusses, I note that the second structural survey report states that all areas of the existing building would require structural strengthening to convert it and that a new ridge beam might also be required to try and prevent eaves deflection due to the lack of ties to the top of the wall plate.
  - The installation of a new foul and surface water drainage system would be required.
10. I recognise that these works could potentially be carried out within the existing structure without it being dismantled, but to my mind, the evidence contained in both structural reports collectively demonstrate that the existing timber frame and roof would not be strong enough to take the loading associated with the necessary internal and external works.
11. To my mind, the works proposed, when considered collectively, are so extensive that from a practicable perspective they go well beyond what may be considered a repair and conversion of the poultry building to enable its reuse and would in fact amount to a rebuild, with only limited assistance from the original structure.
12. In terms of its impact on openness, the development would not increase the size of both buildings, but would result in more frequent parking of cars within the site and a private garden area that may include residential paraphernalia. I am however satisfied that the private garden area and parked cars would not be highly prominent in the landscape and that the harm to the openness of the Green Belt would be limited.
13. In view of the above, I conclude that the existing buildings are not of permanent and substantial construction and that the scheme would be tantamount to the construction of a new building. The proposal would therefore constitute inappropriate development in the Green Belt and not accord with Policies GB2 and GB11 of the Local Plan, which collectively seek, amongst other things, to restrict inappropriate development and preserve the openness of the Green Belt.
14. I also find that the development would fail to comply with Paragraph 146 of the Framework which seeks, amongst other things, to restrict inappropriate development and preserve the openness of the Green Belt.

*Other matters*

15. 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.

*Other considerations*

16. Whilst I recognise that there are bus services to nearby settlements, I am unaware of the frequency of these. In any event it is my view that the proportion of such trips by future occupants would be low given: (a) the not insignificant distance between the appeal site and the A404 bus stop at Penn Wood; and (b) the generous amount of space on-site to park cars. As a consequence, it is my view that future occupants would be car-dependant and heavily rely on other settlements for day to day facilities.
17. Although Paragraph 79 of the Framework states that isolated homes in the countryside should be avoided unless they fall within a number of exceptions, I do not consider this to be relevant as the proposed dwelling would be in close proximity to other properties and therefore not isolated. However, the fact that a dwelling is not physically isolated does not mean that it would be sustainable or that it should be approved.
18. I recognise that the dwelling would make a contribution to housing land supply, but am not of the view that this benefit would clearly outweigh the scheme's environmental harm to the permanence and openness of the Green Belt, which I have given substantial weight to in my assessment.

**Conclusion**

19. Paragraph 143 of the Framework states 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 very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 144 of the Framework, I have given substantial weight to this harm in my assessment.
21. I find that there are no very special circumstances that clearly outweigh the scheme's harm to the Green Belt by reason of inappropriateness, and the limited harm to its character, openness and permanence. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

*Robert Fallon*

INSPECTOR



## Appeal Decision

Site visit made on 6 November 2018

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

**an Inspector appointed by the Secretary of State**

**Decision date: 30 November 2018**

---

**Appeal Ref: APP/X0415/W/18/3201326**

**Bidston, Burtons Lane, Little Chalfont, Buckinghamshire HP8 4BN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Cohn against the decision of Chiltern District Council.
  - The application Ref CH/2017/1662/FA, dated 31 August 2017, was refused by notice dated 24 November 2017.
  - The development proposed is the demolition of an existing dwelling and construction of three replacement dwellings with detached garages, including associated hard and soft landscaping and formation of new access from Burton's Way.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing dwelling and construction of three replacement dwellings with detached garages, including associated hard and soft landscaping and formation of new access from Burton's Way at Bidston, Burton's Lane, Little Chalfont, Buckinghamshire HP8 4BN, in accordance with the terms of the application, CH/2017/1662/FA, dated 31 August 2017, subject to the conditions set out in the attached Schedule 1.

### Application for costs

2. An application for costs was made by Mr and Mrs Cohn against Chiltern District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The revised National Planning Policy Framework (the Framework) was published on the 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.
4. I am aware that planning permission has already been granted for a dwelling to the rear of the site (Plot 1) and this is already under construction at the time of my site visit.

## **Main Issues**

5. The main issues are the effect of the development on (1) the character and appearance of the area and (2) highway safety as a result of parking provision.

## **Reasons**

### *Character and Appearance*

6. The area is characterised by primarily detached dwellings in spacious plots. The proposal would replace a single house with three new dwellings. This includes two detached houses fronting Burton's Lane and another single detached dwelling which would have access onto Burton's Way. Although the existing house Bidston appears an attractive house, it is not listed or in a Conservation Area and the Council has raised no objection to its loss as part of this development proposed.
7. The site is set within an Established Residential Area of Special Character (ERASC) of which policy H4 of the Chiltern District Local Plan is relevant. This requires new development to maintain the special character of these areas.
8. With regards the dwellings at Plots 2 and 3, which face Burtons Lane, the replacement of the single large house with two smaller dwellings would result in narrower plots to accommodate this development. I acknowledge that the plot widths of Plot 2 and 3 would be narrower than most along Burton's Lane, but there is some variety both within this street in terms of plot widths. Furthermore, the existing plot is particularly wide as it splays towards the front boundary. As such, even with this plot being split for these proposed two houses this would still allow for a spacious development, with a clear gap between the two proposed houses and to the side boundaries. Whilst the gaps proposed may be less than some others in the street between buildings, the overall layout of the site is similar to some other houses in this street.
9. On this basis, I do not regard the narrowness of the proposed Plots 2 and 3 as being at a significant variance with the general character of this street scene or the wider area. Therefore, the plot widths proposed would not appear incongruous or result in a cramped form of over-development within the street scene. Furthermore, the replacement dwellings at Plots 2 and 3 would be well set back from the boundary with the road to the front, which is similar to the general layout for most other houses on this side of Burton's Lane. The garages would be to the front of the houses at these plots, but these would be subservient buildings and have less of a visual impact within the street.
10. The proposed houses at Plots 2 and 3 would be almost identical in appearance, whereas most of the houses in this street are of individual design. However, as this development would only result in two identical dwellings set within this long street this would not have a detrimental effect to the street scene as a whole. Furthermore, the houses as proposed, in my opinion, reflect the design and characteristics of this residential area with the use of traditional features and proportions, thereby being compatible with and preserving the character of the street scene.
11. Plot 1 would take up a section of what is the current rear garden of the Bidston site, but there is already planning permission for a dwelling in this location which is being constructed. In any case, this proposed dwelling would be in a sufficiently spacious plot. It would be forward of many of the other houses on

this side of Burton's Way. However, as there is no strong building line to this side and section of Burton's Way and the position of the house would not have an adverse effect on the street scene.

