



Planning Committee

Thursday, 18 April 2019 at 6.00 pm

Council Chamber, King George V House, King George V Road, Amersham

A G E N D A

Item

1 Evacuation Procedure

2 Apologies for Absence

3 Minutes (*Pages 1 - 6*)

To approve the minutes of the Planning Committee held on 21 March 2019.

4 Declarations of Interest

5 Deferred Applications

5.1 CH/2017/0290/OA - Land to the North of Heath End Road, Little Kingshill

6 Items for Noting

6.1 New Planning and Enforcement Appeals

6.2 Withdrawn Appeals

6.3 Appeal Decisions

6.4 Prior Approval Not Needed

6.5 Withdrawn Applications

6.6 Information Regarding Planning Applications to be Determined

7 Report on Main List of Applications (*Pages 7 - 65*)

Latimer & Ley Hill

CH/2017/2353/FA

Ward: Ashley Green Latimer
And Chenies

Page No: 2

Recommendation: Conditional Permission

The Swan Public House, Blackwell Hall Lane, Ley Hill, Buckinghamshire, HP5 1UT

Latimer & Ley Hill

CH/2018/0231/HB

Ward: Ashley Green Latimer And
Chenies

Page No: 22

Recommendation: Conditional consent

The Swan Public House, Blackwell Hall Lane, Ley Hill, Buckinghamshire, HP5 1UT

8 Exclusion of the Public (if required)

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Planning Committee

Councillors: D Phillips (Chairman)
M Titterington (Vice-Chairman)
J Burton
J Gladwin
M Harrold
C Jones
P Jones
J MacBean
S Patel
N Rose
J Rush
J Waters
C Wertheim

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CHILTERN DISTRICT COUNCIL

MINUTES of the Meeting of the **PLANNING COMMITTEE** held on **21 MARCH 2019**

PRESENT: Councillor D Phillips - Chairman
" M Titterington - Vice Chairman

Councillors: J Burton
J Gladwin
M Harrold
C Jones
P Jones
J MacBean
N Rose
J Waters
C Wertheim

APOLOGIES FOR ABSENCE were received from Councillors S Patel and J Rush

ALSO IN ATTENDANCE: Councillor A Bacon

52 MINUTES

The Minutes of the meeting of the Planning Committee held on 14 February 2019, copies of which had been previously circulated, were approved by the Committee and signed by the Chairman as a correct record except for an amendment to the declaration of interest for Councillor MacBean, see minute 53 below.

53 DECLARATIONS OF INTEREST

Councillor J Waters declared a personal and prejudicial interest in planning application PL/18/3410/OA. Nature of interest – Councillor Waters knew a neighbour to the property as a family friend and left the room for this item.

Councillor J MacBean declared a personal and prejudicial interest in planning application PL/18/3887/FA (deferred item 5.2). Nature of interest – Councillor MacBean knew a neighbour to the site as a business customer of her husband and left the room for this item.

Councillor J Gladwin declared a personal interest in planning application PL/18/4107/FA. Nature of interest – Councillor Gladwin knew one of the objectors.

54 DEFERRED APPLICATIONS

Note 1: Councillor J Waters left the room before this application at 6.05 pm

5.1 PL/18/3410/OA

Stepping Stones, Ballinger Road, South Heath, Great Missenden HP16 9QH

The meeting was updated with the response received from the Parish Council, that had concerns regarding AONB, Green Belt/Density/traffic.

RESOLVED

Refused Permission by reason of being contrary to Policy GB5 in the Local Plan and because the layout would be detrimental to the amenity of the neighbouring properties. Precise wording of reason for refusal to be agreed with the Chairman.

Note 2: Councillor J Waters re-entered the meeting and Councillor J MacBean left at 6.18 pm.

5.2 PL/18/3887/FA

75 Lye Green Road, Chesham HP5 3NB

RESOLVED

Conditional Permission, subject to the Conditions and Informatives set out in the original report, and the two additional Conditions set out below. Decision delegated to Head of Planning & Economic Development.

- (a) Prior to the occupation of any of the dwellings hereby approved, full details of the "bin collection point" area, including means of enclosure, as shown on the Site Layout Plan hereby approved (Drawing No. 918:1119/PL100) shall be submitted to and approved in writing by the LPA and it shall thereafter be retained for its stated

purpose.

Reason: To ensure that space is provided within the development for residents to store their waste bins on the day of collection, and to ensure that appearance of the bin collection point is acceptable.

- (b) The dwellings hereby permitted shall not be occupied unless the five-bay detached car port has been built in accordance with the approved drawings (Site Layout Plan (Drawing No. 918:1119/PL100) and elevational drawings (Drawing No. 918:1119/PL105). This car port shall thereafter be retained in this position and retained for the parking of vehicles associated with the residential occupation of the dwellings on the site.

Reason: To ensure sufficient parking is available within the site, to reduce on-street parking in the area and avoid inconvenience and safety issues to other road users; and to ensure that the third dwelling permitted under planning permissions CH/2018/0366/FA and CH/2016/2230/FA is not built, as this would result in an overly dense development which has the potential to adversely affect the character of the area and fail to provide satisfactory amenity space and parking provision for future residents.

Condition 2 is also to be amended to include submission of all surface materials within the development/access track.

Condition 3 is also to be amended to include submission of surface treatments as part of Tree Protection Plan.

Note 3: Councillor J MacBean re-entered the meeting at 6.48 pm and Councillor C Jones entered the meeting at 6.48 pm.

55 ITEMS FOR NOTING

RESOLVED -

That the reports be noted.

56 REPORT ON MAIN LIST OF APPLICATIONS

RESOLVED -

- 1. That the planning applications be determined in the manner indicated below.**

2. **That the Head of Planning and Economic Development be authorised to include in the decision notices such Planning Conditions and reasons for approval, or reasons for refusal as appropriate, bearing in mind the recommendations in the officer's report and the Committee discussion.**

APPLICATIONS

PL/18/4107/FA 274 & 274A Chartridge Lane, Chesham, Buckinghamshire, HP5 2SG

Updates were given from Bucks County Highways who had responded to the drawings provided and had no objections.

Speaking for the objectors, Dr Jim Conboy
 Speaking for the applicant, Mr Innes Gray
 Speaking as local District Councillor in an adjoining ward, Councillor A Bacon.

RESOLVED

Permission Refused by reason of substandard vehicle access, not safe and suitable for all modes of transport/users as required by the NPPF.

Note 4: Councillor C Jones and A Bacon left the meeting at 7.48 pm.

PL/18/4466/FA Chiltern Hills Academy, Chartridge Lane, Chesham, Buckinghamshire, HP5 2RG

Speaking for the applicant, Mr Kevin Patrick

RESOLVED

Defer – in order to allow officers to assess the proposal in the light of the consultation received from Bucks County Council relating to a planning application to re-develop parts of the school.

PL/18/4598/FA Former Mushroom Farm, Meadow Lane, South Heath, Buckinghamshire, HP16 9SH

RESOLVED

Defer-minded to approve subject to the prior completion of Legal Agreement. Decision delegated to Head of Planning & Economic Development. Considerate Constructor's Informative to be added.

PL/18/4685/FA

Rowan Cottage, 164 White Lion Road, Little Chalfont, Buckinghamshire, HP7 9NL

Speaking as the applicant, Mr Manish Popli

RESOLVED

Permission Refused by reason of incongruous development, taken to an excessive height.

That follow up action be authorised (to secure the removal of all building above the previously approved height) in accordance with Central Government Guidance in paragraph 207 of the National Planning Policy Framework (NPPF) and Chiltern & South Bucks District Councils' Joint Planning Enforcement Plan and that the Head of Planning and Economic Development and Head of Legal and Democratic Services be authorised to serve such Enforcement Notices, including Stop Notices in respect of the development described above, as may be considered appropriate. The precise steps to be taken, period of compliance and the reasons for serving the notice to be delegated to the Head of Planning and Economic Development. In the event of non-compliance with the Notice, the Head of Planning and Economic Development be authorised to instigate legal proceedings in consultation with the Head of Legal and Democratic Services and/or take direct action to secure compliance with the Notice.

PL/18/4719/FA

The Old Swan Public House, Swan Lane, The Lee, Buckinghamshire, HP16 9NU

There was a further update from Bucks County Highways who had no objections.

Speaking for the Parish Council, Councillor Colin Sully

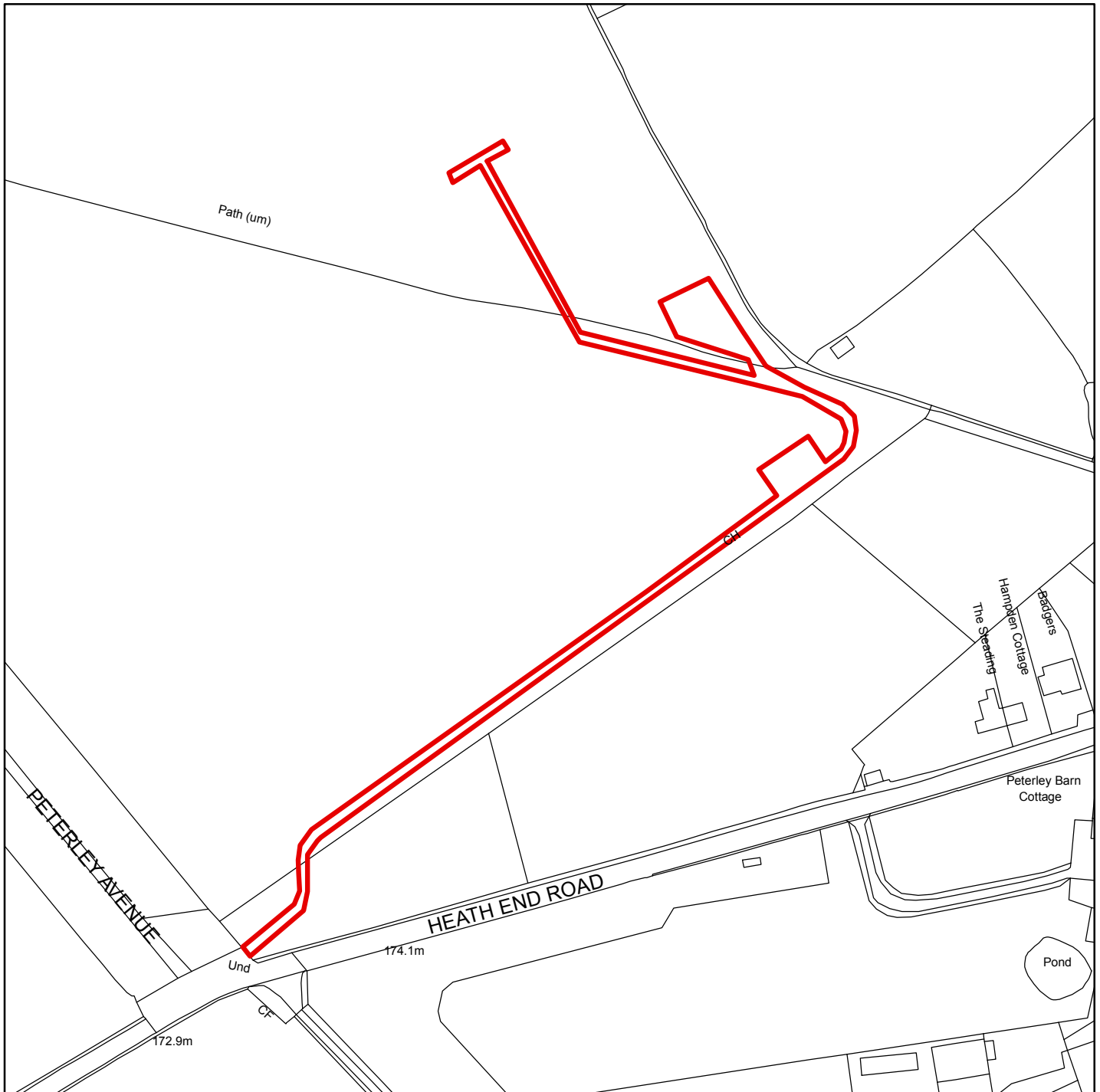
RESOLVED
Conditional Permission

The meeting ended at 9.11 pm



CH/2017/0290/FA

Land To The North Of Heath End Road, Little Kingshill
Buckinghamshire



Scale: 1:2,000

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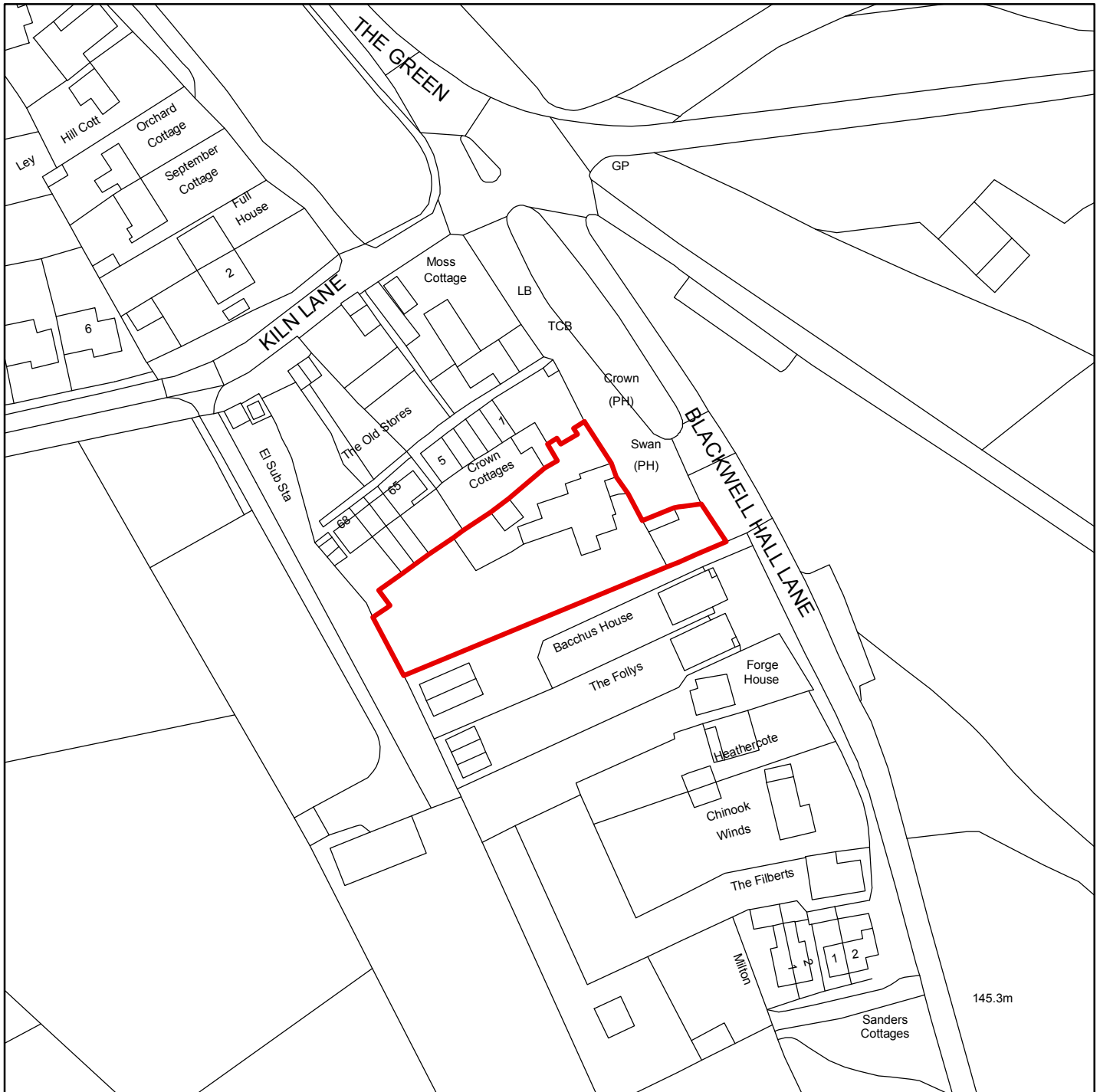
Organisation	Chiltern District Council
Department	Planning & Environment
Comments	
Date	
SLA Number	100033578.2016

CH/2017/2353/FA & CH/2018/0231/HB



CHILTERN
District Council

The Swan Public House, Blackwell Hall Lane, Ley Hill
Buckinghamshire HP5 1UT



Scale: 1:1,250

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Organisation	Chiltern District Council
Department	Planning & Environment
Comments	
Date	
SLA Number	100033578.2016

PLANNING COMMITTEE – 18 April 2019

REPORT OF THE OFFICERS

Background papers, if any, will be specified at the end of each item.

AGENDA ITEM No. 5

5 DEFERRED APPLICATION

CH/2017/0290/OA (Case Officer: Margaret Smith)

Temporary rural workers dwelling, erection of general purpose agricultural building and yard, formation of farm track

Land to the North of Heath End Road, Little Kingshill

Matter for consideration

5.1.1 Members will be aware that this planning application was heard by the Planning Committee at the meeting of 2nd November 2017. The original Case Officer's report is attached at **Appendix FP01**.

5.1.2 The application was deferred to allow Committee Members more time to consider the financial information received from the consultant and to request further details. These details have now been submitted. Various delays have contributed to the lengthy period of time before this application could be brought back to Committee.

Evaluation

5.1.3 The original officers' report to the Planning Committee recommended that planning permission be granted for the scheme. However, Members were unhappy with some of the financial information submitted and the siting of the buildings.

5.1.4 The applicant has now provided further information. Following the deferral by Members, the agent verbally confirmed that the applicant would be willing to relocate the proposed temporary dwelling, although they state it is preferable for it to be close to the alpacas for welfare reasons, and/or to marginally reduce the size although it is no larger than a maximum sized caravan and is needed for the farmer and dependents.

5.1.5 The further information submitted includes the following sections:

- i. Labour - The scale of the proposed business will enable greater efficiency and so it is reasonable to estimate a lower unit rate per head of livestock, and the labour requirement is different to the need for an essential presence on the land.
- ii. Fixed Costs - A notional return on land through rental or on working capital was not included in the figures because any appreciation in the value of the land would only be realised on its disposal. However, the figures have been revised and the cost of 1.5 units equates to £22,500 per annum, which exceeds the projected costs of the business.
- iii. Capital Costs - The cost of additional alpacas will be met from the applicant's private funds, which are separate from the day to day financial conduct of the business. The opportunity cost of that capital employed is allowed for as a cost, at 2.5%.

- iv. Hay and Stocking Rates - Bourne Rural quote stocking guidance from Nix Farm Pocket Book at 5 alpacas per acre whereas Nix (46th Edition) indicates 5-8 alpacas per acre i.e. a maximum stocking density of 240 alpacas. Consequently there is flexibility to produce hay at the unit as a result of pasture management. However, for the avoidance of continued dispute income from hay production and livery has been removed.

The revised projection shows a business that can achieve viability within the 3 year period.

- 5.1.6 The agent for this application has also confirmed that the agricultural building is the only permanent agricultural building; a building across the road is only used on a casual basis.
- 5.1.7 The agent has also confirmed that the proposed siting of the temporary dwelling and the new building is so that it is near to the birthing paddocks, which are sited to the north of the footpath for reasons of safety and convenience and to accommodate the whole herd. Also they consider that the proposed siting would have minimal impact on the landscape and the proposed track would have no significant landscape impact.
- 5.1.8 The Council's Agricultural Consultant has reviewed the additional information that has been submitted and has concluded as follows:
 - i The agent has acknowledged that livery income and hay income should be removed, a return on working capital should be included, a notional rent on bare land should be included, an increased labour requirement should be incorporated, Band A Council Tax should be included and depreciation should be incorporated.
 - ii The application initially indicated that at Year 3 the enterprise would generate a labour requirement of 1 full time worker and 1 part time worker; this has now been revised to 2.5 full time workers with a 25% reduction for economies of scale. However, these agents would normally expect the need for 3.3 workers at Year 3 with a 25% reduction for economies of scale to 2.5 workers but an additional 15% for management and maintenance, totaling 2.9 workers. At an average labour cost, the total labour cost at Year 3 would exceed the projected profit.
 - iii The financial projections do not take into account all relevant costs and expenditure, for example, stock purchases and investment in infrastructure, tracks, log cabin purchase and the construction of the agricultural building, provision of electricity and water to the site and insufficient projections for depreciation compared to actual depreciation in years 2015/16.
 - iv Stock depreciation and purchases are not included in the financial projections.
 - v The purchase costs, falling value of stock and cost of production etc., is also not evident in the stock valuation figures.
- 5.1.9 The Council's Agricultural Consultant concludes, "For an enterprise to be considered viable and sustainable, it is necessary to ensure that it can be shown to provide a reasonable return on the land, labour and capital used in the business." Based on the information provided, it is concluded that the applicant has failed to demonstrate that the proposed enterprise is capable of achieving financial viability and sustainability.
- 5.1.10 With regard to siting, the Council's Agricultural Consultant previously raised concerns in relation to the proposed siting of the mobile home and the agricultural building some 280m

and 370m respectively from the access; the proposed siting creating two distinct areas of development for which there is no agricultural justification; and the proposed siting generating a requirement for a significant access track.

- 5.1.11 With regard to the applicant's previous comments that the agricultural building needs to be closely related to the paddocks which are sited on the north side of the public footpath running through the field, so that stock may be moved by use of the races, the Agricultural Consultant has advised that in order to graze the number of alpacas proposed, the whole of the land holding will be needed for grazing land. The majority of the land lies to the south of the footpath and so a proposal to site the agricultural building at this location is entirely reasonable and appropriate.
- 5.1.12 The Council's Agricultural Consultant has also asserted that it is usual to site buildings near to the access to provide increased security and to allow for ease of access and that would negate the requirement for the proposed track to transport the animals because they could walk across the holding and fenced walkways could be incorporated where necessary.
- 5.1.13 The Council's Agricultural Consultant again concludes, "It is evident that there is no agricultural justification for the siting as currently proposed. There is scope to consider alternative sites on the holding, which would continue to meet any identified needs of the proposed agricultural activity but reducing the visual impact of the proposed development."

Conclusion

- 5.1.14 The additional information submitted by the agent was in response to the matters for which the application was deferred from the previous Planning Committee meeting. Members will recall that notwithstanding the Agricultural Consultant's previous and continued concerns regarding siting and viability, the application was recommended for approval in accordance with the conclusions of the attached report, and subject to a limited period condition for the dwelling in order to review the viability of the enterprise at the expiry of this period.
- 5.1.15 The Council's Agricultural Consultant continues to object to the proposed development on both viability and siting grounds, and the expert advice of the Council's Agricultural Consultant is accepted with regard to the viability position, due to the greater amount of information now submitted and considered. With regard to the siting of the proposed temporary dwelling and the proposed access track, the NPPF allows in principle for the construction of new buildings for agriculture. However, when considering any planning application in the Green Belt, paragraph 144 of the NPPF states that substantial weight should be given to any harm to the Green Belt in addition to any potential harm by reason of inappropriateness. Although agricultural development is not inappropriate, there is potential for additional harm to the Green Belt by reason of the impact on openness. There is also the impact on the landscape character, which is a separate issue. The proposed siting in an exposed location is not necessary for any agricultural reason. This results in a long stretch of hardsurfacing and will impact on the surrounding rural character, resulting in a sprawl of development that will unnecessarily visually encroach on the countryside.

RECOMMENDATION

- 5.1.16 The recommendation, on the basis of the additional information, is to refuse planning permission, for the following reason:
- i Insufficient evidence has been submitted to demonstrate the status of the existing enterprise as a viable agricultural unit and, as such, the justification for a temporary farmworker's dwelling and/or general purpose building and yard. Furthermore, the siting of the proposed dwelling and general purpose building and the associated access would have a potentially intrusive impact upon its setting in the landscape, which would contribute to the

erosion of the openness of this part of the Green Belt, which is its essential characteristic. Furthermore, the proposal would fail to conserve or enhance the natural beauty of the rural landscape of this part of the Chilterns AONB. As such, the proposal is contrary to policies GB2, GB17 and LSQ1 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011; Policy CS22 of the Core Strategy for Chiltern District (Adopted November 2011); and section 13 of the National Planning Policy Framework (2018).

AGENDA ITEM No. 6

6 ITEMS FOR NOTING

6.1 NEW PLANNING AND ENFORCEMENT APPEALS

CH/2018/0299/FA – Erection of an outbuilding (retrospective), Austens, 11 The Greenway, Chalfont St Peter

PL/18/2057/FA - Demolition of existing garage and rear conservatory and erection of part single, part two storey side and rear extensions to existing house with roof level accommodation, Littleholme, Austenwood Lane, **Chalfont St Peter**

PL/18/2197/FA - Redevelopment of land to rear of 14-16 Kings Lane, construction of three dwellings with associated access, parking & landscaping, Land to Rear of 14-16 Kings Lane, **South Heath**

PL/18/2774/FA - Redevelopment of site (plots 15 and 16) to provide three new dwellings with two detached garages and one carport, creation of two new vehicular accesses and laying of associated hardstanding, Woodchester, Woodchester Park, **Knotty Green**

PL/18/3069/FA - Extension to building to create a fourth storey to provide six additional apartments in connection with the use of the whole of the resultant building as 53 residential units and associated parking, cycle stores and bin stores, Chalfont Park, Chalfont St Peter Bypass, **Chalfont St Peter**

PL/18/3418/VRC - Variation of Condition 8 of planning permission PL/18/2622/VRC (Redevelopment of site to provide two detached dwellings with new vehicular access CH/2017/0246/FA), Bowers Croft, Magpie Lane, **Coleshill**

PL/18/3425/FA - No 9 - Part single/part two storey infill extension to rear. No 11 - first floor extension to rear, 9 and 11 Vale Rise, **Chesham**

PL/18/4174/FA – Redevelopment of site to provide 3 detached dwellings following demolition of school buildings, The School House, Little Grove, Grove Lane, **Ashley Green**

6.2 APPEAL DECISIONS

CH/2017/2037/FA - Replacement barn to create detached dwelling, Town Farm Meadow, High Street, Amersham

Officer Recommendation: Refuse Permission

Appeal Decision: Appeal Dismissed (21.03.2019)

CH/2018/0537/SA - Application for a Certificate of Lawfulness for a proposed operation relating to the alteration of rear pitched roof, two front roof lights and rear dormer, 84 Amersham Road, **Little Chalfont**
Officer Recommendation: Part approve/part refuse
Appeal Decision: Appeal Dismissed (19.03.2019)

CH/2018/0779/SA - Application for a Certificate of Lawfulness for a proposed vehicular access and permeable driveway parking area, 58 Winters Way, **Holmer Green**
Officer Recommendation: Part approve/part refuse
Appeal Decision: Appeal Dismissed (19.03.2019)

PL/18/3276/FA – First floor side extension, 4 The Farthings, **Chesham Bois**
Officer Recommendation: Refuse Permission
Appeal Decision: Appeal Dismissed (21.03.2019)

6.3 CONSENT NOT NEEDED

PL/18/3574/HB - Listed building application for new vehicular access, Hill House, 11 Bowstridge Lane, **Chalfont St Giles**

PL/18/4638/HB - Listed Building Consent for detached double garage and driveway, Mortimer House, Village Road, **Ballinger**

6.4 PERMISSION NOT NEEDED

PL/19/0229/TP - Work to trees in accordance with a submitted schedule - trees protected by a Tree Preservation Order, Three Bears Cottage, Aylesbury Road, Great Missenden

6.5 WITHDRAWN APPLICATIONS

PL/18/3954/FA - Erection of three bay garage with home office above, Beechwood House, Hawridge Vale, **Hawridge**

PL/18/4174/FA - First floor patio on existing flat roof with glass balustrade and change of window to door, 21 Grange Road, **Chalfont St Peter**

PL/18/4280/FA - Part two storey, part single storey front extension, single storey side extension, raising of roof level with two front rear dormers and three front rooflights, 7 Canterbury Close, **Amersham**

PL/18/4409/FA - Erection of outbuilding to serve as a residential annexe, The Old Barn House, The Platt, **Amersham**

PL/18/4804/FA - Extension to side entrance, demolition of existing conservatory and changes to rear fenestration and balustrade, Ollaberry, Grimms Hill, **Great Missenden**

PL/19/0195/SA - Application for certificate of lawfulness for proposed : Single storey infill to rear extension, 71 Broad Street, **Chesham**

PL/19/0263/PNE - Notification under The Town and Country Planning (General Permitted Development) Order 2015, Part 1 of Schedule 2 Class A 4 for a single storey rear extension (D 8.0 m, MH 2.9 m, EH 2.2 m), Hohturli, Village Road, **Whelpley Hill**

PL/19/0305/PNE - Notification of proposed single storey rear extension; depth extending from the original rear wall of 6.0 metres, a maximum height of 3.0 metres and a maximum eaves height of 3.0 metres, 2 Sandycroft Road, **Little Chalfont**

6.6 INFORMATION REGARDING PLANNING APPLICATIONS TO BE DETERMINED

Appended for your consideration are lists of applications submitted under the Town and Country Planning Act, 1990, and the Planning [Listed Buildings and Conservation Areas] Act, 1990, together with a recommendation from the Head of Planning Services. The forms, plans, supporting documents and letters of representation relating to each application are available for inspection on Public Access on the Councils Website.

Background papers for each of these planning applications, unless otherwise stated, are the application form and related letters, statements and drawings, notices, papers, consultations, and any written representations and comments received.

Reports may be updated at the meeting if appropriate, for example, where responses from consultees or further letters of representation are received.

AGENDA ITEM No. 7

7 REPORTS ON MAIN LIST OF APPLICATIONS

AGENDA ITEM No. 8

8 EXCLUSION OF THE PUBLIC

That under Section 100(A)(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting of the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 18th April 2019

INDEX TO APPLICATIONS ON MAIN LIST OF REPORT

Latimer & Ley Hill

CH/2017/2353/FA

Ward: Ashley Green Latimer And
Chenies

Page No: 2

Proposal: Change of use of The Swan Pub to use class D1 (Non-residential institutions - nursery).

Recommendation: Conditional Permission

The Swan Public House, Blackwell Hall Lane, Ley Hill, Buckinghamshire, HP5 1UT

Latimer & Ley Hill

CH/2018/0231/HB

Ward: Ashley Green Latimer And
Chenies

Page No: 22

Proposal: Internal alterations to facilitate change of use of The Swan Public House to use class D1 (Non-residential institutions - nursery).

Recommendation: Conditional consent

The Swan Public House, Blackwell Hall Lane, Ley Hill, Buckinghamshire, HP5 1UT

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Main List of Applications 18th April 2019

CH/2017/2353/FA

Case Officer: Vicki Burdett
Date Received: 21.12.2017
Parish: Latimer & Ley Hill

Decide by Date: 23.04.2019
Ward: Ashley Green Latimer And
Chenies

App Type: Full Application
Proposal: Change of use of The Swan Pub to use class D1 (Non-residential institutions -
nursery).
Location: The Swan Public House
Blackwell Hall Lane
Ley Hill
Buckinghamshire
HP5 1UT
Applicant: Ms Fiona Murray-Young

SITE CONSTRAINTS

Article 4 Direction
Adjacent to Unclassified Road
Area of Special Control of Advertisements
Adjacent Listed Buildings
Adjacent to Archaeological Notification Site
Archaeological site
Bovingdon Technical Radar Zone
Within Green Belt other than GB4 GB5
Listed Building
Within 500m of Site of Importance for Nature Conservation NC1
On/within 250m rubbish tip
GB settlement GB5,6,12,23,H7,13,19

CALL IN

Councillor Garth has requested that this application be determined by the Planning Committee regardless of the officers' recommendation.

SITE LOCATION

The application relates to The Swan Public House located in Blackwell Hall Lane, Ley Hill. The site lies within the open Green Belt and is Grade II listed (listed in 1984) dating from the 16th and 17th century. The building has been in use as a Public House since at least 1843 and prior to this was originally three cottages, with two built in approx. 1520 and the third in 1680. The site is surrounded by mainly residential development but is

sited directly next to an existing pub (The Crown Public House). The first-floor of the pub is currently used for ancillary accommodation. The Swan Public House has recently been designated as an Asset of Community Value (on the 26th November 2018). Permitted development rights for this building are therefore removed.

THE APPLICATION

The application proposes a change of use of the pub (including the ancillary accommodation above) to use Class D1 (non-residential institutions - nursery).

No external alterations are proposed to the building.

RELEVANT PLANNING HISTORY

CH/2018/0231/HB - Pending Consideration - Internal alterations to facilitate change of use of The Swan Public House to use class D1 (Non-residential institutions - nursery)

CH/2016/1250/DM - NOOBJ - Prior notification for approval of the demolition of double garages

CH/2007/0900/HB - Conditional Consent - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post

CH/2007/0899/AV - Conditional Consent - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post

CH/2007/0489/HB - Withdrawn - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building illuminated by three bullet lights. The erection of a flood light to the side elevation.