12. Overall, whilst I acknowledge that the proposal would increase the density of housing within the site, the proposed dwellings would not result in harm to the character and appearance of the area and would preserve the qualities of the ERASC. As such, the proposed development would be in accordance with the Policies GC1 and H4 of the Chiltern District Local Plan 1997 Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011, and Policy CS20 of the Core Strategy for Chiltern District adopted November 2011. These policies seek to, amongst other things, ensure a suitable scale of development; require that new dwellings do not significantly affect the density of ERASC; and require a high overall standard of design.
13. My attention has been drawn to Core Strategy policy CS21 by interested parties. However, this was not included in the Council Decision Notice and from the evidence before me I cannot be sure that the areas this policy would cover has been finalised.

#### *Parking Provision*

14. The proposal includes a shared access for both Plots 2 and 3 off Burtons Lane. The Council has concerns regarding the parking provision for these two proposed dwellings. A particular issue is the size of the proposed garages being less than advised in the Chiltern District Local Plan. The proposed garages are stated to be deficient in depth.
15. However, the appellant has made clear in their statement that they only anticipate a single vehicle parked in each garage. This would allow for space for cycle and general storage, for example. I note that it is also the Council's assumption that only one vehicle would be kept within the proposed garages.
16. If for both Plots 2 and 3 there would be parking provision for one vehicle in the garage and two to the front of the garage, this would effectively be similar to a tandem arrangement. However, I have no substantive evidence that this would not be an effective parking arrangement and therefore I regard there as being sufficient off-street parking provision for these proposed houses.
17. Both Plots 2 and 3 also have an area for turning space. I acknowledge that, depending on the amount of vehicles parked, the space for turning could be tight, but turning would still be possible and achievable. There is also the possibility of vehicles from Plot 3 turning towards the front of Plot 2 if necessary with space available to do so. I do not regard there being such an issue with turning space that there would need to be vehicles reversing out of the access onto the highway.
18. The house at Plot 1 would access onto Burtons Way. There would be a single point of access onto this road and space for parking and turning within the plot. I regard this arrangement as proposed as acceptable. I regard the access proposed for Plot 1 to be of sufficient distance from the junction with Burtons Lane to avoid any highway safety issue. I also note that Burtons Way is a private road, but have no substantive evidence before me to demonstrate why this would be an issue for providing access to Plot 1.

19. Overall, the proposed development would provide sufficient parking and turning provision. The proposals are therefore in broad accordance with Policies TR11 and TR16 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 and Policies CS25 and CS26 of The Core Strategy for Chiltern District, Adopted November 2011. These policies seek to, amongst other things, require development to provide suitable off-street parking provision.

### **Other Matters**

20. The three proposed houses would be within a residential area, with other dwellings in close proximity. There has been concern raised with regards loss of view as a result of the development. As planning is concerned with land use in the public interest, the loss of a private view is not normally considered to be a significant material consideration. There are also no details about the loss of any particular view. In any case, this is a residential development within an urban area and from the information before me I do not regard the proposal to result in any significant loss of outlook or important views.
21. The proposed dwellings are to be set off the boundaries and their layout and orientation would avoid significant levels of overshadowing or overbearing impact to neighbour living conditions. Furthermore, whilst the proposed dwellings would have first floor windows with views towards neighbouring properties they have been arranged to avoid any significant levels of overlooking.
22. The proposed development would result in some noise through the time of construction, but this is a temporary period and should not result in significant or lengthy levels of disturbance.
23. The proposed development, particularly Plot 1, would occupy an area that was open garden, to the rear of Bidston. However, the proposal would still result in spacious plots for all three dwellings proposed which allows for landscaping and also the retention of existing trees. As such, I do not regard the proposal as having a significant diminishing effect on greenery and openness within the plot.
24. I have taken into account representations referring to setting a precedent for future similar developments. However, the decision in this case takes into account the specific circumstances of the site, such as the proposed layout and scale of the proposed houses, and each case should be considered on its own merits.
25. Although mentioned by an interested party, from the evidence before me the site is not within an Area of Outstanding Natural Beauty.

### **Conditions**

26. I have considered the conditions put forward by the Council against the requirements of the National Planning Practice Guidance and the Framework. I have attached some of the conditions recommended by the Council, as is explained below, but with some minor alterations in the interest of clarity and preciseness.
27. In respect of the single storey side extension I have attached the standard time limit condition and a plans condition as this provides certainty. I have not



included reference to plan 4912-05E, as this has been superseded by plan 4912-05F.

28. Conditions relating to materials and boundary treatment are all necessary in the interests of ensuring a satisfactory standard of development.
29. Due to the importance of the trees to the setting of the development and to safeguard them through the course of construction I have attached the tree protection conditions.
30. To ensure sufficient and appropriate levels of parking and turning space for future occupiers, in the interests of highway safety, I have attached the condition for this aspect of the development to be in place prior to occupation of the dwellings. A further scheme for approval is not necessary as the details are sufficiently shown on the submitted plans. I have included in this condition reference to the access provision.
31. I have not attached the Council recommended condition regarding obscure glazing as I am not satisfied that this is necessary to make the proposed development acceptable. Based on the evidence before me, even without obscure glazing in these windows the proposal would not result in significant levels of overlooking impact that would affect neighbour living conditions.
32. I have not attached either of the recommended conditions from the Council which require the restriction of usual permitted development rights. The Framework requires that this should be only necessary in exceptional circumstances. I am not satisfied that this situation would be such an exceptional circumstance and there is no substantive evidence before me to suggest otherwise.