CH/2007/0488/AV - Withdrawn - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post and the erection of a flood light to the side elevation

CH/2007/0290/HB - Withdrawn - One large permanent umbrella fixing to front of property

CH/2007/0288/FA - Withdrawn - One large permanent umbrella fixing to front of property

CH/1993/1315/HB - Conditional Consent - Alterations, single storey extension to dining room on south and west elevations, new pergola, external staircase on north elevation to serve first floor flat and additional car parking

CH/1993/1314/FA - Conditional Permission - Alterations, single storey extension to dining room on south and west elevations, new pergola, external staircase on north elevation to serve first floor flat and additional car parking

CH/1992/0401/HB - Conditional Consent - Single storey rear extension to provide store

Classification: OFFICIAL

CH/1992/0400/FA - Conditional Permission - Single storey rear extension to provide store

CH/1985/0675/HB - Conditional Consent - Erection of a single storey side extension

CH/1985/0623/FA - Conditional Permission - The erection of a single storey side extension

CH/1985/0048/HB - Refused Consent - The erection of a single storey side extension for use as eating area, ancillary to the public house

CH/1985/0047/FA - Refused Permission - The erection of a single storey side extension for use as an existing area, ancillary to the public house

CH/1982/2045/FA - Conditional Permission - Construction of single storey extension to form integral male and female public toilets and additional beer storage area

PARISH COUNCIL

Latimer and Ley Hill Parish Council made the following comments -

4th February 2018:

Loss of Amenity

The Parish Council notes the number of submissions from local residents which are all objecting to the application for change of use to what we understand is a Grade II listed building. We would submit that this is evidence of the significant loss of amenity to the village should the change of use be approved. Whilst Ley Hill has two pubs, uniquely next door to each other, this is an intrinsic part of the charm of Ley Hill both for local residents and for visitors to the area, particularly walkers who use the pubs as a destination or refreshment stop. To lose one of these on the basis of unsubstantiated statements made in the application would be an egregious decision. We would also seek to challenge the suggestion that the replacement of the pub business with a children's nursery offers another form of community facility for the growing number of families in the area as stated in the application. There are already two children's nurseries in Latimer and Ley Hill and there is no evidence that a further facility is required and indeed the number of young families in the village is limited. Any demand for the facility would therefore come from further afield, offering no amenity for Ley Hill but further adding to the traffic congestion and parking issues identified below given that all the users would travel to the site by car.

Traffic/Parking

The application states that the site has access to unlimited parking but this is not the case. We would suggest that the applicant is referring to parking availability on local lanes adjacent to the property. We would comment that these lanes are already used for parking for the Crown pub as well as by users of the village common, Ley Hill Memorial Hall and Ley Hill School. There is no capacity along these lanes for the significant additional parking requirements of a children's nursery, for both staff for the whole day and during drop off and collection times. The Parish Council is already undertaking significant work to address speeding along the roads in the local area including around the area adjacent to The Swan. We would also draw the attention of the planning committee to the additional HGV traffic due to start once the waste disposal site at Meadhams Farm opens for business shortly. These vehicles would be passing The Swan building as the only access route to the site.

Change of Use

Classification: OFFICIAL

The application notes that the two pubs are 'challenged with intense competition in a declining pub market' and implies that the business is not profitable. This is at odds with the advertised sales details for The Swan which state the business is a profitable operation with a high adjusted net profit.

14th February 2018:

The Parish Council raised comments regarding the submitted Traffic Report in addition to any previous comments submitted. The main concerns are summarised as follows:

- Volume of traffic figures are incorrect
- Traffic statement does not mention the absence of footways in the area - children will therefore be walking along a busy Highway
- Most times of the day any available parking is taken by current visitors of the common
- The statement claims that the parking is used "predominantly by golfers, cricket club but rarely by pub customers". The purpose for which cars are parking is immaterial, the key point is that there is no capacity for additional cars
- Inconsistency between the Traffic Report and application details on parking availability
- Not clear whether the proposals will affect the pedestrian access and bin access
- Refuse collection vehicles could affect the children being dropped off at the nursesey with no footway
- Deliveries to The Crown would also be adversely affected by congested traffic in the very limited roadway
- Concerned that the information presented is inaccurate and misleading as there have been some serious accidents close to the site
- Impact on local junction capacity
- Traffic congestion from HGV vehicles
- The Parish Council believes that all the land in front of the Crown and The Swan is common land and is not available for others uses such as parking

7th August 2018:

Several comments were provided regarding the amended plans submitted, however since these were submitted the inconsistencies have been rectified. Other comments relating to material planning considerations are summarised as follows:

- In the Design and Access Statement it states that there is excellent public transport. But this does not cover early morning, late afternoon and evening drop off and pick ups and also no public footpath from the bus stop to the premises
- Recent approvals elsewhere will place additional traffic demands on Blackwell Hall Lane
- Surrounding nurseries are evident
- Does not appear to be a traffic risk assessment for the dropping off period and crossing the road

29th November 2018:

The Parish Council has concerns as to whether visitors, visitors with disabilities or staff with disabilities will have access to toilet facilities. The latest proposed ground floor plan (10th October) shows only a cloakroom with two toilets for children. The only adult toilet is on the first floor which is accessible via the narrow stairwell and through the office and staff room. The Parish Council would appreciate clarification that is acceptable from Daniel Munday who commented on the Disabled Access Consultation.

REPRESENTATIONS

A total of 72 objection letters have been received and are summarised as follows:

- Detriment to listed building
- The Swan is a 500 year old pub which has been successfully serving the local community for the whole of that time
- Joint events held with The Crown Pub

- Interference with adjacent property
- Other infrastructure deficiency
- Many day nurseries in the area
- Proposed application would need to be unique to get it off the ground and enjoy any form of success
- Additional traffic activity and congestion
- The number of fulltime workers is solely dependent upon a full complement of children attending the day nursery
- Short term aspiration with no visible benefit to anyone in the immediate local area
- Intrusion into countryside
- Other loss of amenities
- Detriment to Conservation Area
- Contrary to Development Plan
- Inadequate access
- Noise/disturbance
- Lack of parking available
- No plans for the front grass, rear or side areas - will these be for future residential developments
- Not a good use of the site
- Mis-management has affected the business
- The Swan is on the market as having 'high adjusted net profit' and being a 'reluctant sale after 11 years ownership'
- Ley Hill will lose visitors from this proposed change of use
- Not appropriate for the area
- Parking would impinge on local residents and the business to The Crown
- Noise from garden area would be unfair on immediate neighbours
- Lack of hospitality has caused customers to go to The Crown instead
- Danger to children from the highway
- Current landlords have specifically and consistently run the business down in order to sell with change of use
- With the right management The Swan would be viable
- A private nursery would not constitute a community facility
- Would not be a social and communication connection for the village
- The fabric of a listed building being destroyed to provide a facility that is not required
- Loss of facility for walkers and cyclists
- Suggested covenant to prevent further applications for change of use
- Survey to local residents on how they would use The Swan if it were to open under new management - 70-82% would use the pub/restaurant/coffee and cakes either daily, weekly or monthly

In addition to this, the following have also been prepared:

- 350 signature petition
- The Save our Swan Action Group (SOS) Business Plan (16th October 2018)
- Save the Swan Facebook page

CONSULTATIONS

Bucks County Council Highways Authority have provided comments throughout, with the latest comments as follows:

18th January 2019:

I write further to my comments dated the 22nd January 2018, in which I had asked the applicant to provide a Transport Statement to accompany the application. Since these comments were submitted to the Local Planning Authority, the applicant had submitted the additional information requested. The comments below consider this additional information.

Information submitted within the TS to the Local Planning Authority states that the opening hours of the nursery would be between the hours of 7:30am to 5:30pm Monday to Friday and would cater for approximately 50 children. This would contradict the application form submitted, which states that the site would be open from 7:30am to 7pm.

When considering trip generation, I note from the submitted TS that the applicant has undertaken surveys of existing nursery sites in order to establish the trip generation that will be generated as a result of the proposals; however no information has been submitted relating to the trip generation potential of the existing public house. Having undertaken my own TRICS (Trip Rate Information Computer System) analysis, I would expect the existing public house to have the potential to generate in the region of 148 vehicular movements (two-way) per day, with 0 movements and 12 movements in the AM/PM peak hours respectively. With regard to the proposed 283m² nursery, I would anticipate that this would have the potential to generate in the region of 117 vehicular movements (two-way) per day, with 22 and 12 movements in the AM/PM peaks respectively. As such the site would result in a reduction in movements associated with the site.

When cross-checking the application site boundary plan (red-edge) with of the publicly maintained highway for the area, I note that the application site boundary does not meet with the public highway in this location, which would effectively create a 'ransom strip' between the development and the public highway. Whilst not a planning reason for refusal, the applicant will need to demonstrate that a legal right of access is achievable. The site can be accessed via a 'loop' of Blackwell Hall Lane, to the west of the main carriageway, and therefore vehicles can access the site through two separate access points.

When considering parking provision, I note that the submitted TS makes reference to 8 parking spaces being provided for use by staff only, accessed via an existing access between The Swan Public House and The Crown Public House, with no additional parking spaces or dedicated pick-up drop-off points proposed for parents. It should be noted that the site is surrounded by Common Land in the vicinity of the site, including the access road and the parking area to the front of the site.

Paragraph 5.7 of the submitted TS states that 'drop off activity will be aided by the layout of Blackwell Hall Lane adjacent to the site which forms a natural loop, such that parents dropping off children can circulate in a clockwise fashion.' As stated above, no detailed parent parking spaces have been provided, however, as with the staff parking, vehicles will be required to park on the area to the front of the site, and on the common in the vicinity of the site. I trust that the Local Planning Authority will consider the use of this Common Land in the vicinity of the site and whether the applicant has permission to use the land in question as parking in perpetuity. Given that the existing public house site currently has a shortfall in parking associated with the site, and that the proposed nursery would require fewer spaces than that of the existing public house, I do not consider that a reason for refusal could be upheld at appeal on the basis of an inadequate parking provision.

When taking into consideration the sustainability of the site, I note that public transport facilities in the form of bus stops are available within walking distance of the site. Buses 71/73 running from Chesham to Little Chalfont are served via these stops, with four services a day, six days a week, including Saturdays. There are no buses running during the peak hours, nor are there footways linking these bus stops to the site. In transport terms the site is not considered sustainable in the context of the requirements of the NPPF as it would predominantly be reliant on the use of the private car. However, the diversification vs sustainable development issue may be a matter that you need to weigh in the planning balance.

I note that representation has been received from Latimer and Ley Hill Parish Council, which outline concerns with the applicants Transport Statement. This information also includes responses by the applicant to the points raised, which includes concerns regarding parking, collision data, site servicing and a pick-up/drop-off

area. As the site would be expected to result in a reduction in movements, and that refuse collection and servicing would not alter from the previous arrangement on site, I do not consider that I could reasonably raise an objection on the basis of collision data or the site servicing.

With regard to site parking, I note that whilst the existing public house has a shortfall of parking spaces associated with the site, the proposed nursery would require fewer spaces than the existing public house, and as such I do not consider that a reason for refusal based on parking would be justifiable in this situation.

Mindful of the above, I have no objection to the proposals, subject to the following conditions being included on any planning consent that you may grant'.

Chiltern and South Bucks Building Control raised no objections.

The Districts Joint Estates Team made the following comments:

'In relation to the above planning application, I provide comments in relation to the property's listing as an Asset of Community Value. The Swan was listed as an Asset of Community Value (ACV) by the Council on the 26th November 2018 following the receipt of a nomination from Latimer and Ley Hill Parish Council, under Section 89 of the Localism Act 2011. The nomination was found to meet the criteria of the Localism Act to enable The Swan to be listed. The owner of a property listed as an ACV does have a right to request a review of the decision within 56 days of the date of listing. In the case of The Swan, no such request was received. The Swan will therefore remain listed as an ACV for a period of 5 years from the 26th November 2018 unless it is removed with effect from some earlier time in accordance with the provision of the Regulations, eg after a relevant disposal (other than an exempt disposal), or the Council is of the opinion that the property is no longer of community value'.

The Districts Historic Buildings Officer made the following comments:

27th March 2019:

Designation

The Swan PH is a grade II listed building dating from the 16th century. The northern two timber framed bays were constructed in 1520, with the southern brick wing added in 1680. Part of the building was used as a PH from at least 1843, and by 1881, the entire building was used as a pub.

Significance of the listed building

This attractive composition of historic buildings is prominently located facing onto the common. The earlier timber framed building has a timber fronted gable to the right with a thin brick 17th century stack behind, with the main entrance in the central bay. To the left/ south is the later brick wing, the gable end of which faces the road. Although the building has been altered over the years, the building retains many original features including the exposed timber frame, a narrow winding staircase and many old doors etc.

Relevant background information/planning history

This building has been in use a public house since at least 1843, but it is now proposed to change the use to a children's nursery. When the application was originally submitted, no heritage report was included; this was provided in June and an amendment submitted in October. A change of use of a building; particularly to a more public use where health and safety issues are of concern, such as in a home for the elderly or children. This can be particularly difficult where the building proposed to be converted is a grade II listed building as the requirement to comply with fire and buildings regulations, and even environmental considerations (thermal insulation) can often be onerous. However, in this case, the agents have advised that the proposed use does not constitute a 'change of use' for the purposes of the Building Regulations, so there is no obligation to substantially upgrade the building.

On 21.2.19 a report was submitted by the applicants indicating that the proposed change of use would not necessitate substantial alterations to the building for the use to comply with fire and building regulations. Amended plans were also submitted to address the minor alterations to ensure compliance. The applicant also confirmed that no additional new structures in the curtilage would be necessary for the operation of the nursery.

However, the 'Analysis of Building Regulations Compliance' submitted in February advised that under part M a larger external landing should be provided to the fire escape; this is shown on the amended floor plans but no elevations have been provided. This alteration would require listed building consent and full details including elevations should be provided if this alteration is essential for the operation of the building as a nursery. Alternatively, if the extended landing is not essential; this should be confirmed in writing and amended floor plans showing the existing landing provided.

Following opening up in the building to investigate the survival of the historic building behind modern finishes and a report on this was provided on 5.3.19.

Further amended plans were submitted on 11.3.19, showing that the proposed conversion of the building to a nursery could be achieved, including compliance with the fire and building regulations with minimal alteration and with the retention of historic fabric.

Relevant legislation, policies and guidance

The Council has had special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses, as required under Section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Furthermore, the application has been considered on the basis of the Chiltern District Council adopted local plan (consolidated Nov 2011) LB 1, LB 2

National Planning Policy Framework (NPPF) - Core planning principles, Part 7 paras. 58, 60, 61, and Part 12 Conserving and Enhancing the Historic Environment paras 128, 129, 131, 132, 133 and 134

The NPPF 2018; Part 16 Conserving and Enhancing the Historic Environment paragraphs 189, 190, 192, 193, 194 and 196.

Historic England Guidance; Managing Significance in Decision-Taking in the Historic Environment- 2015, and Making Changes to Heritage Assets- 2016

Reasons for proposed works

It is proposed to convert the existing public house to a day nursery. There are two staircases in the building at present; one is an ancient narrow winding stair alongside the main stack and the other is an external fire escape. To facilitate the new use a new staircase is proposed in the rear of the brick southern wing.

Impact on heritage assets

The latest information submitted has illustrated that the conversion of this public house to a day nursery could be achieved with minimal harm to the significance of the historic fabric of the listed building. A new staircase can be fitted into the rear section of the rear wing with minimal impact and as the new use is not considered By Building Regulations to be a 'change of use' and due to the listing of the building; only minimum changes appear to be required, which are considered acceptable. It is therefore considered that the proposed alterations, as amended, would enable this grade II listed building to be used as a to a day nurse

with only minimal alterations, which are not considered to cause harm to the significance of the heritage asset which would outweigh the benefits of the new use.

OFFICER NOTE: The concerns regarding the landing have seen been omitted, with the proposed extended landing reverted back to its original form.

Chiltern and South Bucks Environmental Health (Noise/Odour) made the following comments:

13th February 2018:

'The documentation submitted with the application has been reviewed and I have undertaken a visit to the premises and local area. Environmental Health express concern on this application in relation to the potential impact of noise nuisance from children's play at the premises to nearby sensitive receptors. The application submits proposed hours of operation as Monday to Friday between the hours of 7:30am - 7:00pm for 52 weeks of the year. In the absence of any other timings it is taken that the outside activity area can be used during these specified hours and duration. When Environmental Health have concerns over whether a proposed development has the potential to cause a noise nuisance to nearby sensitive receptors we would request an acoustic noise report be undertaken, such as a BS 4142; however such a report is not possible in assessing noise from this type of business. Therefore in the absence of any such statistical data a subjective noise assessment would be made as to the likely impact of the proposal in the locality. Officer experience with this type of business, operating in an area where there are residential homes in the immediate vicinity, indicates that noise complaints from local residents would be highly likely and give rise to a statutory nuisance, particularly when the children play outside and when windows and doors are open in the building allowing the outbreak of noise. Any control measures that could be proposed to address potential noise issues would likely be deemed as unreasonable to place on such a business. It is therefore the opinion of Environmental Health that this is an inappropriate location for such a business to operate with residential properties being in close proximity and raise concern to the application being approved on the grounds that the proposed application is likely to give rise to noise complaints. There are no appropriate noise conditions that could be placed on such a premises to address the issues of noise nuisance. So in the absence of any mitigation from the application Environmental Health would recommend that the Planning authority consider the implications of the impact of noise and refuse the application.

Reason: The development is likely to be detrimental to the amenity of the surrounding area by reason of undue noise and/or unacceptable disturbance.

24th August 2018:

'Environmental Health raised objections to the application on the grounds that the proposed development and change of use would likely give rise to noise complaints which would be detrimental to the local amenity and the surrounding area by reason of undue noise and/or unacceptable disturbance. Our opinion has not changed on this matter and Environmental Health raise objections for the same reason; however as additional information has been submitted by the applicant it is felt pertinent to respond accordingly specifically in relation to the below section of their Design and Access Statement Version B dated May 2018, relating to the impact of the development on neighbouring amenities and noise'.

'5.30 states: "The use of the outdoor areas would be restricted and the main activities would be largely contained indoors". There is no elaboration on this as to what restrictions would be put in place for use of the outdoor area. Whilst it is acknowledged that the applicant states that the "main activities would be largely contained indoors" the use of the outside area it is assumed would be used for play time and games activities which is where the majority of the noise is likely to be generated as is the very nature of children at play and the purpose of a nursery. Noise is also likely to be generated from within the building from the children specifically when windows and doors may be open during the warmer months'.

'5.32 and 5.33 states: "It is suggested that the proposed nursery would be open from 7:30am to 19:00pm Mondays to Fridays where it is that the potential harmful level of disturbance would be low". 'The proposed times to be open are over a 11.5hr period so the premises could potentially generate noise over this timescale whether from indoor or outdoor activities and throughout the whole year as unlike school nurseries tend to operate all year round without the respite provided by school holidays. Environmental Health have criteria to meet when assessing whether a noise has the potential to be a statutory noise nuisance. Part of these criteria is how long a noise occurs for and whether it is excessive and unreasonable, the opening times of the nursery would indicate that noise generated from the premises would likely meet these criteria. The Design and Access Statement continues stating that "the majority of residents would be at work and the proposed nursery would be replacing the existing public house which includes a large wrap around outdoor drinking area. The proposal would not have a greater impact on the amenity of the surrounding occupiers than this authorised use, which would also likely result in higher levels of noise and disturbance at sensitive times such as in the evenings and at weekends". 'This statement can neither be substantiated nor used as mitigation to address the likelihood of noise impact from the proposed development, specifically as the two mentioned type of premises as a licensed premises and a children's nursery offer a very different type of emitted noise and that it would result in harmful levels of additional noise and disturbance from the very nature of a children's nursery and the known noise from children's play. In addition due to the age of both of the licensed premises in this location being in situ for over hundreds of years so any residents currently living there would have known they were to live in the vicinity of two licensed premises and associated noise as opposed to a children's nursery.

The applicant has offered to accept a condition which; "details out noise mitigation methods such as appropriate screening or fencing around the outdoor play areas". The suggestion of appropriate screening or fencing would not address the outbreak of noise from children's play (or the human voice). Environmental Health are frequently asked to predict noise emissions from activities involving noise from crowds/people/children playing but there are no predication methodologies available for this. Whilst we may be able to predict the noise levels there is nothing that it can be measured again - in addition there is no known acoustic barrier or screening that could be placed in an outside area such as this that would prevent sound from children's play crossing the neighbouring boundaries.

In conclusion Environmental Health continue to raise objection to the application for the following reason: The development is likely to be detrimental to the amenity of the surrounding area by reason of undue noise and/or unacceptable noise disturbance'.

3rd October 2018:

'Environmental Health has been asked to respond to the Technical Note received from Paul Mews Associates Traffic Consultants dated 3rd September 2018. The Technical Note has been submitted in response to Environmental Health's original comments on the application dated 24th August 2018.

The Technical Note makes a number of comments relating to Environmental Health's consultation response and states that the response is based on 'flawed thinking with no evidence to support their assertion that noise would be more of a nuisance as a nursery compared with that as a pub'. The Technical Note also details about entertainment at The Swan and Temporary Event Notices (TENS) to which I refer to at the end of this response as there is a point of law that needs to be corrected.

Whilst my response is rather lengthy, I have found it necessary to detail how Environmental Health investigate complaints of noise nuisance from both a licensed premises and a business such as a children's nursery. Also the difference in perception of noise and a comparison between the two, which I hope will address the comment made within the Technical Note as cited above.

1. Legislation/Environmental Health Investigation Procedure

There are three separate pieces of legislation that Environmental Health can apply when dealing with noise nuisance, the Environmental Protection Act 1990 that deals with statutory noise nuisance, the Licensing Act 2003 that deals with the Prevention of Public Nuisance from a licensed premises and The Anti-social Behaviour Crime and Policing Act 2014, to which parts deal with protecting the community from nuisance. The Licensing Act would obviously not apply to a children's nursery.

When looking at a noise nuisance under the Environmental Protection Act 1990 a balance is made when deciding if the noise nuisance is a 'statutory nuisance'. This is assessed against specific criteria which I have felt the need to detail below for your understanding. This is commonly undertaken as a subjective assessment by a qualified Environmental Health Officer but can also be by undertaken using sound level recordings.

Whilst there is no definitive definition of a statutory noise nuisance common terminology used within the Environmental Health industry when assessing a statutory noise nuisance is whether a noise is considered to be 'excessive and unreasonable'.

To make this assessment the following criteria is considered:

1. Disturbance. The problems being experienced must unreasonably interfere with the enjoyment of living in a home or place of work; for example by preventing a person sleeping, interfering with reading or relaxing in a garden.
2. (Noise) Loudness. The louder the noise the more likely it is to be a nuisance.
3. Length of time (Duration). The longer the noise goes on for the more likely it is to be causing a nuisance.
4. Occurrence (Frequency). The more often the disturbance occurs the more likely it is to be a nuisance.
6. Type of noise- the more annoying the type of noise is the more likely it is to be a nuisance
7. Locality. The law of nuisance states that people living in different areas, e.g. town and country, can expect to experience different noises.
8. Average person. The law considers an average person when deciding if a nuisance is occurring. If a person has an above average sensitivity to noise then this cannot be taken into account.

When a complaint of noise is received by Environmental Health we assess the noise source against each of the points above. A professional opinion by an Environmental Health Officer is then made as to whether they consider the noise constitutes a statutory noise nuisance.

In addition sound level recordings (decibel levels) can be undertaken and assessed against The World Health Organisations (WHO) guidelines. Whilst there are no specific standards available for the assessment of playground noise levels, the Guidelines for Community Noise documented within WHO guidelines is commonly used. I have detailed this further at the end of this report as the applicant may wish to consider this further.

If a statutory noise nuisance is found to exist and/or exceedences of decibel levels are found to exist then the council has a legal duty to serve an abatement notice under S79 of the Environmental Protection Act 1990 on those responsible for the noise, to which they are then required to abate the nuisance within a specified timescale.

Under the Licensing Act 2003, Environmental Health can deal with the prevention of public nuisance from a Licensed premises and can bring a Premises Licence in for a review and place restrictions or conditions to control noise outbreak and prevent a noise nuisance from continuing. Public Nuisance include noise, odour,

general disturbance, litter, antisocial behaviour, light pollution and all the kinds of issues that can affect occupiers living or working near to a licensed premises.

When Anti-Social Behaviour occurs from any premises whether domestic or a business or in open spaces, the Council has powers under The Anti-social Behaviour Crime and Policing Act 2014 to take enforcement action to prevent any such noise nuisance from continuing or occurring that may affect a community in the form of a Community Protection Notice.

2. Consultation - Assessing an Application

When a planning application such as this is submitted for consultation, Environmental Health must consider the impact of such a business on a community; whether this is from a factory, restaurant or a children's nursery, taking into account what noise would be generated from any such business and what the likely impact would be.

As explained in my previous consultation, The Swan Public House has been operating for many hundreds of years as a public house/ale house and has always been operated as a 'traditional country pub' as has its neighbouring pub The Crown throughout this time. Those living near to these licensed premises would expect to hear social noises associated with a country pub both inside and outside of the premises. Noise such as talking, laughter, children playing and general socialising noise along with patrons arriving and leaving the premises would be expected.

Use of the garden areas are predominantly associated with the warmer weather; although it is acknowledged that this premise is situated within a rural setting and may be used through the winter months with country walkers/ramblers for example; however this said, noise generated from both the inside and outside of the premises during the day time is not a constant and is likely to be for short periods of time, specifically in the garden areas such as lunchtime. Looking at the operation of this premises over the past few years the day time hours of opening have been between 12 noon- 3pm with the premises even being closed on some weekdays.

The relevant question and purpose of planning consultation in this instance is; what noise do the local residents currently experience? If a children's nursery were to operate in such a location, what type of noise would be heard? Would it be considered reasonable? How long would noise occur for? What type of noise is it? Would this noise be expected to be heard in such a location? These questions would be assessed against the criteria I have cited in section 1.

The outcome of an Environmental Health Officers assessment would denote whether a statutory noise nuisance exists or is likely to exist, whether noise from the proposed application would be significant to object to a planning application. It is in my opinion that it is.

3. Assessing the Criteria

a. Dealing with noise from a licensed premises

When dealing with noise from a licensed premises such as music, sound/decibel levels could be set, noise limiting devices could be installed that cut out music if it exceeds a set sound level, control of hours of use can be implemented, restrictions or conditions on the use of indoor and outdoor areas and activities can be implemented.

If it is noise from extraction fans or motorised pumps, requirements for works to be undertaken on the units such as baffling, insulation or enclosures to reduce the noise output can be implemented or enforced.

If it is social noise then this can be controlled and managed under the public nuisance criteria within the Licensing Act 2003 such as a Noise Management Plan.

It is common practice and considered reasonable to place such conditions on a licensed premises to ensure that any noise generated inside or outside the premises does not cause a noise nuisance to those living and working nearby. These are standard requirements used daily with licensed premises that controls behaviour or unreasonable and excessive noise and can be enforced if breached.

Point 4 of The Technical Note itself refers to the current restrictions placed on The Swan because of potential noise outbreak and Point 5 reiterates that noise from the pub has potential to affect the neighbours significantly. This reiterates my original consultation opinion that to control noise from a licensed premises is acceptable, expected and possible as opposed to that with an operational children's nursery.

The Technical Note refers to The Swan holding an Annual Beer festival which is held jointly with its neighbouring pub The Crown. This is an annual event that has been held for many years under a Temporary Event Notice (TEN). A TEN is an application by the premises licence holder to the local licensing authority for approval to hold licensable activities that do not fall under the remit of their Premises. Part of this approval is to consult with statutory consultees such as Environmental Health, Highways and the Police Service as to whether there are concerns, comments or objections relating to a proposed event. If so then conditions or restrictions could be placed on any approved notice, or if a consultee felt it relevant then a TEN could be refused.

If complaints of a noise nuisance were substantiated from an event held under a TEN or any event at a licensed premises, then any future applications for a TEN would likely be refused and or their licence brought in for review.

It is pertinent to add here that Environmental Health have not received any complaints of noise relating to the operation of The Swan Public House.

b. Noise from children/children's nursery

The proposed application is for the change of use from a Licensed Premises to a Children's nursery operating from 7.00am to 7.30pm every weekday for 52 weeks of the year with up to 50 children between the ages of 3 months and 5 years and 15 staff members.

Children at play generate a whole array of noise such as laughing, high pitched screaming, crying, shouting and generally making 'a noise'. Noise is also generated from toys, games and musical instruments to name a few. There is also the associated noise of control measures from their guardians/nursery assistances, such as adult instruction, whistles or bells. I do not feel it necessary to list every activity that children may participate in a nursery and would expect there to be a general understanding that children make noise even when monitored or controlled.

The sound of children at play in any outdoor play areas is notoriously difficult to mitigate as the noise levels are highly variable. Whilst some may say that hearing children at play is pleasant and nice to hear others may find children's noise intolerable. Different noises generate different reactions with many bringing a different perception of nuisance and annoyance. From an acoustical point of view the worst case scenario for a nursery is one situated on a small plot of land with neighbouring properties in close proximity in a relatively quiet location. This describes The Swan premises well.

With the proposal for the business to be open for 12.5 hrs, every weekday for 52 weeks of the year, we must take the scenario that there is the potential for noise outbreak likely to be heard throughout the whole of this time, from both inside and outside the building. When relating to inside the building - it is often a concern as

to how the air flow will be controlled whether this will be by the opening of windows and doors or whether any ventilation system is proposed (Listed building restrictions/consent) that may allow for the further outbreak of noise from the premises.

In addition to the above there is the noise from clients 'dropping off and collecting' children. This application offers a starting time as 7.00am. The application also states that children may be at the premises for 'part time hours' therefore adding to the collection noise generated throughout the day. Summertime is Environmental Health's busiest time of year when dealing with complaint of noise nuisance for many reasons but mainly because more people are outside, and properties are more likely to have their windows and doors open.

Chiltern District Council are currently investigating complaints of noise nuisance under the Environmental Protection Act 1990 from other children's days nurseries within the district where noise from activities both inside and outside the premises affecting neighbouring residential properties.

Once a business is operational, mitigation and control measures to deal with nuisances are exceptionally harder to implement and are often dealt with through enforcement action to abate the nuisance. This can often have major impacts on businesses with some often having to relocate or close. This is therefore not an action that the local authority takes lightly and would rather not find itself having to implement such actions so take the opportunity to address concerns of noise nuisance at the planning stage.

4. Comparing noise from a licensed premises and a children's nursery

As explained above the current operation of the week day daytime hours of The Swan is between the hours of 12- 3pm (3 hours) and from approx 6.00/7.00pm with closing times varying between 9.30- 10.30pm. (4.5 hrs) with expected noise as described.

The proposed application for the nursery cites hours of operation as 7.00am - 7.30pm (Open 12.5hrs) to clients with expected noise as described above.

Whilst I do not have any data on how many patrons currently attend the Licensed premises, I would have to say that it is unlikely to have up to 50 children on a daily basis and unlikely to have anywhere near that on an infrequent basis. The application has proposed up to 50 children below the age of 5 years. It is understood that the majority of children at this age in a nursery environment will be at play. The additional noise generated by children using the nursery from as early as 7.00am would not have been experienced by those living nearby to the premises before on any occasion and would not be expected in such an area.

I have detailed why the two premises are very different and have a very different social acceptance of noise. The use of the premises is different. The activities taking place in the premises are different. The type of noise heard is different. The noise levels are different and the perception of noise is different. Therefore the impact of noise on nearby residents would be different and it is in my opinion for the reasons I have explained that the noise generated from the nursery will be considerably more than that from the licensed premises. To add, a licensed premises is heavily controlled by various pieces of legislation to regulate its operational impact which is deemed appropriate and reasonable. There is no such legislation for a children's nursery other than noise abatement; the question is then asked as to whether this would be reasonable to serve such an abatement notice on children playing whether it be from a playground, a back garden or a children's nursery. Environmental Health would therefore take the opportunity to address such concerns at the planning stage where possible and consider whether the location for such a business is appropriate.

For the reasons I have explained I therefore do not hold the same view point as the author of the Technical Note as I consider there to be a considerable difference of noise outbreak between the operation of this

licensed premises (including an annual 3 day beer festival) to a children's nursery and very importantly how Environmental Health can control/deal with noise outbreak between the two.

Noise Impact Assessment

In light of the agent's comments on comparison of noise, the applicant may wish to address this matter further by undertaking an Environmental Noise Impact Assessment (ENIA) of potential noise outbreak from the proposed nursery and submitting to the Local Authority for approval prior to any decision being made on this application.

If this option is considered the ENIA should be undertaken in accordance with BS7445-1 2003- Description and Measurement of Environmental Noise - Acquisition of Data Pertinent to Land Use and then assessed against the World Health Organisation (WHO) Guidance on Community Noise. It should also be in conjunction with the comparison of anticipated noise emission levels to the minimum measured background noise levels and provide a rating of impact according to British Standard:4142 'Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'. Although the BS4142 method is primarily used for assessing noise emissions of industrial activities, it can be seen as a good guide for assessing the suitability of noise received to residential receivers as calculation of the predicted specific noise level at the façade, gardens and amenity areas of sensitive receptors such as the residential properties nearby.

As the proposed business is not operational at this site, equivalent sound can be generated using the frequency band that would mimic that of children at play ensuring that it is indicative of the proposed number of children that can be at the premises and during the length of time the premises would be operational. Full consideration of the impact of all likely noise for example from door slams, games/activities, ball strikes, shouts or whistles must be included.

Additional comments on the Technical Note

The Technical Note makes reference to Temporary Event Notices (TENS). If I may just correct one point in case it is taken as fact. A Licensed Premises does not need to apply for a TEN to have music outside as the Live Music Act 2012 allows for licensed premises, such as The Swan to play live or recorded music up until 11.00pm, unless there is specifically a condition on the Premises Licence that prevents this use.

The Technical Note also refers to the Kings Head in Prestwood. Environmental Health were not consulted on the planning application so I cannot comment further on this point.