### **Conclusion**

33. For the reasons set out above, this appeal should be allowed, subject to the conditions in Schedule 1 below.

*Steven Rennie*

INSPECTOR

### **Schedule 1 – 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:
  - 4912-03A – Site plan and location plan
  - 4912-05F – Proposed site plan
  - 4912-06D – Proposed floor plans – Plot 1
  - 4912-07D – Proposed elevations – Plot 1
  - 4912-09A – Proposed floor plans – Plots 2 & 3

- 4912-10B – Proposed elevations – Plots 2 & 3
  - 4912-11 – Proposed garage details
  - 4912-12 – Site Sections
- 3) The development hereby approved shall be implemented in accordance with the tree and hedge protection measures described in the Arboricultural Impact Assessment Ref: 1026 dated 23 June 2017 and the Tree Protection Plan Drawing Number 1026-02 dated June 2017 by SJ Stephens Associates. This shall include the erection of tree protection fencing in accordance with the Tree Protection Plan, and the use of no-dig construction and ground protection measures as proposed in the report.
  - 4) No tree or hedge shown to be retained on the Tree Protection Plan drawing number 1026-02 dated June 2017 by SJ Stephens Associates shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation of the development hereby approved. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree or hedge shall be planted of such size and species as shall be agreed in writing by the Local Planning Authority. Furthermore, the existing soil levels within the root protection areas of the retained trees and hedges shall not be altered.
  - 5) Prior to the development of the dwellings above slab/ground level for Plots 2 or 3, details of all screen and boundary walls, fences and other means of enclosure, and a timetable for their erection, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the dwellings hereby approved shall not be occupied until the details have been fully implemented.
  - 6) No dwelling shall be occupied until the accesses, along with garaging and areas for vehicles to park and turn have been laid out within the site in accordance with drawing no. 4912-05 F. The arrangement and layout shall thereafter be maintained and kept available at all times for those purposes.
  - 7) Prior to their use in the development hereby approved, details/samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.



## Costs Decision

Site visit made on 6 November 2018

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

**an Inspector appointed by the Secretary of State**

**Decision date: 30 November 2018**

---

### **Costs application in relation to Appeal Ref: APP/X0415/W/18/3201326 Bidston, Burtons Lane, Little Chalfont, Buckinghamshire HP8 4BN**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr & Mrs Cohn for a partial award of costs against Chiltern District Council.
  - The appeal was against the refusal planning permission for demolition of an existing dwelling and construction of three replacement dwellings with detached garages, including associated hard and soft landscaping and formation of new access from Burton's Way.
- 

### **Decision**

1. The application for the award of costs is refused.

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant states that the appeal was unnecessary as the proposal complies with the development plan and standards with regards to parking provision and highway safety, which was the subject of the Council reason for refusal No 2.
5. I acknowledge that there was no Highways Authority objection to the proposal and that the decision was taken by the Planning Committee to refuse the planning application. With regards to the size of the garages, it appears agreed by both parties that they are deficient in length when assessed against the standards. The Council has also clearly explained the concerns about turning space, for Plots 3 especially. However, whilst I have not found harm with regards the proposed parking and turning provision on site, the reason for refusal is clearly set out and concluded against adopted Development Plan policy.

6. It is the right of the Planning Committee to come to a different view from their Officers and the Highway Authority and in this case they have done so in a way that is reasoned sufficiently and assessed against policy.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

*Steven Rennie*

INSPECTOR



---

## Appeal Decisions

Site visit made on 24 September 2018 with further visit on the 8 October 2018.

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

**an Inspector appointed by the Secretary of State**

**Decision date: 4 December 2018**

---

### **Appeal A Ref: APP/X0415/W/18/3196147**

#### **28-32 Oval Way, Chalfont St Peter, Buckinghamshire SL9 8QB**

- 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 John Strange (Aquinna Homes Plc) against the decision of Chiltern District Council.
  - The application Ref CH/2017/2013/FA, dated 27 October 2017, was refused by notice dated 2 February 2018.
  - The development proposed is for the erection of five dwellings.
- 

### **Appeal B Ref: APP/X0415/W/18/3205310**

#### **28-32 Oval Way, Chalfont St Peter, Buckinghamshire SL9 8QB**

- 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 John Strange (Aquinna Homes) against the decision of Chiltern District Council.
  - The application Ref CH/2018/0594/FA, dated 29 March 2018, was refused by notice dated 5 June 2018.
  - The development proposed is for the erection of five new dwellings.
- 

## **Decision**

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for the erection of five dwellings at 28-32 Oval Way, Chalfont St Peter, Buckinghamshire SL9 8QB, in accordance with the terms of the application, Ref CH/2018/0594/FA, dated 29 March 2018, subject to the conditions set out in the attached Schedule 1.

## **Procedural Matters**

3. The Council has confirmed that a contribution towards affordable housing would not be required for Appeal B following the publication of the National Planning Policy Framework (the Framework) dated July 2018. As the appeal is for a scheme comprising less than 10 units and falls below the threshold set out in the revised Framework, it is confirmed that affordable housing is no longer required as part of this development. This also applies to the proposal under Appeal A.
4. The revised Framework was published on the 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to

the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

## **Main Issues**

5. The main issues for these appeals are:

- The effect of the development on the character and appearance of the area, including the setting of Gerrards Cross Centenary Conservation Area and the designated Established Residential Area of Special Character.
- The effect of the development on highway safety as a result of parking provision and the access proposed.
- For only Appeal A, the effect of the development on the existing trees on site, some of which are subject to Tree Preservation Orders.