The Technical Note also compares The Swan at Ley Hill and The Kings Head in Prestwood being very similar to their respective neighbours; whilst I acknowledge that these pubs are both in semi-rural/rural locations, the proximity and number of neighbours that border The Swan compared to The Kings Head I believe to be considerably different with The Swan having more neighbours in close proximity. I must also add that this nursery now located in the former Kings Head only opened in May of this year so we are yet to see if noise outbreak from the change of use will be an issue to local residents and one that will involve investigation and intervention by Environmental Health.

The comments in the Technical Note relating to fencing say that this was recommended at a committee meeting. I cannot comment on this as I do not know the facts of this application or who made this recommendation. There is detailed information widely available that addresses the issues in trying to deal with acoustic barriers and sound proofing when mitigating noise from speech, crowd/people noise and children at play.

I hope that the above information provides clarity and the reasons for Environmental Health's comments to the proposed application. I apologise for its length but felt it pertinent to detail.

Environmental Health welcome an ENIA to be submitted for review prior to any considered approval.

I am available for further discussion and consultation on this matter should this be required.

19th November 2018:

This response is in relation to the submitted Noise Impact Assessment (NIA) by Cass Allen Ref: RP01- 18398.

Environmental Health recommended in a previous consultation response, dated 3rd October 2018, that the applicant undertake a Noise Impact Assessment (NIA). This followed our objections to the application on the grounds that the proposed development would likely give rise to complaints of noise that would be detrimental to the local amenity.

The recommendation was that an NIA should be undertaken in accordance with BS 7445-1 and assessed against the World Health Organisations (WHO) Guidance on Community Noise, using BS 4142 as a good guide for assessing the suitability of noise received at sensitive receptors.

As the site is not currently operational, advice was given as to using equivalent sound frequency band that would mimic that of children at play that would be representative of the proposed number of children that could be at the premises, in addition to the length of time during the day the premises would be operational.

Response to the Noise Impact Assessment Ref: RP01- 18398

- The NIA has only used a model of 10 -15 children at play yet the nursery has cited up to 50 children at any one time.
- The NIA does not say how often the noise will occur or how many sets of play time there would be and how long each set would be. (e.g. Number of Children X how many occurrence X length of noise duration)
- During the warmer months when residents are more likely to be outside or have windows and doors open there is the potential for noise impact from this proposed business every weekday.
- Using the NPPG Observed Effect Levels due to Noise - Environmental Health believe that the noise will be at the very least 'Noticeable and Intrusive' where it requires that action required would be to 'Mitigate and reduce to a minimum'. The next level is 'Noticeable and Disruptive' with the actions cited to 'Avoid'.

It is in the opinion of Environmental Health that the noise will be 'noticeable, intrusive and disruptive' therefore one to avoid. Therefore Environmental Health cannot propose any mitigation that would be deemed acceptable for such a business.

- The NIA reports that a noise model was used from Cass Allens database of measured noise but does not provide details of whether this noise is indicative of the potential noise from the proposed development.
- The NIA itself states in section 4.4 that there is no specific local or national guidance for the assessment of noise from nurseries. In my original comments dated 3rd October I recommended using the an equivalent sound source using the frequency band that would mimic children at play, which must include the amount of children at play at any one time and for the duration of play) The NIA does not state whether this was used and if so at what frequency band.
- The NIA has not provided any LA Max noise for children at play only for background noise currently at the site.

- The Sound Power Level (SWL) was calculated at 83dBA but does not explain where the figure emanated from?
- The NIA has not taken into consideration the WHO guidelines on 'special characteristics' of the type of noise, in this instance being children at play, although it refers to annoyance of noise in section 4.7.
- The NIA concludes that the noise levels from their modelling will be 2-3dB above background noise levels and as such may be 'slightly audible at those times when the external play area is in use'.

Environmental Health question the modelling used and believe that the actual audible noise will be considerably higher than 2-3dB over background noise therefore at the very least is likely to be disruptive.

Summary

It is in the Council's opinion that noise generated from the operation of the proposed development will be noticeable and disruptive and has the potential to be up to 12.5 hours every weekday (7.00am - 7.30pm). This newly introduced noise will change the acoustic character of the area and likely give rise to a nuisance to residents that would be almost impossible to control and has the potential to be a statutory noise nuisance under The Environmental Protection Act 1990. If this is found to exist the local authority has a legal duty to take actions to abate the nuisance. Therefore it is Environmental Health's opinion to object to the application from the onset. Reason: To protect the occupants of nearby residential properties from noise disturbance.

11th March 2019:

Further to all previous consultation in relation to the above application.

Environmental Health recommend refusal for this application on the grounds that such a change of use will have a detrimental impact on the local amenity specifically related to noise.

Reason: To safeguard the amenities of nearby and future occupiers from noise in accordance with Local Plan Policies GC3 and GC7 of The Chiltern Local Plan. Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011.

POLICIES

National Planning Policy Framework

Core Strategy for Chiltern District - Adopted November 2011: Policies - CS4, CS8, CS20, CS25, CS26 and CS29.

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies - GC1, GC3, GC7, GB1, GB2, GB24, LB1, LB2, LB4, TR2, TR3, TR11 and TR16.

EVALUATION

Principle of development

1. The application site is located within the open Green Belt in Ley Hill where, in accordance with Local Plan Policy GB24, the Council will not allow the re-development or change of use of a building or land which is in use, or was last used for, local community purposes as defined in Local Plan Policy GB23, unless (i) a replacement building or land can be provided in an equally convenient location that complies with Local Plan Policy GB23; or (ii) it can be demonstrated to the Council that the facility is no longer required for any other

community use in the village and adjoining area where the facility is located. Policy CS29 of the Core Strategy also sets out that the Council's strategy is to ensure inclusiveness within its local communities and will only permit the loss of community facilities in exceptional circumstances. The proposal should also be in accordance with other relevant Development Plan Policies.

2. The application site consists of a Public House with ancillary residential accommodation on the first floor and is a community facility as defined in the Development Plan, and listed as an Asset of Community Value (ACV). The application proposes to change the use of the premises to a nursery for the entirety of the building. The use as a nursery would fall under the definition of a community facility as set out in the adopted Local Plan. The change of use is therefore being changed from one community facility to another and no objections are raised with regard to Local Plan Policy GB24 or Core Strategy Policy CS29. It is also noted that a neighbouring pub is still functioning; 'The Crown' therefore the community would still benefit from a public house within the local area.

3. It is also considered necessary to mention planning permission CH/2013/1511/FA at The Bull Public House in Bellington. Members will be aware of this previous application, which also proposed a change of use from a public house to a nursery, for a temporary limit of 3 years. This application was refused at Planning Committee but the appeal was allowed and costs were awarded against the Council for being unreasonable in refusing the application. The Appeal Inspector expressly stated that the list of community uses set out in both Local Plan Policy GB23 and Core Strategy Policy CS29 and the NPPF are not exhaustive and that none of these policies gives particular priority to one community use over another. The Inspector went on to relay that there would be no material conflict with Development Plan Policies arising from the proposed change of use, nor is there any policy requirement for a marketing exercise to establish demand for the existing use prior to a change of use being permitted where that use is an alternative community use, as in this case. It was concluded that there would not be a loss of a community facility as a result of the proposed development (in that case also being a nursery). It is noted that this application is for a permanent change of use to an alternative community facility, which would be compliant with Policy CS29 and recent case law.

Design/character & appearance

4. As aforementioned above, the proposed change of use would not involve any external alterations to the building. Any further alterations to implement this change of use i.e. via advertising would require advertisement consent and listed building consent. Any other alterations which may be proposed in the future would also be subject of an additional planning application and listed building consent.

5. The District's Historic Buildings Officer has raised no objections to the proposed change of use to a nursery with all alterations proposed being internal. It is therefore considered that the proposed alterations, as amended, would enable this grade II listed building to be used as a day nursery with only minimal alterations, which are not considered to cause harm to the significance of the heritage asset which would outweigh the benefits of the new use.

6. Therefore, the proposed change of use would not detrimentally harm the character and appearance of the building, nor the wider locality and would comply with Local Plan Policies GC1, LB1, LB2 and Core Strategy Policy CS20.

Residential amenity

7. Concerns have been raised from nearby residents regarding the potential noise implications from the proposed change of use from a pub to a nursery. The submitted application details state that the nursery will be in use from 7:30am-7:00pm with staggered time frames i.e. children who may only attend in the morning or afternoon with some attending for a whole day. At full capacity, the nursery would occupy 50 children, but this would not be at all times. It has been stated in the application details that approx. 10-15 children will be

outside at one time, which would be within daytime hours, Monday-Friday in comparison to a pub with later opening hours into the night time and at weekends.

8. It is acknowledged that the proposed use of a nursery would generate some noise throughout the daytime potentially into the early evening. It is also noted that the Environmental Health Officer objects in some detail. However, it is possible to restrict numbers of attendees to the nursery and the opening hours by conditions, whereas the use of the building as a pub is completely unrestricted in planning terms. It would be extremely difficult to justify a refusal based on a nursery with restrictive conditions being more harmful to the amenity of neighbouring properties than a busy pub with no restrictions on noise or opening hours. As such, it is not considered that the proposed change of use would adversely affect the amenities of neighbouring properties, in accordance with Local Plan Policy GC3.

Parking/Highway implications

9. With regard to parking provision, the Council's parking guidance for nursery schools is one car parking space per classroom. It has been specified in the application details that 8 spaces would be provided for staff. Bucks County Council Highways stated: 'Given that the existing public house site currently has a shortfall in parking associated with the site, and that the proposed nursery would require fewer spaces than that of the existing public house, I do not consider that a reason for refusal could be upheld at appeal on the basis of an inadequate parking provision'. The highway implications have been considered by the County Highway Authority who have advised that the trip generation would be less than a functioning pub.

Conclusions

10. To conclude, the proposed scheme is considered acceptable and the recommendation is for approval.

Working with the applicant

11. In accordance with Section 4 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

Chiltern District Council works with applicants/agents in a positive and proactive manner by:

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

In this case, Chiltern District Council has considered the details as submitted which were considered acceptable.

Human Rights

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

RECOMMENDATION: Conditional Permission

Subject to the following conditions:-

- 1 C108A General Time Limit
- 2 The premises shall not be used for the purposes hereby permitted except between the hours of 7:30am and 7pm on Mondays to Fridays and at no time on Saturdays, Sundays or Public and Bank Holidays.
Reason: To safeguard neighbouring amenities.

3 Prior to occupation of the development a Travel Plan Statement shall be submitted to and agreed by the Local Planning Authority. The approved Travel Plan Statement shall be implemented upon first occupation of the development.

Reason: In order to influence modal choice and to reduce single occupancy private car journeys and comply with National and local transport policy.

4 AP01 Approved Plans

INFORMATIVES

1 **INFORMATIVE:** The applicant is advised that any further alterations could require listed building consent/a planning application/advert consent.

CH/2018/0231/HB

Case Officer: Vicki Burdett

Date Received: 05.02.2018

Decide by Date: 23.04.2019

Parish: Latimer & Ley Hill

Ward: Ashley Green Latimer And
Chenies

App Type: Listed Building Consent

Proposal: Internal alterations to facilitate change of use of The Swan Public House to use class D1 (Non-residential institutions - nursery).

Location: The Swan Public House
Blackwell Hall Lane
Ley Hill
Buckinghamshire
HP5 1UT

Applicant: Ms Fiona Murray-Young

SITE CONSTRAINTS

Article 4 Direction

Adjacent to Unclassified Road

Area Special Control of Advertisements

Adjacent Listed Buildings

Adjacent to Archaeological Notification Site

Archaeological site

Bovingdon Technical Radar Zone

Within Green Belt other than GB4 GB5

Listed Building

North South Line

Within 500m of Site of Importance for Nature Conservation NC1

On/within 250m rubbish tip

GB settlement GB5,6,12,23,H7,13,19

SITE LOCATION

The application relates to The Swan Public House located in Blackwell Hall Lane, Ley Hill. The site lies within Green Belt Settlement 5 of the Districts Proposals Map and is Grade II listed (listed in 1984) dating from the 16th and 17th century. The building has been in use as a Public House since at least 1843 and prior to this was originally three cottages, with two built in approx. 1520 and the third in 1680. The site is surrounded by mainly residential development but is sited directly next to an existing pub (The Crown Public House). The first-floor of the pub is currently used for ancillary accommodation. The Swan Public House has recently been designated as an Asset of Community Value (on the 26th November 2018). Permitted development rights for this building are therefore removed.

THE APPLICATION

The application seeks Listed Building Consent for internal alterations to facilitate change of use of The Swan Public House to use class D1 (non-residential institutions - nursery).

The proposed application would not involve any external alterations.

RELEVANT PLANNING HISTORY

CH/2017/2353/FA - Pending Consideration - Change of use to Class D1 (nursery)

CH/2016/1250/DM - NOOBJ - Prior notification for approval of the demolition of double garages

CH/2007/0900/HB - Conditional Consent - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post

CH/2007/0899/AV - Conditional Consent - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post

CH/2007/0489/HB - Withdrawn - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building illuminated by three bullet lights. The erection of a flood light to the side elevation.

CH/2007/0488/AV - Withdrawn - One externally illuminated pictorial sign, one non-illuminated car park disclaimer sign and one non-illuminated directional sign. Raised lettering and logo to be affixed to the front elevation of the building externally illuminated by three bullet lights. One externally illuminated replacement hanging sign and two externally illuminated amenity boards on post and the erection of a flood light to the side elevation

CH/2007/0290/HB - Withdrawn - One large permanent umbrella fixing to front of property

CH/2007/0288/FA - Withdrawn - One large permanent umbrella fixing to front of property

CH/1993/1315/HB - Conditional Consent - Alterations, single storey extension to dining room on south and west elevations, new pergola, external staircase on north elevation to serve first floor flat and additional car parking

CH/1993/1314/FA - Conditional Permission - Alterations, single storey extension to dining room on south and west elevations, new pergola, external staircase on north elevation to serve first floor flat and additional car parking

CH/1992/0401/HB - Conditional Consent - Single storey rear extension to provide store

CH/1992/0400/FA - Conditional Permission - Single storey rear extension to provide store

CH/1985/0675/HB - Conditional Consent - Erection of a single storey side extension

CH/1985/0623/FA - Conditional Permission - The erection of a single storey side extension

CH/1985/0048/HB - Refused Consent - The erection of a single storey side extension for use as eating area, ancillary to the public house

CH/1985/0047/FA - Refused Permission - The erection of a single storey side extension for use as an existing area, ancillary to the public house

CH/1982/2045/FA - Conditional Permission - Construction of single storey extension to form integral male and female public toilets and additional beer storage area

PARISH COUNCIL

Latimer and Ley Hill Parish Council made the following comments (7th August 2018):

'We note the applicant's response to the Parish Council's previous comments and would wish to add that we stand by all comments previously submitted.

We have several comments on the newly submitted documents and we note significant difference in various versions of the proposed plans. Our comments are based on the plans available to the public and not those in the June 2018 Transport Statement.

1. The proposed stairwell referred in the Heritage Report (4.2) is not shown on the proposed ground floor or first floor plans.
2. The proposed plan for the ground floor shows an external door to what is designated as an office, currently the snug of the pub, we query whether such an external alteration is permitted in a Grade 2 listed building.
3. The siting of the staff room only has internal access through the food preparation area.
4. The main entrance - Is this intended to also be a fire exit and if so, where will be the designated meeting point as this leads straight onto the public highway. We also query whether that door way should be a fire door and whether this is permissible in a listed building.
5. We note the baby facilities are on the first floor. We query the evacuation process for nonmobile infants.
6. We note the sole emergency exit on the plan is an external staircase leading from the first floor to what we understand is intended to be the staff parking area.
7. Further issues regarding the emergency exit on the first floor, we query whether it is suitably accessible from all rooms on that floor.
8. Where is their proposed second meeting point in the event of evacuation and does this home key facilities such as baby changing areas and infants toilets?
9. We query the lack of laundry facilities on site.
10. We note that the toilet facilities on the first floor are shared between adults and children. Our understanding is that such an arrangement would be contrary to children's safeguarding guidelines.
- 11.2.4 In the Planning, Design and Access Statement states that there is excellent public transport. We note that the first bus is 9.00 and the last at 14.34 but this does not cover early morning, late afternoon and evening drop off and pickups. We would like to point out that there is no public footpath from the bus stop to the premises.
12. We note the recent approval by Chiltern District Council of the conversion of the Great Barn, Blackwell Hall Lane, Latimer to a Nursery which will place additional traffic demands on Blackwell Hall Lane.

13. Since the approval of the Great Barn, our previous comments regarding unnecessary nursery capacity for local people are ever more applicable as the demographics of the local population do not require this capacity. Old MacDonald's Nursery, Latimer has 96 places and The Great Barn has plans for 40 children from 3mths to 5 years. It is understood that Ley Hill School takes children from 3 years old and has up to 26 places. Use of these facilities will only cause an increase in traffic.

14.5.5 Traffic Report (June 2018) - We note that there is the assumption that the business can use public land to enable its business to function by using it to drop off and pick up.