## **Reasons**

### *Character and Appearance*

6. The area is characterised by mainly large detached houses with traditional features in spacious plots. The site is close to but to the north of the Gerrards Cross Centenary Conservation Area (CA). Due to the proximity of the Conservation Area boundary (from which the site can be seen), I regard the proposal as being within the setting of this heritage asset. The site is also located within an Established Residential Area of Special Character.
7. I am aware of the previous planning applications and also the appeal (ref: APP/X0415/W/16/3150402). However, whilst I have taken note of this planning history, the proposals in this appeal differ from that proposed previously, including the appeal which was for blocks of apartments.
8. The proposals with both appeals include a detached house and two pairs of semi-detached houses. I acknowledge that within this street there are predominantly detached houses, although there are a variety of sizes and designs which give a non-uniform appearance within the street scene. In this setting, the introduction of semi-detached housing would not have detrimental visual effects. Furthermore, these dwellings in both Appeals would not be clearly interpreted as semi-detached houses, having instead the appearance of a single distinct building without the symmetry typical of semi-detached housing.
9. On this basis I do not regard that the semi-detached houses as proposed with both appeals would have an adverse effect on the character and appearance of the area.
10. The semi-detached houses proposed would result in narrower plots than many others in the street. However, the plots as proposed would provide enough space for driveways and landscaping to the sides, for example. There is also some variation of plot widths within the street, so whilst the semi-detached plots may be narrower than most they would not be overly prominent or appear incongruous as a result. The layout would also represent an efficient use of land. The houses would also be set back from the front boundary, similar to other dwellings in the area and so would appear in keeping in this regard, with no strong building line on this side of the street to be followed.

11. The car port to the front of the dwelling at Plot 5 (Appeal B) would be to the front of the house. Whilst it is uncommon to have car ports or garages to the front of houses, there are some other examples in the area. Furthermore, this car port is set back from the road and would be at least partially screened by landscaping. The other car ports are set further back within the plots between the housing. Again, such a location for car ports or garages may be uncommon in the area but the proposed car ports would not be prominent or have a significant effect to the character of the street scene, due to their position set well back from the front boundary. I am also of the opinion that the garages would not appear as attached to the houses and so would not result in the appearance of a row of buildings. Instead there would be a gap between the buildings which would be visually apparent.
12. With Appeal A, the semi-detached dwellings are of a height which would be clearly set higher than many other houses within the street. Within the street scene there is some variety of house heights, but generally most are of modest two storey buildings with pitched roofs. The dwellings proposed with Appeal A, especially the semi-detached pairs, would be particularly tall with a height greater than most other houses in this street. As such, the proposed dwellings with Appeal A would appear overly prominent within the street scene and incongruous by reason of their excessive height. This does not adequately reflect the existing houses that make up this area and would have a detrimental impact to the character of the street scene and therefore also have an adverse impact to the Established Residential Area of Special Character. The special character of this area would therefore not be preserved.
13. The dwellings proposed with Appeal A, due to their prominence and incongruous appearance would also not preserve the character of the nearby CA, of which this site is within its setting as this section of Oval Way reflects and is a continuation of the general character of the CA. There is some intervening tree screening, but this would not completely block views of the proposed houses and therefore would not sufficiently mitigate the impact to the CA. However, the appropriate design and scale of the dwellings as proposed with Appeal B means that the setting of the CA is preserved in this case.
14. For Appeal A, the proposed residential development would result in harm to the character and appearance of the area and therefore also the Established Residential Area of Special Character. As such the proposal with appeal A would be contrary to Policies CS4 and CS20 of the Core Strategy (CS) for Chiltern District (Adopted November 2011), Policies GC1 and H4 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 & November 2011 (LP). These policies seek to, amongst other things, protect and enhance the historic heritage of the District; maintain the characteristics of the designated Established Residential Areas of Special Character; be of a high standard of design, which includes the relationship with the site's surroundings. Furthermore, the proposals are contrary to the relevant sections of the Framework which require development to be of an appropriate design and scale.
15. However, for Appeal B, I find that the proposal does not harm the character and appearance of the area and so would accord with Policies CS4 and CS20 of the CS, Policies GC1, CA2 and H4 of LP, together with the relevant sections of the Framework.

16. The Council has made reference to policy CA2 of the LP in their statement, which relates to Conservation Areas. However, I note that this was not included in the Decision Notice for Appeal A as part of the reasons for refusal of the application. However, I do note that policy CS4 of the CS does refer to the need to protect and enhance the historic heritage of the District as one of the sustainability principles.

#### *Access and Parking Provision*

17. Both proposed developments under Appeals A and B proposed access off Oval Way to the front of the proposed dwellings. This includes shared accesses also.
18. For Appeal A there is proposed to be a shared access for Plots 1 and 2 and also for Plots 3, 4 and 5. The Council states that the access for Plots 3, 4 and 5 should be 3.2m to be sufficient to serve the three dwellings, whereas it is proposed to be 3m. However, this could be adjusted as an access off a highway with the use of a condition.
19. The parking layout with Appeal A includes a shared turning area. I acknowledge that it is likely that there would need to be some reversing necessary, but not to a degree that would result in this being a significant constraint to parking at these houses. Furthermore, there is sufficient turning space proposed to ensure that vehicles could enter and leave in a forward gear.
20. For Appeal B, there is mention of issues relating to access to the car port to the front of Plot 5. There are some parking spaces shown to the front of this car port. However, whilst this would lead to effectively some tandem parking this would not be an insurmountable issue for future occupants as some level of tandem parking is not uncommon in this area.
21. Overall, I regard the proposed parking and access provision as appropriate for both Appeal A and B. The proposals therefore accord with Policies TR2 and TR3 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. These policies seek to, amongst other things, require development to provide suitable access onto a highway.

#### *Effect on Trees*

22. For Appeal A, the proposal would result in the house at Plot 5 being close to some of the trees that are protected under the Tree Preservation Order (TPO) No. 33 of 1989, among some other trees which are not protected. However, the proposed house at Plot 5 or any other buildings do not significantly encroach into the root protection areas of these trees. Though there may be some minor pruning necessary in the future, I am satisfied from the evidence that these trees can be maintained.
23. Furthermore, I acknowledge that some of these trees, particularly those near to Plot 5 would cast some shadow over this property, but I am of the opinion that this would not be so significant as to be certain that future occupants would want their removal. In any case, many of these trees are protected under TPO.
24. I do note that one of the trees under this TPO has already been removed, with the appellant saying that this was an accident. As this has already happened before any decision with this appeal this is a matter for the Council.