15. We note that there does not appear to be a traffic risk assessment for the dropping off period and crossing the road with children and the business should demonstrate that this is actively safe.

16. We note from the proposed plans that there is not an outdoor play area for the babies who will be based on the first floor.

17.5.22 Planning, Design and Access Statement (May 2018) - We would be grateful for more clarity of the ten spaces mentioned.

18. Transport Statement (June 2018) - We note reference to Acorn Cottage Nursery. Our own research into this site would suggest it is not a nursery next to a pub but is the Head Office of the Nursery Building. The actual nursery with children is in a different location.

19.5.8 Planning, Design and Access Statement (May 2018) - We understand that the The Bull, Bellingdon is now being returned back to its former use as a public house and the nursery is being located at the back of the building. Such an arrangement would not be possible at The Swan.

20. We would be grateful for a Fire Safety Report which refers to emergency access and egress from the building in the event of an incident as well as with regards to the queries raised in this response.

In summary, the view of the Parish Council is that the Swan should remain a facility for the local community. Until recently, it has been a thriving business and would have the support of the community to become once more.

29th November 2018:

'The Parish Council would like to comment on the recent new first floor plans. The Council have concerns for the safety of the babies. The latest first floor plan shows that in an emergency the only access for babies who are either in the Baby Playroom or Quiet Room only have access via the internal staircase and do not have access to the fire exit. Also in order to get to the baby changing facilities, staff need to walk past the main staircase to access the baby changing room. This is not ideal for those babies who are toddling as presumably there will not be a stair gate in place as these cause additional risks. It is not clear where the evacuation meeting point is, as well as the second meeting point away from the building which should have toilet facilities'.

REPRESENTATIONS

8 letters of objection have been received and are summarised as follows (only comments regarding the impact to the historic building will be summarised):

- Detriment to Listed Building
- Inappropriate use of building
- The old internals should not be lost
- Poor design

- Internal alterations will obliterate the historical use of this ancient building
- It will be impossible to make the internal changes needed to meet health and safety regulations as a nursery
- The applicant proposes to change the beautiful, historic and uniquely characteristic snug, fireplace and bar area into a lot of toilets

CONSULTATIONS

The Districts Historic Buildings Officer made the following comments:

27th March 2019:

Designation

The Swan PH is a grade II listed building dating from the 16th century. The northern two timber framed bays were constructed in 1520, with the southern brick wing added in 1680. Part of the building was used as a PH from at least 1843, and by 1881, the entire building was used as a pub.

Significance of the listed building

This attractive composition of historic buildings is prominently located facing onto the common. The earlier timber framed building has a timber fronted gable to the right with a thin brick 17th century stack behind, with the main entrance in the central bay. To the left/ south is the later brick wing, the gable end of which faces the road. Although the building has been altered over the years, the building retains many original features including the exposed timber frame, a narrow winding staircase and many old doors etc.

Relevant background information/planning history

This building has been in use a public house since at least 1843, but it is now proposed to change the use to a children's nursery. When the application was originally submitted, no heritage report was included; this was provided in June and an amendment submitted in October. A change of use of a building; particularly to a more public use where health and safety issues are of concern, such as in a home for the elderly or children. This can be particularly difficult where the building proposed to be converted is a grade II listed building as the requirement to comply with fire and buildings regulations, and even environmental considerations (thermal insulation) can often be onerous. However, in this case, the agents have advised that the proposed use does not constitute a 'change of use' for the purposes of the Building Regulations, so there is no obligation to substantially upgrade the building.

On 21.2.19 a report was submitted by the applicants indicating that the proposed change of use would not necessitate substantial alterations to the building for the use to comply with fire and building regulations. Amended plans were also submitted to address the minor alterations to ensure compliance. The applicant also confirmed that no additional new structures in the curtilage would be necessary for the operation of the nursery.

However, the 'Analysis of Building Regulations Compliance' submitted in February advised that under part M a larger external landing should be provided to the fire escape; this is shown on the amended floor plans but no elevations have been provided. This alteration would require listed building consent and full details including elevations should be provided if this alteration is essential for the operation of the building as a nursery. Alternatively, if the extended landing is not essential; this should be confirmed in writing and amended floor plans showing the existing landing provided.

Following opening up in the building to investigate the survival of the historic building behind modern finishes and a report on this was provided on 5.3.19.

Further amended plans were submitted on 11.3.19, showing that the proposed conversion of the building to a nursery could be achieved, including compliance with the fire and building regulations with minimal alteration and with the retention of historic fabric.

Relevant legislation, policies and guidance

The Council has had special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses, as required under Section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Furthermore, the application has been considered on the basis of the Chiltern District Council adopted local plan (consolidated Nov 2011) LB 1, LB 2

National Planning Policy Framework (NPPF) - Core planning principles, Part 7 paras. 58, 60, 61, and Part 12 Conserving and Enhancing the Historic Environment paras 128, 129, 131, 132, 133 and 134

The NPPF 2018; Part 16 Conserving and Enhancing the Historic Environment paragraphs 189, 190, 192, 193, 194 and 196.

Historic England Guidance; Managing Significance in Decision-Taking in the Historic Environment- 2015, and Making Changes to Heritage Assets- 2016

Reasons for proposed works

It is proposed to convert the existing public house to a day nursery. There are two staircases in the building at present; one is an ancient narrow winding stair alongside the main stack and the other is an external fire escape. To facilitate the new use a new staircase is proposed in the rear of the brick southern wing.

Impact on heritage assets

The latest information submitted has illustrated that the conversion of this public house to a day nursery could be achieved with minimal harm to the significance of the historic fabric of the listed building. A new staircase can be fitted into the rear section of the rear wing with minimal impact and as the new use is not considered By Building Regulations to be a 'change of use' and due to the listing of the building; only minimum changes appear to be required, which are considered acceptable. It is therefore considered that the proposed alterations, as amended, would enable this grade II listed building to be used as a day nursery with only minimal alterations, which are not considered to cause harm to the significance of the heritage asset which would outweigh the benefits of the new use.

OFFICER NOTE: The concerns regarding the landing have seen been omitted, with the proposed extended landing reverted back to its original form.

POLICIES

National Planning Policy Framework

Core Strategy for Chiltern District - Adopted November 2011: Policies - CS4, CS8, CS20, CS25, CS26 and CS29.

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies - LB1 and LB2.

EVALUATION

Principle of Development

1. The application building is a Grade II listed building. In this instance the only issue for consideration is whether the proposal would unduly affect the architectural or historic character of the listed building. To this end the comments of the Historic Buildings Officer raised no objection to the impact of the proposed change of use and internal alterations subject to a condition and informatives. Consequently, the proposal would accord with the requirements of Local Plan Policies LB1, LB2 and the guidance contained in the NPPF relating to heritage assets.

Human Rights

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

RECOMMENDATION: Conditional consent

Subject to the following conditions:-

1 The development to which this consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.

Reason: To comply with the provisions of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, to prevent the accumulation of unimplemented listed building consents and to enable the Local Planning Authority to review the situation at the end of this period if the development has not begun.

2 Pursuant to the provisions of Section 8 (1) & (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the consent hereby granted expressly authorises the execution of the works shown on the deposited plans hereby approved. This consent relates to the details shown on the approved plans as listed below:

Reason: Because the building is included in the Statutory List of Buildings of Special Architectural or Historic Interest.

3 All new or disturbed work to the interior and exterior of the building shall be finished or made good to match the existing.

Reason: To retain the character of this Listed Building.

4 Prior to occupation details of any new external flues, vents, grills or external pipework relating to this application shall be submitted to and approved in writing by the local planning authority.

Reason: To safeguard the special architectural and historic character of the building, and to accord with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5 AP02 Approved Plans - HB applications only

INFORMATIVES

1 INFORMATIVE: The applicant should be reminded that any additional upgrades to the building required under the building regulations or fire officers requirement, due to the proposed change of use, may require listed building consent and that if those alterations are considered to cause harm to the significance of the heritage assets, then the proposed use may not be implementable

Classification: OFFICIAL

2 INFORMATIVE: The applicant should be reminded that any new/replacement signs fixed to the building will require listed building consent.

The End

Classification: OFFICIAL

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

Main List of Applications 2nd November 2017

CH/2017/0290/FA

Case Officer: Melanie Beech
Date Received: 15.02.2017
Parish: Great Missenden
App Type: Full Application
Proposal: Temporary rural workers dwelling, erection of general purpose agricultural building and yard, formation of farm track
Location: Land To The North Of
Heath End Road
Little Kingshill
Buckinghamshire
Applicant: Latton Alpacas

Decide by Date:	01.11.2017
Ward:	Prestwood And Heath End

SITE CONSTRAINTS

Article 4 Direction
Adjacent to C Road
Area Special Advert Control
Within Chilterns Area of Outstanding Natural Beauty
Adjacent Public Footpaths and Public Rights of Way
Within Green Belt other than GB4 GB5
Public footpath/bridleway
Gas and Oil Pipe Lines
Within 500m of SINC NC1

CALL IN

Councillor Gladwin has requested that this application be determined by the Committee, regardless of the officer's recommendation.

SITE LOCATION

The application site is situated on the northern side of Heath End Road on the western edge of Little Kingshill. The site is located within the open Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB). Public footpaths run along the eastern and western boundaries of the land owned by the applicant, and diagonally across it.

The applicants operate an alpaca breeding business from the land, which is known as Latton Alpacas Ltd. There are currently 73 alpacas on the land, as well as some low level post and rail fencing to create paddocks, and 3 small timber feed shelters. In addition, there is a polytunnel and a yurt which do not currently benefit from planning permission. A current enforcement investigation is pending consideration.

Latton Alpacas Ltd also rent some land to the south of Heath End Road (outside of the application site) which includes an agricultural barn and small shop selling alpaca related products.

THE APPLICATION

The application seeks temporary planning permission for the siting of an agricultural workers dwelling to be situated on the southern side of the land owned by the applicant. The submitted plans show a single storey timber clad building measuring 19.6 metres in width, 6.5 metres in depth and 4 metres in height (with an eaves height of 2.6 metres). The accommodation includes a living area, dining area, kitchen, utility, wet room, 3 bedrooms, an en-suite and a bathroom.

In addition, a new agricultural barn is proposed to the south of the existing alpaca paddocks, to be used for general storage purposes. The proposed barn is to be constructed of dark green profiled steel sheeting with a mineral felt roof. It measures 20 metres wide x 6 metres deep. It is 6 metres high with an eaves height of 4.5 metres.

Finally, a new track is proposed from the road to the new dwelling, barn and alpaca paddocks. This will be made of crushed stone and is approximately 3 metres wide.

RELEVANT PLANNING HISTORY

According to available Council records, there is no relevant planning history for this site.

PARISH COUNCIL

Great Missenden Parish Council and Little Missenden Parish Council object to the application on the grounds of inappropriate development in the Green Belt and the AONB.

Little Missenden Parish Council add that the following points:

- The proposed increase in the business will lead to considerably more traffic into the site.
- The applicant has not considered alternative accommodation in the area (5 properties have been available for rent or purchase in close proximity to the site in the last 2 years).
- The tests of Section 55 of the NPPF and Policy GB17 of the Local Plan have not been met.
- The footpaths across the site are well used and will be impacted by the proposal.
- It appears the intention is to transform the site into a commercial complex with 'Alpaca experiences' and 'crafting courses'. These are not mentioned in the application.
- The proposed barn is large. Suggest reducing the height and rotating it by 90 degrees.

REPRESENTATIONS

12 letters of objection have been received, which are summarised below:

- The proposed buildings and track would be obtrusive, out of keeping and inappropriate in the Green Belt and AONB. They would be clearly visible from surrounding countryside and footpaths.
- An application for stables nearby was refused on similar grounds (CH/2007/0647/FA)
- New dwelling would encroach on the separation between Great Kingshill, Little Kingshill, Heath End and Prestwood
- New dwelling is unjustified as other rental accommodation is available locally, there is no evidence of theft, there are no signs displayed about keeping dogs on leashes and no attempt has been made to spread the current time spent on the site
- A new dwelling would not deter people and dogs from using the footpaths
- New dwelling would set an unwelcome precedent
- New dwelling would impact negatively on outlook of neighbouring properties and cause loss of privacy for The Steading
- New dwelling would be better sited in the southern corner

- New dwelling is large for a single worker
- It is likely that the new dwelling would become permanent, and/or let out for holiday rental/B&B. This application tries to circumvent Green Belt laws.
- Proposal is inconsistent with NPPF and Development Plan (Policies GB17, CS19 and CS22).
- Use of planning permission CH/2016/1788/FA as justification for this development is disturbing
- A more suitable solution would be for a more appropriate dwelling such as a yurt or mobile home for the few weeks of the year when 'lambing' occurs.
- Query the business plan, which is not fully available for public viewing
- Applicant will soon be of retirement age and the qualifications/interest of the son in the business is questionable
- No mention of other activities promoted at the site such as visits by groups, the craft shop and courses, or the other land and barn used by the applicant
- Barn is not justified given the availability of another barn which is not mentioned in the application, alpacas are able to cope with extreme weather and need minimal supervision.
- The land was in good condition before the business arrived, which has failed to maintain the land
- The polytunnel, yurt and stables are the subject of a current enforcement investigation
- Proposed development does not create additional jobs, contribute to the housing targets in the Local Plan or provide any benefit to the community
- There are many other alpaca farms in Buckinghamshire.

1 letter of support has been received which is summarised below:

- The applicants are good neighbours
- The business supports other rural local businesses and the local economy
- The business plan is genuine and sound
- A temporary agricultural workers dwelling has recently been permitted on Windsor Lane.

CONSULTATIONS

Buckinghamshire County Council – Highway Authority

There would be no material increase in traffic and therefore no objection subject to a condition that the dwelling is only used by workers associated with the site.

Bourne Rural Planning Consultancy

Bourne Rural Planning Consultancy have summarised the existing facilities on site, the existing alpaca enterprise and the proposed development. The consultant has set out the relevant planning policies and provided an assessment which is summarised below:

- The proposed enterprise would generate the essential need for a worker to live on site
- Another dwelling nearby would not be suitable to meet the welfare requirements of the developed enterprise
- The proposed agricultural building is reasonably required for the functioning of the agricultural enterprise, is a reasonable size and is well related to the needs of the business
- However, the siting of the dwelling and the agricultural building is not justified in agricultural terms and siting the buildings closer to the access point would remove the need for the track
- The consultant considers that the proposed dwelling may be larger than necessary
- She also considers that from the financial projections provided, it is not possible to conclude that the enterprise is capable of achieving financial viability and sustainability.

Building Control

The new track will need to meet the requirements of the fire brigade, and the bedrooms will require means of escape windows due to their inner room arrangement.

Buckinghamshire County Council - Strategic Access Officer

No objection

POLICIES

National Planning Policy Framework (NPPF), March 2012.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS19, CS20, CS22, CS25, CS26.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011. Saved Policies: GC1, GC3, GB2, GB17, GB27, LSQ1, TR2, TR11, TR16.

Chilterns Buildings Design Guide, February 2010.

EVALUATION

Principle of Development

1. The site is within the open Green Belt where most development is inappropriate and there is a general presumption against such development. Chapter 9 of the National Planning Policy Framework (NPPF) emphasises the importance of Green Belts and states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Proposed Dwelling - Essential Need

2. Paragraph 89 of the NPPF clearly states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. Although paragraphs 89 and 90 outline some exceptions to this, new agricultural workers dwellings are not included in the list of exceptions. As such, the proposed dwelling is inappropriate development in the Green Belt. In accordance with paragraph 87 of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC). In accordance with paragraph 88 of the NPPF, VSC 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.

3. Paragraph 55 of the NPPF states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Often, but not always, the special circumstances demonstrated for an essential worker's dwelling under paragraph 55 can be accepted as VSC which would allow a new dwelling in the Green Belt.

4. Policy GB17 of the Local Plan is largely consistent with the NPPF and states that in the Green Belt, a new agricultural workers dwelling will only be acceptable where it can be demonstrated that it is essential to the operation of an established agricultural holding.

5. The applicant has submitted a Planning Statement and a Business Plan to demonstrate why it is essential for an agricultural worker to permanently live on the site. The reasons include the following:

- Supervision of the Alpacas during mating (This can take place any time throughout the year and often needs intervention to ensure fertilisation).
- Supervision of the Alpacas during breeding (a typical gestation period for an Alpaca is 320-360 days and delivery dates are hard to predict)

- Supervision of the Alpacas during birth (problems can often occur and cold/wet weather can be fatal to new born Alpacas)
 - Supervision of new born Alpacas (who often need help with feeding every 2 hours throughout the day and night)
- Security of the site (Alpacas are sensitive animals and given the public footpaths, are in close proximity to dogs)
- Constant monitoring of the Alpacas, who give little indication of being ill aside from acting out of character.

6. The applicant considers that their current dwelling in Bois Avenue (15 mins drive away) is not suitable for the level of supervision required, and therefore there is an essential need for an agricultural worker to live on site, which is within sight and sound of the Alpacas.

7. The Council has employed the expertise of Bourne Rural Planning Consultancy for advice on whether there is an essential need for the proposed dwelling to support the agricultural activity. The consultant has concluded that the proposed enterprise does generate the essential need for a worker to live on site and that another dwelling nearby would not be suitable to meet the welfare requirements of the developed enterprise.

8. However, she considers that there is no agricultural justification for the proposed siting for the agricultural barn or dwelling, and that there is scope to consider alternative sites within the holding which may be less visually intrusive. She considers that siting the proposed development nearer to the access point would reduce the need for the track.

9. In addition, she considers that the proposed dwelling is larger than necessary, and the financial projections provided do not adequately demonstrate that the enterprise is capable of achieving financial viability and sustainability.

10. Taking these comments into account, it is considered that there is an essential need for an agricultural worker to live on this site. In terms of the financial projections, the applicant has submitted a business plan, setting out the plans for the next three years. In this regard, the comments from Bourne Rural Planning Consultancy are noted. However, the application is for a temporary permission and it is not unusual for the Local Planning Authority to grant a temporary planning permission for 3 years. This is to enable the enterprise to develop, in accordance with Core Strategy Policy CS19 and Paragraph 28 of the NPPF which seek to support the rural economy. After the 3 year period, if the business has not succeeded and the applicant has failed to demonstrate that the business is financially sound, the Local Planning Authority has the opportunity to refuse a permanent planning permission at that stage. To prevent a rural business such as this from developing, where it has been established that there is an essential need for a worker to live on site, would be contrary to the aims of Policy CS19 and paragraph 28 of the NPPF.

11. Furthermore, it is noted that the consultant has stated that it is often considered that an alpaca enterprise with a core breeding herd of 20 females generates the essential need for a worker to live on site. The current alpaca business on this holding is already well established and has 38 breeding females, which is proposed to increase to 50 females by year 3. An appeal decision relating to an agricultural workers dwelling on an alpaca farm in Wiltshire provides a helpful assessment of financial viability and states the following; "It would appear premature to reach a judgement that financial viability for the suggested enterprise would be out of the question at the end of the trial period. Therefore, on the basis that the alpaca and rabbit breeding enterprise is already up and running, there is little reason to dismiss it as not having been planned on a sound financial basis before it has had the opportunity to prove itself during a trial period." (Appeal reference APP/Y3940/A/13/2200283)

12. Based on the current enterprise being up and running, which already has a number of alpacas on the land, it does not seem out of the question that the enterprise is based on a sound business plan which could be financially viable within 3 years. As such, it is considered reasonable to grant a temporary planning permission for 3 years, in order to allow the business to grow in accordance with Policy CS19 of the Core Strategy and paragraph 28 of the NPPF.

13. The siting of the proposed development and the size of the dwelling are discussed in paragraphs 17-24 below.

Proposed Agricultural Barn - Reasonably Required

14. As stated above, paragraph 89 of the NPPF states that new buildings are inappropriate development in the Green Belt. However, one of the exceptions to inappropriate development listed in paragraph 89 is buildings for agriculture and forestry. As such, this element of the proposal is not inappropriate development and is acceptable in principle.

15. Policy GB27 of the Local Plan states that planning permission will be granted for new agricultural buildings where it has been demonstrated that the building is reasonably necessary for the functioning of the agricultural enterprise, that the unit is established or the proposed building would enable a fully operational enterprise to be established, and that no other building could be used or reasonably converted for the purposes intended for the proposed building. It is noted that Policy GB27 pre-dates the NPPF and sets out more stringent requirements for agricultural buildings. Nevertheless, the comments from Bourne Rural Planning Consultancy are noted and it is considered that the proposed building is reasonably required for the functioning of the agricultural enterprise and that it would enable the operational enterprise to be established.

16. Although the applicant rents land on the other side of Heath End Road, which includes an agricultural barn, there are no other authorised buildings on the holding and in order to effectively manage the land and develop the business as proposed, there is a need to have an agricultural building on the holding to provide for agricultural storage, livestock housing and the storage of machinery and equipment.

Siting of Proposed Dwelling and Agricultural Barn

17. Policy GB17 of the Local Plan states that where the need for a dwelling has been proven to the satisfaction of the Council, it should be sited within an established settlement or group of buildings. If this is not possible, the dwelling should be sited in a position which is not prominent within the landscape.

18. The agricultural consultant does not consider that the applicants have demonstrated an agricultural need to site the dwelling and agricultural building as proposed. As stated above, she considers that the development would be better placed closer to the access point.

19. In response to these comments, the applicant has stated that the agricultural building needs to be closely related to the paddocks which are sited on the northern side of the public footpath running through the field. This allows the stock to be moved by use of the races, which is the usual arrangement for handling camelids. Indeed, one of the reasons why the agricultural building is reasonably required is to house livestock when the animals are ill or in labour. It would seem unreasonable and impractical to require the new building to be located far away from the paddocks.

20. There are currently no existing buildings on the site but given the justification for locating the agricultural building close to the paddocks, it would seem reasonable to locate the dwelling close to the agricultural building so as to avoid two separate isolated developments. The agricultural consultant also advises that it may be anticipated that the dwelling be sited in close proximity to the agricultural building to

provide ready availability of the worker to meet any welfare requirements associated with the housed livestock. Furthermore, one of the reasons that the dwelling is needed is to observe the alpacas more frequently. This is obviously more practical when the dwelling is located in close proximity to the paddocks. To locate the dwelling nearer the access point would reduce the effectiveness of frequently monitoring the animals.

21. It is also noted that the agricultural consultant considers that if the new building and the dwelling were located close to the access, it would reduce the need for the track. However, on the contrary, if the buildings are located far away from the paddocks, a track would be needed to transport the animals from the paddocks to the agricultural barn, particularly if they are ill or in labour. It is recognised that there is a reasonable requirement for the track to access the new agricultural building and dwelling.

22. Based on the above assessment, it is considered that the siting of the proposed agricultural building and dwelling are acceptable.

Size of Proposed Dwelling

23. Policy GB17 of the Local Plan states that the dwelling should be no larger than is reasonably necessary to accommodate a worker and his or her immediate dependents. The agricultural consultant believes that the dwelling may be larger than necessary and there may be scope for a smaller structure. In response to these comments, the applicant has stated that it is the intention for the Sapsford family to live in the temporary accommodation and it is normal to allow the worker and their immediate family to live in the workers dwelling. They also note that the proposed dwelling is within the dimensions of a caravan as defined by the Caravan Sites and Control of Development Legislation (20 metres long x 6.8 metres wide and 3.05 metres internal height).

24. The proposed dwelling is a low level temporary structure with 3 bedrooms. This is not considered to be unreasonable and is comparable to other agricultural workers dwellings which have been permitted within the district. As such, no objections are raised with regard to the size of the proposed dwelling.

Summary of Principle of Development

25. In summary, the comments from Bourne Rural Planning Consultancy are noted and it is considered that there is an essential need for an agricultural worker to live on site, and that the agricultural building is reasonably required for the purposes of agriculture. Notwithstanding the consultant's comments, it is also considered that the siting of the proposed development is justified and that although there are some uncertainties over the financial projections, a temporary permission can be granted to allow the business to become established as planned.

Design/Character & Appearance

26. The proposed dwelling is temporary in nature and as outlined above, is not considered to be any larger than necessary. It is a low level simple building to be constructed of dark stained timber cladding with a mineral felt roof.

27. The proposed agricultural building has a footprint of 120 square metre and in consultation with Bourne Rural Planning Consultancy Ltd, it is considered that the building relates well to the needs of the existing and the proposed enterprise. It is to be constructed of green profiled steel sheeting with a profiled fibre cement sheet roof. It will have the appearance of a standard agricultural building.

28. The proposed track will be constructed of crushed stone through which the grass will grow. It is approximately 3 metre in width.

29. As stated above, the site is within the Chilterns AONB, where in accordance with the NPPF, great weight should be given to conserving the landscape and scenic beauty of the area. The area has a rural character and the development would be clearly visible from the footpaths adjacent to the site. However, given the appropriate design of the agricultural building and access track, and the simple design of the temporary dwelling, it is not considered that the proposal would harm the rural character of the area, or the landscape quality of the AONB.

Residential Amenity

30. The site is located approximately 80 metre away from the rear gardens of the nearest residential properties, which are situated along Heath End Road. The agricultural barn is sited even further away. Although the neighbouring comments are noted, given the distances to the properties, it is not considered that the proposal would unacceptably harm the amenities of any neighbouring properties.

Parking/Highway Implications

31. The comments from the Highway Authority are noted and no objections are raised with regard to the highway and parking impacts of the proposed development. This is because the proposal would not result in any material change in traffic generation and there is no intensification of the access.

Rights of Way

32. The comments from the Strategic Access Officer are noted and no objections are raised with regard to the impact of the proposals on the nearby Rights of Way.

CONCLUSION

33. Given that there is an essential need for an agricultural worker to live on the site, it is considered that special circumstances have been demonstrated. In this case, given the justification for the siting and the minimal harm to the character of the area, it is considered that there are very special circumstances which outweigh the harm to the Green Belt. No objections are raised to the impact on neighbouring amenities, parking or highway matters, or Public Rights of Way. As such, the application is recommended for approval, subject to conditions.

WORKING WITH THE APPLICANT

34. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

Chiltern District Council works with applicants/agents in a positive and proactive manner by;

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

In this case, Chiltern District Council has considered the details as submitted which were considered acceptable.

HUMAN RIGHTS

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

RECOMMENDATION: Conditional permission

Subject to the following conditions:-

1 The general purpose agricultural building hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason: To prevent the accumulation of unimplemented planning permissions, to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 91 (1) of the Town & Country Planning Act 1990, as amended.

2 The permission for a temporary dwelling is granted for a limited period only which will expire 3 years after the date of this permission. At the expiration of this period the dwelling hereby permitted shall be removed from the site immediately and the land reinstated to its former condition.

Reason: Whilst being satisfied in respect of the need for a temporary dwelling here to enable a viable agricultural enterprise to become established, the Authority wishes to take account of the viability of the enterprise at the expiry of this period before agreeing to a permanent dwelling to serve the enterprise.

3 Notwithstanding Section 55 of the Town and Country Planning Act, the temporary dwelling should only be sited in the location shown on the approved plans and constructed as shown on the approved plans, in the materials specified on the application form.

Reason: To ensure that the external appearance of the temporary dwelling is not detrimental to the character of the locality, in accordance with policies GC1 and LSQ1 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policies CS20 and CS22 of the Core Strategy for Chiltern District (Adopted November 2011).

4 The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed in the locality in agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990, or in forestry (including any dependents of such a person residing with him, or a widow or widower of such a person.)

Reason: The site is located in the Green Belt where permission for a new dwelling unconnected with an agricultural enterprise would not normally be permitted and because permission is granted having regard to the very special circumstances of the case.

5 AP01 Approved Plans

INFORMATIVES

1 **INFORMATIVE:** The applicant is advised that the existing yurt and polytunnels on the holding are unauthorised and are in breach of planning control. Until or unless planning permission is granted, these structures should be removed from the site to avoid any formal enforcement action.

2 **INFORMATIVE:** The applicant is advised that consultation with the County Council as highway authority will be required to ensure those sections of the private vehicular access track crossing Footpath GMI/40/1 are suitable for pedestrians.

Appeal Decision

Site Visit undertaken on 12 December 2018

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

An Inspector appointed by the Secretary of State

Decision Date: 21 March 2019

Appeal Ref: APP/X0415/W/18/3202078
Town Farm Meadow, High Street, Amersham, Buckinghamshire, HP7 OED

- 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. Brian Lawson against the decision of Chiltern District Council.
 - The application, ref. CH/2017/2037/FA, dated 13 October 2017, was refused by notice dated 22 December 2017.
 - The development proposed is the demolition and re-build of an existing annexe as an independent dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal, the National Planning Policy Framework 2012 (The Framework) has been superseded by the 2018 version. I have considered the appeal on this basis and refer only to the updated 2018 Framework within my decision.
3. I note that the planning Application Form and Decision Notice issued by the Local Planning Authority (LPA) have different descriptions for the development. For clarity, I have taken the Appellant's description of development as the basis of this appeal.

Main issues

4. The main issues are:
 - Whether the proposal would provide acceptable living conditions for the future occupants of the appeal property with regard to the provision of private amenity space; and
 - The effect of the development upon the character and appearance of the locality, including the Amersham Conservation Area.

Reasons

Whether the proposal would provide acceptable living conditions for the future occupants of the appeal property with regard to the provision of private amenity space.

5. During my site visit I noticed a number of similar developments to the rear of dwellinghouses along the High Street where outbuildings and barns had been converted into residential use. However these dwellings maintained a sizeable private amenity space which appeared to be in accordance with Saved Policies GC3 and H12 of the Chiltern *Local Plan* which specifies a general minimum standard of 15 metres in length. Given the dimensions of these surrounding plots, it would be suitable to apply the 15m minimum in this particular context.
6. Although the proposed dwellinghouse's living accommodation would meet the National Described Space Standards, the private amenity space is severely lacking. Although the amenity space may appear to reach the 15m minimum in length, the space is shaped in a triangular form that tapers and becomes very narrow indeed meaning that not all of the space would be sufficiently usable. The private garden space also adjoins an accessway for its entire length, and as a result of the very narrow and awkward layout would not be sufficiently useable, causing detriment to the living conditions of the future occupants of the proposed property.
7. I note comments from the Appellant's Planning, Design and Access Statement that the 'property which is in effect no greater in size than a two bedroom Flat, thus serving few people, and not a family.' I am unconvinced by these comments as the property could cater for a young family who would want to make use of the amenity space and whilst I agree that the provision of amenity space for a 4 bedroom house is not required, the space should however be sufficiently useable.
8. I do not consider that the proposal as a result of its 'size and shape that is logical in terms of the likely future users of the dwelling' as the Applicant contends. To me, the proposed amenity space does not promote a high standard of amenity for the future users with the proposal having sub-standard living conditions for future occupiers in terms of a private garden area that is adequate for and appropriate to the size of the living accommodation proposed.
9. Taking the above into account, the scheme presents a poor effect upon the living conditions of the future occupants of the appeal property and would be contrary to Saved Policies GC3 and H12 of the Chiltern *Local Plan* and Paragraphs 122 and 127 of the Framework.

The effect of the development upon the character and appearance of the locality including the Amersham Conservation Area (CA);

10. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes a duty upon a decision maker to give special attention to the desirability of preserving or enhancing the character or appearance of a CA, in the determination of a planning application.
11. Paragraph 127 of the Framework, Saved Policies CA1, CA3, GC1, and H4 of the Chiltern *Local Plan (Consolidated September 2007 & November 2011)* and Policy CS20 of the Chiltern *Core Strategy* seek that a decision maker assesses the siting, the established pattern of development, density, scale, and particularly

- how the proposed scheme affects the character and appearance of the CA and reinforces the qualities which generate local character and local distinctiveness.
12. The significance of the Amersham CA derives from its historic development of a strong linear built form along the High Street with minimal setback from the road, with buildings of smaller narrow frontages which become grander and taller in scale the closer they are to the Market Square. Despite being quite fine grain and built up frontages to the street, to the rear many of the plots are quite spacious and contain long gardens, some in a burgage plot layout with rear outbuildings, many of which are also converted into residential dwellings. Some of these historic burgage plots can still be experienced from the scattering of carriageway entrances and alleyways along the High Street which give glimpses to the rear of these plots.
 13. This particular area has also been designated as an Established Residential Area of Special Character (ERASC) which runs alongside the aims and purposes of the conservation area and these areas are specially designated as a result of their definable sense of place, evidently historical, and of local interest as defined by Saved Policy H4 of the Chiltern *Local Plan*.
 14. The proposal would result in the demolition of an existing outbuilding and the erection of a new dwellinghouse which would take the form of a pastiche barn-styled appearance that would have roughly the same footprint as a historic planning approval for a replacement barn. Whilst it does not appear that there are any objections between the Council and the Appellant to the overall design of the barn itself, the main contention appears to be the impact towards the CA and ERASC by the use of the building as a separate dwellinghouse that would no longer be ancillary to the main dwellinghouse.
 15. In the Appellant's Planning, Design and Access Statement, it states that it is '*difficult to imagine how the use as an ancillary building, and the use as a dwelling in its own right, would create different environments in respect of the Conservation Area.*' Whilst I agree that the particular new building proposed, regardless of the proposed use would be an improvement to the general character and appearance of the CA and ERASC, the use of an ancillary building and that of a separate dwellinghouse are materially different considerations.
 16. For a dwellinghouse there is also the need to pay careful consideration to other additional factors such as the effect of the intensified use on the surrounding area; the form and layout of the development; its relationship to its context; and the associated residential paraphernalia such as the treatment of boundaries, garages, surfacing, car parking, ancillary buildings and structures etc. The use of a residential dwelling would typically have more comings and goings, increasing the density of occupation which can, in turn, have an effect on the activity generated by both people and vehicles, as well as the likelihood of requiring additional refuse facilities and additional stresses on local infrastructure.
 17. The occupiers of two flats may have a different lifestyle, resulting in movements at different times of the day and night in comparison with an ancillary building. It follows that whilst not necessarily changing the appearance of the area, it would be significantly detrimental to the local character and experience of this historic context which goes beyond a purely visual perception.