25. There is also Tree Preservation Order No 6 of 2012 which protects two copper beech trees. The proposed dwellings are located where there would be no encroachment into their root protection areas and therefore should be maintained.
26. There are some other trees that are to be removed, but from the evidence submitted they are not of particularly high value and not prominent as important trees within the area. Also, there is scope for landscaping with new planting within the development, which can be required via condition.
27. There was no objection to the effect of the proposal on the trees at the site with Appeal B, and from the evidence before me this proposal would have no significant impact to the trees at the site, including those which are protected under TPO.
28. Overall, the proposals with both Appeals would not result in significant harm to the trees at the site and as such are in accordance with Policies GC4 and TW3 of The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011, and the relevant sections of the Framework. These policies seek to, amongst other things, safeguard existing trees that are important to the character of the area and also those covered by a TPO.

### **Other Matters**

29. The proposed development would be in a residential area, with neighbouring dwellings nearby. However, the proposed houses are set off the boundaries at the side of the current plot, with a substantial distance from the rear elevations proposed to the rear boundary. In such circumstances, considering also the height and form of the proposed houses, the schemes would not result in significant overshadowing or overbearing effect. Furthermore, they would not be oppressive or dominant when viewed from neighbouring properties due to this layout and arrangement.
30. The house at Plot 1 with Appeal B would not have upper floor windows in the side elevation facing towards the neighbour at No 34 Oval Way that could result in overlooking impact. There are roof lights in Plot 1 with Appeal A, but these appear to be high level and would not result in significant overlooking. There is also a first floor side elevation window with views towards this neighbour, but as this is to serve a non-habitable room (an en-suite) the overlooking effect would be minimal.
31. Although the proposed dwelling at Plot 1 with both Appeals would be close to the boundary with No 34, the design includes a series of drops in height towards this boundary. Coupled with the separation distance the proposed dwelling at Plot 1 would not result in significant levels of overshadowing or overbearing effects to the living conditions of these neighbours.
32. The house proposed at Plot 5 has some first floor windows which face towards the neighbour at No 24 Oval Way. However, considering the separation distance and the significant tree screen at the boundary, which includes protected trees, the proposal in this instance would not result in significant loss of privacy for this neighbour. Being to the north of No 24 the development should not result in any significant overshadowing effect and the separation distance to the boundary would be sufficient to avoid overbearing effects also.

33. Overall, the proposed development with both Appeals A and B would not result in significant adverse effects to the living conditions of neighbours to this site.
34. I have taken into account representations referring to setting a precedent for future similar developments. However, the decision in this case takes into account the specific circumstances of the site, such as the scale and layout of the proposed houses, and each case should be considered on its own merits.
35. There have been comments from interested parties relating to covenant restrictions on the site. However, I do not have full details of these restrictions and in any case the courts have taken the view that planning is concerned with land use in the public interest so that covenant restrictions concerning essentially private rights could not constitute material planning considerations. As such, the comments received have not changed my opinion on the main issues.
36. The proposed five dwellings would result in a likely increase in traffic within the area. However, I am not of the opinion that the additional traffic would be at a significant level and I have no substantive evidence before me that it would lead to highway safety or congestion issues.
37. Shared drives are not common in the area. However, these proposed shared drives would not be a prominent feature within the street scene and would not dominate the frontage of the houses. As such, I do not regard the use of shared drives as harmful to the character and appearance of the area.

### **Planning Balance**

38. All parties agree that the Council is unable to demonstrate a five year supply of deliverable housing sites. As such, relevant policies for the supply of housing should not be considered up-to-date according to paragraph 49 of the Framework. In these circumstances, the tilted balance as described by paragraph 11 should therefore be applied. Paragraph 11 of the Framework states that where the development plan is out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted. In this case, from the evidence before me, there are no specific policies in the Framework which indicate that development should be restricted.
39. In terms of benefits, the development would provide additional housing and therefore a social benefit, mindful of the housing land supply shortfall. There would be economic investment from both its construction and subsequent occupation. The house would be in a location which is within an accessible location, thereby reducing reliance on the private car and representing an environmental benefit.
40. However, for Appeal A, the harm to the character and appearance of the area identified would be significant and as a result the environmental role of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore the proposal would not be a sustainable form of development. The conflict with the

development plan is not outweighed by other considerations including the Framework.

41. For Appeal B, as I concluded with regards the main issue, I find that the development would be in accordance with the Development Plan policies and would also represent sustainable development in accordance with the Framework.

### **Condition Reasons**

42. As I have found that Appeal B should be allowed, I have considered the recommended conditions from the Council against the requirements of the National Planning Practice Guidance and the Framework. I have made some amendments to the conditions as recommended by the Council to avoid pre-commencement conditions where possible and other changes in the interests of clarity and preciseness.
43. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials and hard landscaping, together with another requiring details of boundary treatment/enclosures, to ensure a satisfactory appearance. Furthermore, I have also attached a levels condition to establish the ground level of the new houses, in the interests of the visual amenity of the area. This is a 'pre-commencement' condition, as has been agreed in writing by the appellant.
44. I have attached conditions for both the implementation of the tree protection scheme and for a landscaping scheme (including implementation and replacements of retained trees or hedges), which would enhance the development visually and ensure a satisfactory appearance. There are also conditions to maintain and, if necessary, replace any of the trees which are to remain or the new landscaping if they are removed or die, for example. The requirement for an Arboricultural Method Statement condition I have altered to refer to the plan that shows the root protection areas. As most of the development is not within root protection areas then this information will only be required if any works have to take place in these areas.
45. I have attached conditions requiring that the parking, manoeuvring and accesses are all in place prior to occupation of the new dwellings. This will ensure highway safety and sufficient parking provision. I have not included reference to the accesses being in accordance with the guidance stated by the Council as this is not precise and I am not fully aware from the evidence before me of exactly what aspects the development should adhere to and why.
46. I have not included the conditions for the removal of permitted development rights, as it has not been sufficiently demonstrated that there would be exceptional circumstances for such conditions.

### **Conclusion**

47. For the reasons given above, Appeal A should be dismissed.
48. However, I have found no harm in the proposals under Appeal B and therefore should be allowed subject to the conditions in Schedule 1 below.

*Steven Rennie*  
INSPECTOR

**Schedule 1 – Conditions for Appeal B.**

- 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:
  - 17\_014\_010A LOCATION PLAN
  - 17\_014\_011 D PLANNING SITE LAYOUT
  - 17\_014\_014B SITE SECTIONS
  - 17\_014\_020B HOUSE TYPE A
  - 17\_014\_021A HOUSE TYPE B-C
  - 17\_014\_022B HOUSE TYPE D-E
  - 17\_014\_023A CARPORT DETAILS
- 3) Prior to their use in the development hereby approved, details of the facing materials and roofing materials to be used for the external construction of the dwellings and any hard landscaping within the site shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with these details.
- 4) Prior to the commencement of any works on site, detailed plans, including cross section as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.
- 5) Prior to occupation of the development space shall be laid out within the site for parking for cars and manoeuvring, as illustrated on approved plan 17/014/011D. This area and the approved garages shall be permanently maintained for this purpose.
- 6) Prior to the occupation of the development the access points off Oval Way shall be constructed in accordance with the approved plans and details.
- 7) Prior construction of the dwellings hereby approved above ground or slab level, full details of the means of enclosure to be retained or erected as part of the development including those between the individual gardens of the approved dwellings and on the boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. The boundaries shall then be erected and maintained in accordance with the plans approved by the Local Planning Authority.

- 8) Prior to construction of the dwellings hereby approved above ground/slab level a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The landscaping scheme should incorporate biodiversity features including the provision of a number of artificial bird features incorporated into the fabric of the buildings and on suitable trees on site.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 10) Prior to any site clearance works, tree protection fencing shall be erected around the trees and hedges to be retained in accordance with both British Standard 5837:2012 and the Tree Protection Plan Drawing No 9885-KC-3U-YTREE TPP01Rev0 dated May 2018 by Keen Consultants. The fencing shall then be retained in the positions shown on the Tree Protection Plan until the development is completed. Within the enclosed areas there shall be no construction works, no storage of materials, no fires and no excavation or changes to ground levels.
- 11) No development shall take place within any of the root protection areas of the trees that are to remain, as indicated on plan No 9885-KC-XX-YTREE-TCP01RevB dated October 2017 by Keen Consultants, until an Arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority, which shall detail all work within the root protection areas of the relevant trees and hedges shown to be retained. This statement shall include full details of protection measures for the trees and hedges during the development, and information about any excavation work, any changes in existing ground levels and any changes in surface treatments within the root protection areas of the trees, including plans and cross-sections where necessary. In particular it shall show details of specialised foundations and no-dig construction where appropriate. The work shall then be carried out in accordance with this method statement.
- 12) No tree or hedge shown to be retained on the Tree Protection Plan Drawing No 9885-KC-3U-YTREE-TPP01 Rev 0 dated May 2018 by Keen Consultants shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation of the development hereby approved without the prior approval in writing of the Local Planning Authority. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree or hedge shall be planted of such size, species and location as agreed in writing by the Local Planning Authority. Furthermore, the existing soil levels within the root protection areas of the retained trees and hedges shall not be altered.



## Appeal Decision

Site visit made on 6 November 2018

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

**an Inspector appointed by the Secretary of State**

**Decision date: 6 December 2018**

---

**Appeal Ref: APP/X0415/W/18/3205309**

**Finch House and Finch Cottage, Finch Lane, Little Chalfont,  
Buckinghamshire HP7 9LU**

- 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 Eaton (GRE Group Construction) against the decision of Chiltern District Council.
  - The application Ref CH/2018/0544/FA, dated 23 March 2018, was refused by notice dated 30 May 2018.
  - The development proposed is described as 'Amendment to the approved scheme to allow for a garage attached to plot 1 with a modest link to the property, and a detached garage to plot 2.'
- 

### Decision

1. The appeal is allowed and planning permission is granted for amendments to the approved scheme to allow for a garage attached to Plot 1 with a modest link to the property, and a detached garage to Plot 2 at Finch House and Finch Cottage, Finch Lane, Little Chalfont, Buckinghamshire HP7 9LU, in accordance with the terms of the application, CH/2018/0544/FA, dated 23 March 2018, subject to the conditions set out in the attached Schedule 1.

### Procedural Matters

2. At the time of my site visit the two new houses were being built on site. The stage of construction appeared quite advanced.
3. The revised National Planning Policy Framework (the Framework) was published on the 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

### Main Issues

4. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
  - The effect on the openness of the Green Belt.

## Reasons

### *Whether or not the proposal is inappropriate development in the Green Belt*

5. The appeal site is situated in the Green Belt. Paragraph 145 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. Paragraph 133 of the Framework makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and 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. New buildings are to be regarded as inappropriate development, subject to a number of express exceptions outlined in paragraph 145. This includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (Paragraph 145 d)
7. In this case the proposal is for the replacement of Finch Cottage and Finch House with two new dwellings. There is already consent for the replacement of Finch Cottage and Finch House with two new houses, ref: CH/2017/2252/FA, and so this appeal relates to a revised proposal, with the main difference being the inclusion of garages. I have also taken into account the revisions to Plot 1 approved under planning application CH/2018/0503/VRC. However, with these consents in place for the replacement dwellings, these are now being built with the former dwellings removed from site. On this basis, the built development at the site has moved on. The replacement houses are being built or quite possibly near or at completion at the time of writing. Therefore, the replacement houses exist and form a new chapter in the planning history of the site.
8. Therefore, having regard to the definition of 'original building' in Annex 2 to the Framework, it is not appropriate in these circumstances to regard the previous houses (now demolished) as the 'original' dwellings, as they have already gone and been replaced. Instead, it is for me to compare the size of the proposed houses with this appeal against the houses being built on site now. It is on this basis that I shall assess whether this proposal constitutes inappropriate development in the Green Belt or not.
9. Saved Policy GB2 of the Chiltern District Local Plan allows for replacement dwellings in the Green Belt, subject to the criteria within other policies, particularly Policy GB7. This Policy, GB7, states that the rebuilding or replacement of an existing habitable dwelling will be acceptable in principle providing the new dwelling is not materially larger than the dwelling which is to be demolished, or more intrusive in the landscape. This also takes into account what can be built under permitted development. The policy does not define further what would constitute materially larger. These policies are generally consistent with the Framework.
10. The revised proposals include an attached garage to Plot 1. This is not a small garage as it would likely provide enough internal space for two vehicles, and have a high pitched roof. There is also the link, but this would be a small addition as the garage would be close to the front of the house. However, as

additional volume over the dwelling already approved and being built it is not a substantial increase that would result in a materially larger house.

11. The garage proposed for Plot 2 is positioned in close proximity to the front of the house and so for the purposes of this assessment I regard this as part of the dwelling proposed. The house at Plot 2 would be smaller than Plot 1, but the garage proposed is also smaller with no link included. It is a fairly modest sized domestic garage and would not result in a materially larger overall dwelling than the dwelling already approved and being built at Plot 2.
12. Overall, the dwellings proposed would be approximately the same size as that previously approved, but with the addition of the garaging to the front of the two dwellings which would increase the overall volume over that already approved and being built. However, this increase in size would not result in materially larger dwellings and so the proposal is not inappropriate development in the Green Belt and therefore would not have a harmful effect to Green Belt openness, as defined by the Framework. Furthermore, the proposed garages would not result in an intrusive development within the wider landscape, be reason of their relatively modest scale and tree screens around much of the site.
13. Furthermore, the proposal generally accords with Policies GB2 and GB7 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001), consolidated September 2007 and November 2011. These policies seek to, amongst other things, safeguard the Green Belt against inappropriate development.

### **Conditions**

14. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance (PPG) and the Framework. Some of the conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
15. I have added an approved plans condition for certainty over the development. However, as this is a revised proposal and the houses are already being built the commencement condition is not required.
16. I have added the condition requiring details of materials and boundary treatment, as this is would ensure an appropriate appearance and design of the dwellings and the garages.
17. I have not included conditions for the removal of permitted development rights for the houses as it has not been sufficiently demonstrated that there are exceptional circumstances for these to be necessary.
18. There is no necessity for a levels condition as the dwellings are already being built and therefore this aspect of the development has already been set.
19. I have added a condition for any tree protection to be in place as per the submitted Arboricultural Implications Assessment for the remainder of the construction period, to ensure the trees that are to remain are safeguarded.
20. Finally, I have attached conditions for details of the vision splay at the access to be submitted in full and implemented once agreed with the Council, prior to



occupation of the dwellings, in the interests of highway safety. I have not added a condition requiring details of parking and turning space as this is sufficiently shown on the proposed plans. However, there is a condition to require the parking and turning areas to be in place prior to occupation.

### **Conclusion**

21. For the reasons given above the appeal should be allowed, subject to the following conditions in Schedule 1.

*Steven Rennie*

INSPECTOR

### **Schedule 1 – Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site layout plan – 1260/P3/1
  - Plot 1 floor plans & elevations – 1260/P3/2
  - Plot 2 floor plans & elevations – 1260/P3/3
  - Plot 2 – garage – 1260/P3/4
  
- 2) Prior to their use in the development hereby approved, named types, or samples of the facing materials and roofing materials to be used for the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority.
  
- 3) Prior to the occupation of the development hereby permitted, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall then be erected/constructed prior to the occupation of the residential units hereby permitted.
  
- 4) For the remainder of the construction period the tree protection as detailed in the approved Arboricultural Implications Assessment shall be erected and maintained around all the trees and hedges to be retained in accordance with both these details and British Standard 5837:2012. Within these enclosed areas there shall be no construction works, no storage of materials, no fires and no excavation or changes to ground levels.
  
- 5) Prior to occupation of the development the maximum achievable vehicular visibility splays from the back edge of the carriageway from both sides of the existing access onto Finch Lane shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and thereafter the visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.

- 6) Prior to occupation of the development, space shall be laid out within the site for parking for cars and manoeuvring in accordance with details included on drawing 1260/P3/1. This area shall be permanently maintained for this purpose.



## Appeal Decision

Site visit made on 5 November 2018

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

**an Inspector appointed by the Secretary of State**

**Decision date: 26 November 2018**

---

**Appeal Ref: APP/X0415/W/18/3207372**

**Adjacent to 1 The Row, Hawridge Common, Hawridge, Buckinghamshire  
HP5 2UH**

- 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 Wallis against the decision of Chiltern District Council.
  - The application Ref CH/2018/0545/FA, dated 23 March 2018, was refused by notice dated 18 May 2018.
  - The development proposed is the following: "Clear site of existing stored materials and vehicles. Construction of two storey dwelling house with detached timber garage to the rear. Front and side of house landscaped in pea shingle for driveway."
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The revised National Planning Policy Framework (the Framework) was published on the 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.

### Main Issues

3. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
  - The effect on the openness of the Green Belt.
  - The effect of the proposal on the character and appearance of the area, including the designated Area of Outstanding Natural Beauty (AONB).
  - 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.

## Reasons

*Whether the proposal would be inappropriate development and its effect on openness.*

4. The Framework identifies that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, unless it is one of a number of exceptions as set out in paragraph 145 of the Framework.
5. Policy GB2 of the Chiltern District Local Plan (the Local Plan) states that most development in the Green Belt would be inappropriate, although there is a list of exceptions which include the replacement of existing buildings for example. This policy accords with the general thrust of the Framework, although I note there are differences. Where there are differences I have given more weight to the Framework.
6. The proposal would be for a new dwelling on land to the side of 1 The Row. This area has its own access off Cholesbury Lane and includes outbuildings and what appear to be stored vehicles. There is a high fence around much of the perimeter with a gate across the access. The proposal would be to remove the outbuildings from the site and build a new dormer style two storey dwelling with detached double garage.
7. There are existing buildings on the site, but the appellant has stated in their Design and Access Statement that this is "land being an extension of the grounds to 1 The Row". The definition of previously developed land in the Framework excludes land in built-up areas such as residential gardens. However, this is an area characterised by a loose ribbon of dwellings in an otherwise rural area. I would not consider this a built up area and therefore could be regarded as previously developed land. The exception of paragraph 145 (g) of the Framework relates to the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt.
8. However, in this case the proposed dwelling and double garage would be of a significantly greater volume than that of the existing collection of low profile sheds and outbuildings. It would also result in development within parts of the site where there is none currently. Whilst the proposed house would be partially screened by existing landscaping, it would have a significantly more visual impact due to its greater height than the existing low profile sheds, thereby also diminishing the visual aspect of openness. Therefore, the proposal would clearly have a greater impact in reducing the openness of the Green Belt than the current development on the site. The development would not comply with the exception under paragraph 145 (g).
9. The Framework does also allow for limited infilling in villages. However, this exception as it is expressed in the paragraph 145 (e) of the Framework is not advanced by the parties. In my opinion, Hawridge Common is a loose ribbon of dwellings and so I am not satisfied from the evidence before me that this would constitute a village in the context of this Framework paragraph. No substantive

evidence has been submitted to the contrary to demonstrate that the development would be not inappropriate development in this regard.

10. Overall, in considering both spatial and visual aspects, the proposal would have a greater impact on the openness of the Green Belt than the existing development. The fact that the proposed house would be partially screened and set near other houses does not sufficiently diminish the greater effect of the development on openness than exists at the site. The proposal would not comply with the fundamental aim of keeping the Green Belt permanently open and would not benefit from any exemption of Green Belt development as set out in the Framework. The proposal is therefore inappropriate development in the Green Belt, and as such conflicts with the Framework.
11. The proposal is also contrary to Policy GB2 of the Adopted Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 and the provisions of the Framework. This policy seeks to, amongst other things, safeguard the Green Belt from inappropriate development.

*Effect on the character and appearance of the area*

12. As stated above, Hawridge Common is a loose ribbon of mainly detached houses along the southern side of Cholesbury Lane in a rural area of the Chiltern AONB, which is a nationally protected landscape. The Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty of such designated areas.
13. The dispersed and linear character of this part of the village means that there are often substantial gaps between dwellings. It is the low density of development and frequent substantial gaps between buildings along Cholesbury Lane that contributes positively to its rural character within the AONB. The proposal would introduce a large new dwelling where there is currently only a low-profile collection of sheds and outbuildings, which have minimal visual impact from outside of the site. The proposed house would be much more visible and prominent with its height above the boundary fences and landscaping, therefore eroding the existing spacious gap between existing dwellings. This would be to the detriment of the character of this line of dwellings and would also affect the wider character of the AONB of which Hawridge Common is set within.
14. The proposal would result in greater urbanisation in this rural area with the proposed house and associated garage and other domestic paraphernalia eroding the significant landscape qualities of the AONB.
15. Any new development, however small, in an AONB requires strong justification to overcome the effects of built development and intrusion into the countryside that I have referred to above. I acknowledge that the proposal would result in an additional dwelling towards housing land supply, but this does not outweigh the harm to the AONB.
16. For the above reasons, the proposal would cause harm to the character and appearance of this rural area and the AONB. As such, the proposal fails to conserve or enhance the special landscape character and high scenic quality of the AONB, contrary to Policy LSQ1 of the Adopted Chiltern District Local Plan 1997 (including the Adopted Alterations May 2001 and July 2004) and Policy

CS22 of the Adopted Core Strategy for Chiltern District (November 2011). These policies seek to, amongst other things, require development to preserve and enhance the special landscape qualities of the Chilterns AONB.

17. Furthermore, the statutory duty in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. I note that, notwithstanding its wider objections, the Council has not concluded that there would be any harm to the Conservation Area from the proposed development. Having regards to the advice contained within the Framework I see no reason to disagree with this view and do not consider that the scheme would harm the heritage asset. However, this does not alter my views on the adverse effect of the scheme on the character and appearance of the area in which it lies.

### **Other Considerations**

18. My attention has been brought to a new house in the grounds of The Full Moon Public House. However, I do not have full details of this application or the reasons why it was approved within the Green Belt. As such, I cannot compare the proposal with this appeal to this other case and so I give this matter limited weight.
19. I acknowledge that a new dwelling might visually improve some aspects of the site, but I would only give this limited weight. Moreover, I have concluded that the proposal would result in harm to the character and appearance of the area.
20. The proposal would provide one additional dwelling within the area, which would have some economic and social benefits, but as it is just a single dwelling this would only be given limited weight.
21. The site is adjacent to and between existing dwellings, but it is still within the Green Belt in a rural location. As mentioned above, there would be some screening of the proposed dwelling, although it would still be visible to some extent. As such, I give these matters limited weight.

### **Conclusions**

22. In conclusion, I have found that the proposed development would be harmful to the character and appearance of the area and the designated AONB. I have also identified that the scheme would be inappropriate development in the Green Belt as defined by the Framework, reducing the openness at the site. This would, by definition, be harmful to the Green Belt. Such harm, the Framework indicates, should be given substantial weight.
23. As explained above, I give only limited weight to the other material consideration cited in support of the proposal and conclude that having regards to all other matters raised, they do not outweigh the harm the scheme would cause.
24. Consequently, there are no very special circumstances necessary to justify inappropriate development in the Green Belt. For the above reasons, and having regard to all other matters raised, I conclude that the scheme should be dismissed.

*Steven Rennie*

INSPECTOR