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18. The Appellant's Location Plan indicates that the proposed parking area for the dwellinghouse would fall outside of the red line and thus would not be considered as part of this proposed planning unit. The appeal site as a whole would not contribute positively to the spaciousness currently experienced within the area as the planning unit would contain very little garden space. The result of this cramped layout would be a development which would be at odds with the surrounding spacious character and distinctiveness which is currently experienced in this particular location. The scheme would therefore have an incongruous appearance generally out of character with the CA and ERASC.
 19. Although serious, the harm to the heritage asset in this case would be less than substantial, within the meaning of the term in paragraph 196 of the Framework. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
 20. The benefits of the proposal put forward by the Appellant are to enhance the area and make efficient use of previously developed land and the benefits associated with providing an additional dwellinghouse for the local area.
 21. However, these circumstances would not justify the harm I have identified. I therefore find that insufficient evidence has been provided in relation to public benefits that would outweigh the harm to the CA. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'
 22. On the basis of the above I conclude that the development would result in significant effects to the character and appearance of the locality and would therefore not preserve the character or appearance of the Amersham Conservation Area. Consequently, the proposal would be contrary to Paragraphs 127 and 196 of the Framework, Saved Policies CA1, CA3, GC1, and H4 of the Chiltern *Local Plan* and Policy CS20 of the Chiltern *Core Strategy*.

Other Matters

23. I note concerns from 3rd party respondents to the application with regards to overlooking from the site into neighbouring dwellings such as the 'Bramlings' and the 'Old Barn.' The proposed building is one and a half storeys tall with the first floor illuminated by windows which face the accessway. There would be some overlooking of the private garden of the 'Old Barn' but not to a material extent. Given the positioning of the 'Bramlings' to the rear of the appeal site, I am not convinced that adverse harm due to overlooking would occur into this property.
24. It is contended by the Appellant's Statement that the Saved Policies of the Chiltern *Local Plan* are out of date and due to their age are no longer in accordance with the Framework. Each of the policies referred to in the appeal have been saved by the Secretary of State because they are in general conformity with the Framework. I have no reason to divert from this position.
25. It is noted the Appellant has stated that the Council "*is extremely deficient in terms of urban small housing supply and the subject proposals contribute*

incrementally to that supply.” As set out in paragraph 11 of the Framework, there is a presumption in favour of sustainable development that means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against other policies within the Framework as a whole.

26. I have not been presented with any evidence as to the Council’s land supply or perceived housing shortfall. Even if this was the case, the appeal proposal would make only a very modest contribution. I have identified above the harm caused to the CA, to which I give considerable weight and importance, and the poor living conditions present in the scheme. Having considered these factors and the Framework overall, I conclude that the proposal would result in significant harm that is not outweighed by any benefits including the limited contribution that one further dwelling would make to the Council’s housing land supply.
27. It is noted that the appeal site is in close proximity to a number of listed buildings such as the Sir William Drakes Almshouse (Grade II*), Ashleigh Cottage Farmhouse (Grade II); and a barn to rear of number 108 with attached wing and garages (Grade II). With regards to the Almshouse, whilst contributing positively to the street scene at the commencement of the access road to the appeal site, its significance is related to the design and construction and former form and function as an Almshouse which contributes positively to the historic street scene at this location. Its setting is somewhat severed from the rear with a lack of association to the traditional burgage plot layout which is experienced within this area as the building contains an enclosed appearance with boundary walls, and a new dwelling to the rear. I do not consider that the development of the appeal site would affect this significance or setting of this particular listed building.
28. Although the individually listed Ashleigh Cottage Farmhouse and the barn to the rear appear to be in separate ownership, they are still experienced together at the beginning and further along the access road to the appeal site as a historic farmhouse along the high street with burgage plot behind with an ancillary barn building. Both buildings derive their significance via their quality in materials and craftsmanship, as well as the form and function of this historic relationship to the rear of the historic burgage plot layout which contributes positively to their setting. These buildings would be experienced within the same context and setting as the appeal property at this backland location. The main impacts towards the setting would be as a result of the demolition and construction of a new barn, which I do not consider would result in harm to the significance or setting of these listed buildings.
29. In relation to the duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have considered the significance and the setting of these listed buildings, however I consider that there would be no impact towards their significance or setting as a result of this development.

Conclusions

30. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR



Appeal Decision

Site visit made on 29 January 2019

by **Stephen Brown MA(Cantab) DipArch RIBA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2019

Appeal Ref: APP/X0415/X/18/3208141

84 Amersham Road, Little Chalfont, Amersham HP6 6SL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a part refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs R Basra against the decision of Chiltern District Council.
 - The application ref. CH/2018/0537/SA, dated 19 March 2018, was refused by notice dated 14 May 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The proposed development for which a certificate of lawful development is sought is the formation of a rear dormer, insertion of 2 front rooflights, modification/alteration of the pitched roof over the rear two-storey extension.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
3. The Council have granted a LDC for the insertion of 2 front rooflights but refused a certificate for the formation of a rear dormer, and modification/alteration of the pitched roof over the rear two-storey extension. My considerations in this appeal are therefore the part of the proposal that has been refused.

Background matters

4. The appeal property is a semi-detached house standing on a deep plot to the southern side of Amersham Road. It has previously been extended with a rear two-storey extension with a hipped roof, a hip-to-gable roof conversion, a front porch and rear conservatory, and a single storey side extension. These developments were the subject of planning permissions¹. The hip to gable conversion has been built, as have the conservatory and porch, and the side extension.

¹ Decision notices ref. CH/1989/0463/FA; CH/2000/1287/FA (partly implemented), CH/2005/0653/FA & CH/2017/2255/FA.

5. The proposal subject of this LDC appeal entails alteration of the rear two-storey extension roof to form a crown roof, and construction of a box dormer on the rear main roof slope.

Reasons

6. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the proposed development would come within the limits set out in Class B of Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).
7. Class B permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Paragraph B.1(d) then precludes various situations from this allowance, including where the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres in any other case than that of a terrace house.
8. The government's Technical Guidance document of April 2017² advises that for the purposes of Class B 'resulting roof space' means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by Class B or not. Furthermore, any previous enlargement to the original roof space in any part of the house must be included in this volume allowance. The 'original roof space' will be the roof space of the original building.
9. The existing additions over and above the original roof space include the hip-to-gable conversion, and the pitched roofs over the porch and side extension. The roof over the two-storey extension must also be considered, but in the form as modified by this proposal.
10. The Council and appellant broadly agree that the modified roof over the two-storey extension would amount to about 15.4 cubic metres, and the new box dormer would add a further 20 cubic metres.
11. In the Council officers' report of 21 March 2018 the hip-to-gable conversion is assessed as an addition of 18 cubic metres. No details of this calculation are provided. An e-mail from the Council to the appellant's agent of 18 May 2018 records that there had been an error in that calculation, and the correct volume increase should be 12.8 cubic metres – very much in line with the appellant's figure in the LDC application. In their appeal statement the Council now go back to justify their original calculation of 18 cubic metres, based on what are referred to as 'electronic measurements' of the drawings for the 2000 planning permission for the hip-to-gable extension. However, the drawings submitted with the LDC application appear to be a true representation of the existing structure, and tie in closely with the appellant's calculation as well as the Council's calculation of 18 May 2018.
12. My estimate made on site – comparing the number of ridge tiles on the main roof of the appeal property with the number on that of the adjoining house – which retains the hipped roof – indicates the proportion of ridge length altered in the hip-to-gable conversion. This tends to support the accuracy of the dimension given by appellant. In the light of this it is likely that the hip to gable extension increased the volume by about 12.5 cubic metres. This brings

² DCLG publication: Permitted development rights for householders - Technical Guidance. April 2017.

- the total increase resulting from the hip-to-gable conversion, the two-storey extension roof and the proposed dormer to about 48.7 cubic metres.
13. Notwithstanding, the Technical Guidance makes clear that '*any previous enlargement to the original roof space in any part of the house*' must be included in the volume calculation.
 14. In my view this means that the pitched roof over the recently built side extension, and that over the enclosed front porch must also be included in the overall increase. I saw that the side extension runs the full depth of the house – roughly 10 metres – and is about 1.8 metres wide. The porch is about 2 metres wide and 1.5 metres deep with a pitched roof. Although the side extension is mainly flat roofed, the section of pitched roof together with that of the porch are well in excess of 2 cubic metres.
 15. It follows that the total increase in roof volume, including the hip-to-gable conversion, the side extension and porch, the proposed box dormer, and the crown roof would, on the balance of probability be greater than the GPDO allowance of 50 cubic metres. The proposal is therefore be precluded from being permitted development under Class B of Part 1 to Schedule 2 of the GPDO.
 16. For the reasons given above I conclude that the Council's refusal in part to refuse a certificate of lawful use or development in respect of the formation of a rear dormer, insertion of 2 front rooflights, and modification/alteration of the pitched roof over the rear two-storey extension at no. 84 Amersham Road, Little Chalfont, Amersham HP6 6SL was well-founded, and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Stephen Brown

INSPECTOR



Appeal Decision

Site visit made on 29 January 2019

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2019

Appeal Ref: APP/X0415/X/18/3210876

58 Winters Way, Holmer Green, High Wycombe HP15 6YB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr & Mrs Pocock against the decision of Chiltern District Council.
 - The application ref.CH/2018/0779/SA, dated 1 May 2018, was refused by notice dated 26 June 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The proposal for which a certificate of lawful development is sought is a new vehicular access and permeable driveway parking area.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.
3. The Council have granted a LDC for the proposed permeable driveway parking area but refused the application to construct a new vehicular access. My considerations in this appeal are therefore limited to the part of the proposal that has been refused.

Background

4. The appeal property is a two-storey house in a short terrace fronting onto the mostly grassed triangular area, at the junction of a short cul-de-sac off Winters Way – an unclassified road. The proposal is to form a parking area in the front garden of the property, with a vehicular access across the footway and grassed triangle to the front. This access would be on an oblique line relative to the axis of the appeal site and would meet the roadway at a right-angle.

Reasons

5. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the proposed development would come within the limits set out in

Class B of Part 2 to Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

6. The development permitted by Class B is the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class of Schedule 2 (other than Class A of Part 2).
7. In this case the access is required in connection with the construction of permeable driveway parking area, which as the Council have found is permitted development under the provisions of GPDO Class F of Part 1 of Schedule 2.
8. GPDO Article 3(6) qualifies the Class B allowance in stating that, apart from certain instances not pertinent to this case, permission granted by Schedule 2 does not authorise any development which creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger.
9. The Highway Authority (HA) have been consulted, and refer to guidance in the government document 'Manual for Streets', which advises in a case such as this, that visibility splays in both directions should be 2.4 metres by 43 metres. The HA report that the maximum visibility from the proposed access towards the west would be 20 metres. Due to the angle of the access and its proximity to the junction of the cul-de-sac with Winters Way it would be difficult for drivers making an exit to see vehicles travelling southwards along Winters Way, who may be turning into the cul-de-sac. Furthermore, the HA consider there would not be sufficient space within the appeal site for vehicles to turn and egress in a forward gear, resulting in drivers having to reverse into, or out of the site at a point of poor visibility. In addition, significant on-street parking near the site means that visibility might be further restricted.
10. On my visit I saw that visibility to the west is indeed restricted to about 20 metres, and concur with the view that this would result in an obstruction to visibility for drivers leaving the site. They would not be adequately aware of vehicles heading southwards on Winters Way, and possibly turning into the cul-de-sac. I also saw that there was quite extensive on-street parking close to the proposed access, and in the area generally. In some cases this is somewhat disorganised, and I saw examples of parking on footways, and on the grassed area to the front of the appeal property. This too would be likely to contribute to the poor visibility at the proposed access.
11. I also saw there are dense hedges to either side of the front garden of no. 58, and along the frontage of the neighbouring house, no. 60. Pedestrians on the footway running along the frontages of the terrace would have an obstructed view of any vehicle leaving no. 58, and similarly a driver would have an obstructed view of pedestrians. Overall, I consider the proposed access would be likely to cause significant danger for users of the highway - both drivers and pedestrians - in the vicinity of the appeal site, as a result of obstructed visibility.
12. The appellant argues that construction of the new access does not in itself create an obstruction, and that Article 3(6) is intended to control such things as fencing to the front or sides of a property. However, it is only the creation of this access that would result in the obstructed visibility that would arise - just as the existence of the hedges would not cause an obstruction or highway

hazard if no access were created. I give virtually no weight to this rather tortuous argument.

13. I have come to the view that the proposed access would create an obstruction to the view of persons using a highway used by vehicular traffic, so as to be likely to cause danger. In the light of GPDO Article 3(6) the proposal cannot therefore be authorised by the permission granted by Class B of Part 2 to Schedule 2 of the GPDO.
14. For the reasons given above, and with regard to all other matters raised, I conclude on the balance of probability that the Council's refusal in part to grant a certificate of lawful use or development in respect of a new vehicular access and permeable driveway parking area at no. 58 Winters Way, Holmer Green, High Wycombe HP15 6YB was well-founded, and that the appeal should fail. I will exercise accordingly the powers transferred to me by section 195(3) of the 1990 Act as amended.

Stephen Brown

INSPECTOR



Appeal Decision

Site visit made on 13 February 2019

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2019

Appeal Ref: APP/X0415/D/18/3217685

4 The Farthings, Chesham Bois, HP6 6XJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Moss against the decision of Chiltern District Council.
 - The application Ref PL/18/3276/FA, dated 3 September 2018, was refused by notice dated 9 November 2018.
 - The development proposed is a first storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed extension on the character and appearance of the surrounding area.

Reasons

3. The properties on The Farthings generally fill the width of their plots. A number of the properties have single storey garages which take them up to the boundaries. The space between the properties, provided by the distance between the first-floor elevations in most cases, contributes to the character of the area by setting the properties away from the side boundaries and each other, although the spacing between the properties is varied.
4. The proposal would be on the footprint of the existing property however, it would result in two storey accommodation being very close to the property boundary. Overall, this would reduce the visual gap currently present between the application site and the adjoining property.
5. As a result, the extension would reduce the spacious character between the properties. Given that the adjoining property, 3 The Farthings, is semi-detached, I place significant weight on retention of the space between Nos 3 and 4 as part of the street scene. This is to maintain the varying degrees of separation between the buildings as currently seen along The Farthings.
6. The appellant's statement of case contains photographs stated to be relative designs throughout the street and discusses the relationship of Nos 9, 10 and 11. I, however, consider that the properties referred to form a separate character to the rest of the street scene and thus the weight attributed to the comparison is limited.
7. The adopted Residential Extensions and Householder Development Supplementary Planning Document (SPD) states that extensions should

consider the impact of development on street scene. Where buildings are in a definable visual row the first floor of an extension should be set in from the boundary. Regardless of the distances recommended in the SPD the guidance seeks to prevent visual coalescing between buildings or an uncharacteristic terracing effect

8. Not only would the reduction in the spacing between properties harm the character of the area, but visually it would present as a cramped development and an awkward addition to the street scene when considering the overall appearance.
9. The proposal would therefore conflict with Policy CS20 of the Core Strategy for Chiltern District, which requires new development to contribute to local distinctiveness, as well as Policies GC1, H13 H15 and H16 of the Chiltern District Local Plan. These latter policies together seek a high standard of development, including in relationships to its site, adjacent buildings and the street scene. Furthermore, Paragraph 130 of the National Planning Policy Framework (NPPF) encourages good design stating that permission should be refused where design fails to consider any local design standards or supplementary planning documents.

Other Matters

10. I note the appellant's inclusion of the decision for appeal reference APP/X0415/D/17/3173117 (the Acorns appeal) as well as plans relating to that site. In the Acorns appeal the appellant argued, and the Inspector gave weight to, the fact that the absence of a uniform development pattern and the variety of house designs would further diminish the likelihood of visual coalescence. The Acorn appeal site also benefitted from a mature oak tree in the front garden which the Inspector acknowledged as screening with properties being staggered in nature.
11. The properties on The Farthings are quite uniform in pattern, in a linear format, and appearance; the appellant acknowledges that they exhibit the same architecture with subtle differences to detailed design and arrangement. They are, therefore, not as varied as those considered within the Acorns appeal.
12. The Inspector, in the Acorns decision, felt that the merits of the proposal outweighed the drawbacks especially with the substantial improvement in the living accommodation. I do not find that the same balance can be shown here.
13. Each site must be considered on its merits. I find that there are differences between the sites which make them incomparable and I therefore attribute little weight to the Acorns decision in the determination of this appeal.

Conclusion

14. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR