



## Planning Committee

**Thursday, 27 June 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 Minutes (*Pages 1 - 3*)

To approve the minutes of the Planning Committee held on 10 June 2019.

3 Apologies for Absence

4 Declarations of Interest

5 Deferred Applications

5.1 PL/18/3577/FA - Stable Farm, Amersham Road, Chalfont St Peter, SL9 0PX.

5.2 PL/18/4466/FA – Chiltern Hills Academy, Chartridge Lane, Chesham.

6 Items for Noting

6.1 Planning Application Requirements – Proposed Revised Local List

6.2 New Planning and Enforcement Appeals

6.3 Appeal Decisions

6.4 Withdrawn Appeals

6.5 Consent Not Needed

6.6 Permission Not Needed

6.7 Withdrawn Applications

6.8 Information Regarding Planning Applications to be Determined

7 Report on Main List of Applications (*Pages 4 - 149*)

Chesham

PL/18/3540/FA

Ward: Asheridge Vale And  
Lowndes

Page No: 2

Recommendation: Conditional Permission

**The Willows, 110 Chartridge Lane, Chesham, Buckinghamshire, HP5 2RG**

Chesham

PL/18/4879/FA

Ward: Asheridge Vale And  
Lowndes

Page No: 7

Recommendation: Refuse permission

**Chesham Service Station, Asheridge Road, Chesham, Buckinghamshire, HP5 2NT**

Chesham

PL/19/0450/FA

Ward: Asheridge Vale And  
Lowndes

Page No: 16

Recommendation: Conditional Permission

**212 Chartridge Lane, Chesham, Buckinghamshire, HP5 2SF**

Chesham

PL/19/0655/FA

Ward: Hilltop And Townsend

Page No: 26

Recommendation: Conditional Permission

**55 Gladstone Road, Chesham, Buckinghamshire, HP5 3AD**

Penn

PL/19/1264/VRC

Ward: Penn And Coleshill

Page No: 34

Recommendation: Conditional Permission

**Woodchester, Woodchester Park, Knotty Green, Buckinghamshire**

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

**Date of next meeting – Thursday, 18 July 2019**

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## **CHILTERN DISTRICT COUNCIL**

### **MINUTES** of the Meeting of the **PLANNING COMMITTEE** held on **10 JUNE 2019**

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

Councillors: J Burton  
J Gladwin  
M Harrold  
C Jones  
J MacBean  
S Patel  
N Rose  
J Rush  
J Waters  
C Wertheim

**APOLOGIES FOR ABSENCE** were received from Councillor P Jones

**ALSO IN ATTENDANCE:** Councillors M Flys, G Harris, N Shepherd and H Wallace

#### **64 MINUTES**

The Minutes of the meeting of the Planning Committee held on 18 April 2019 and 15 May 2019, copies of which had been previously circulated, were approved by the Committee and signed by the Chairman as a correct record.

#### **65 DECLARATIONS OF INTEREST**

Councillor C Jones declared a personal interest in planning application PL/18/4593/RC. Nature of interest – Councillor C Jones was a member of Amersham Town Council.

#### **66 DEFERRED APPLICATIONS**

**Application reference PL/18/4593/RC**

**Site of Chiltern Pools, Drake Hall, Community Centre, Amersham Library and Associated Car Parks and part of King George V Playing Fields, Chiltern Avenue and King George V Road, Amersham HP6 5AH.**

Speaking as the local Member for Chesham Bois and Weedon Hill, Councillor Graham Harris

Speaking on behalf of Councillor M Harker, Member for Chesham Bois and Weedon Hill, Councillor Heather Wallace

Speaking as the local Member for Amersham on the Hill, Councillor Nigel Shepherd

The meeting was advised that a further 18 representations had been received in support of the application. There had been 5 further letters of objection. The Squash and Racket Club and the Diving Club had sent letters of support.

## **RESOLVED**

**To recommend Council approves its own development** subject to referral to Full Council and subject to the conditions as set out on pages 38-44 of the original report (appendix FP.01) with a revision to the wording of condition 16 (external materials), set out as follows:

Before any construction work commences above ground, a sample panel of all external materials to be erected on site (including mortar mix and pointing profile) including named types of samples of all the facing and roofing materials to be used for the external construction of the development hereby permitted, are to be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be fully implemented in accordance with the approved details unless alternative materials details are submitted to and agreed in writing by the Local Planning Authority.

*Note 1: Councillor M Harrold entered the meeting at 6.15 pm.*

*Note 2: Councillor M Flys, G Harris, N Shepherd and H Wallace left the meeting at 7.26 pm.*

## **67 ITEMS FOR NOTING**

**RESOLVED -**

**That the reports be noted.**

## **68 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

**CH/2016/0310/FA      Three Oaks Farm, Roberts Lane, Chalfont St Peter, SL9 0QR  
& PL/18/3194/FA**

It was reported that condition 2 in the report should have read five caravans in the second line and not six.

The need for an additional condition relating to gypsy & traveller occupation was also reported, as follows: -

The site shall not be occupied by any persons other than gypsies and travellers as defined in the Planning Policy for Traveller Sites (DCLG August 2015). Reason: For the avoidance of doubt and to accord with the advice in Annex Planning Policy for Traveller Sites.

## **RESOLVED**

The Secretary of State be advised that had the applicant not appealed against non-determination of PL/18/3194/FA, the Council would have recommended approval of the application subject to the conditions listed in the report and those reported above

And

CH/2016/0310/FA

Planning permission granted subject to the conditions set out in the report and an additional condition relating to the occupation of the site by gypsies and travellers only.

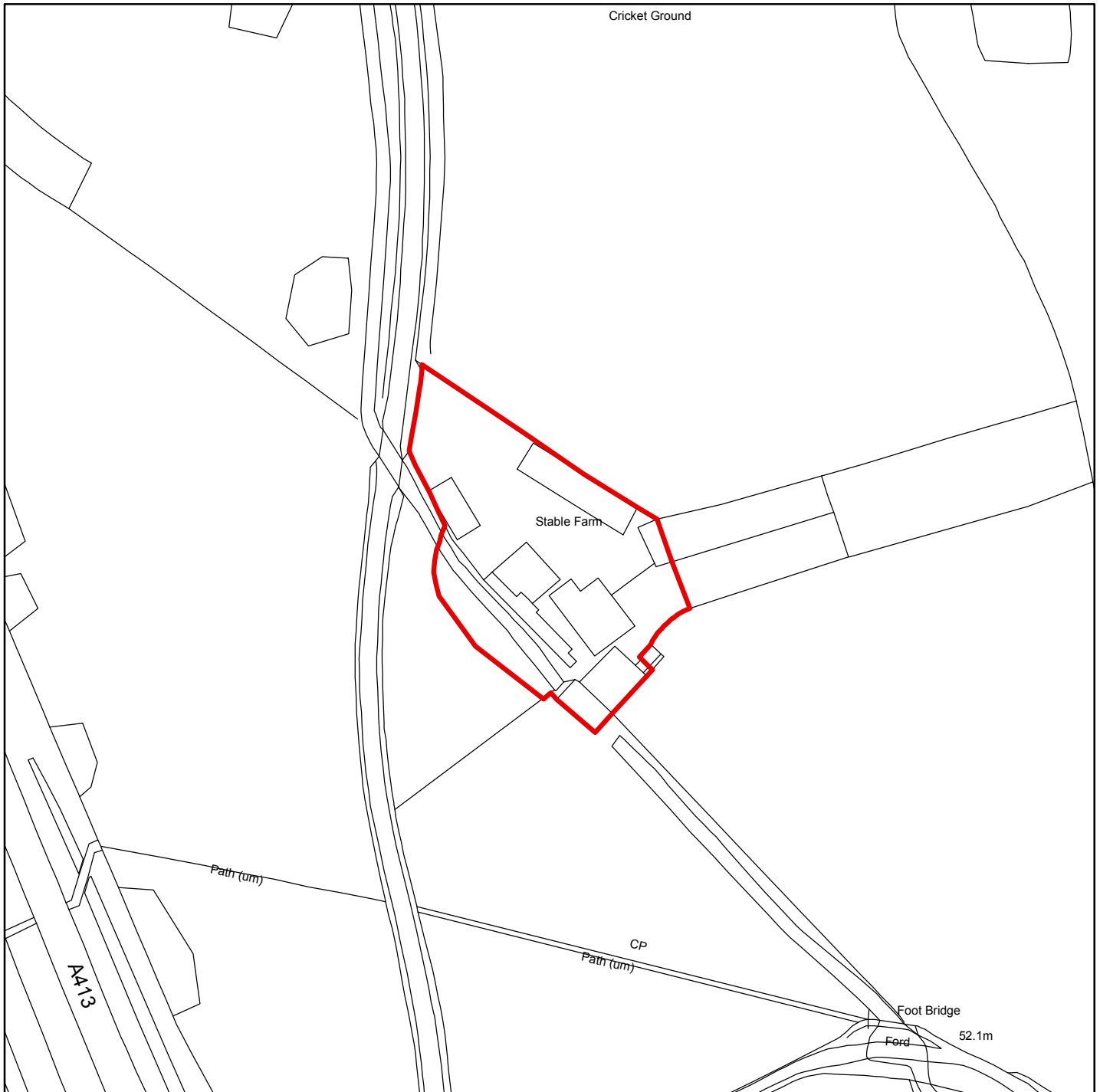
**The meeting ended at 7.47 pm**

PL/18/3577/FA



**CHILTERN**  
District Council

Stable Farm, Amersham Road, Chalfont St Peter, SL9 0PX



**Scale:** 1:1,250

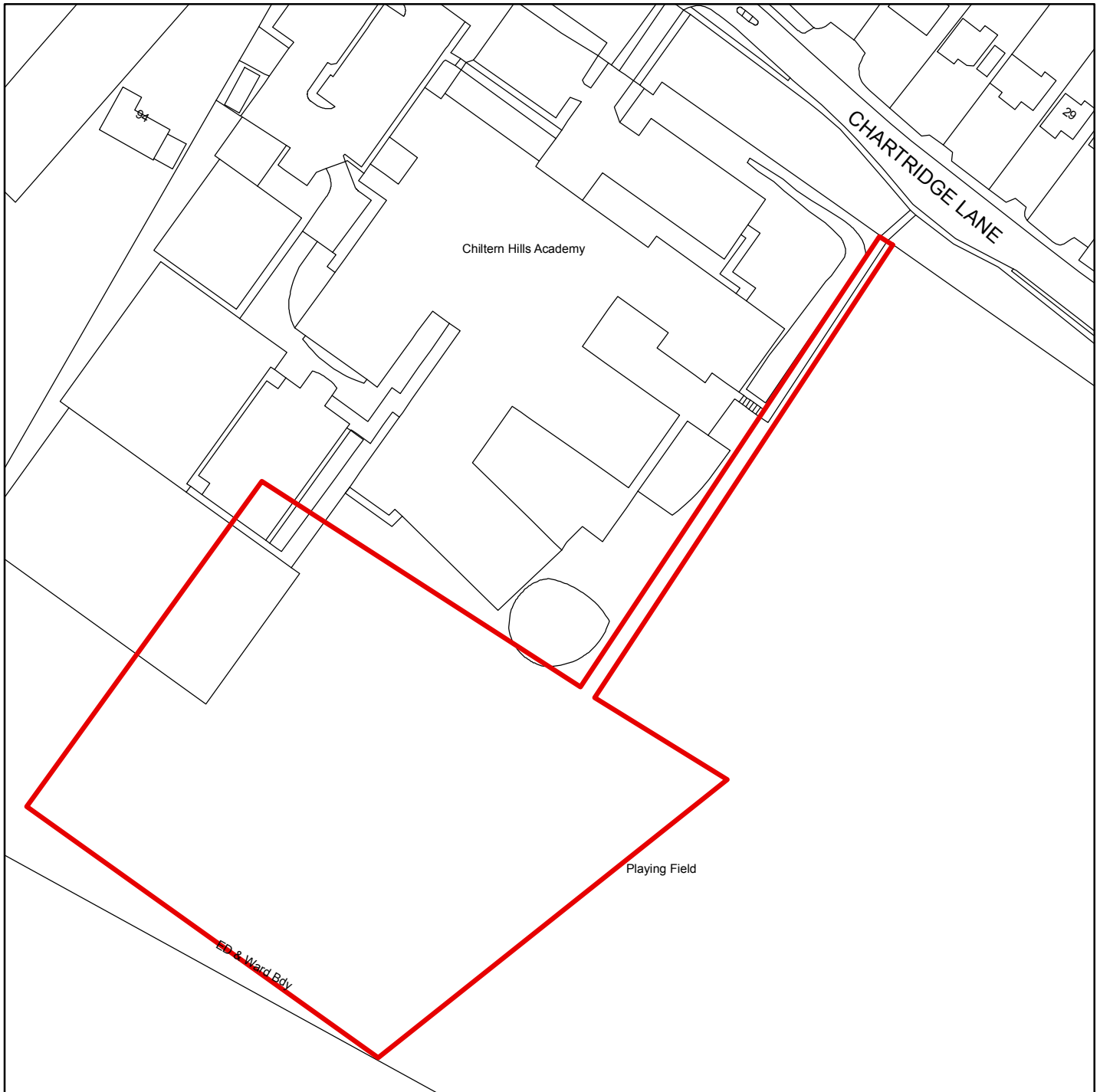
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<b>Organisation</b>	Chiltern District Council
<b>Department</b>	Planning & Environment
<b>Comments</b>	
<b>Date</b>	
<b>SLA Number</b>	100033578.2016



# PL/18/4466/FA

Chiltern Hills Academy, Chartridge Lane, Chesham, Buckinghamshire  
HP5 2RG



**Scale:** 1:1,250

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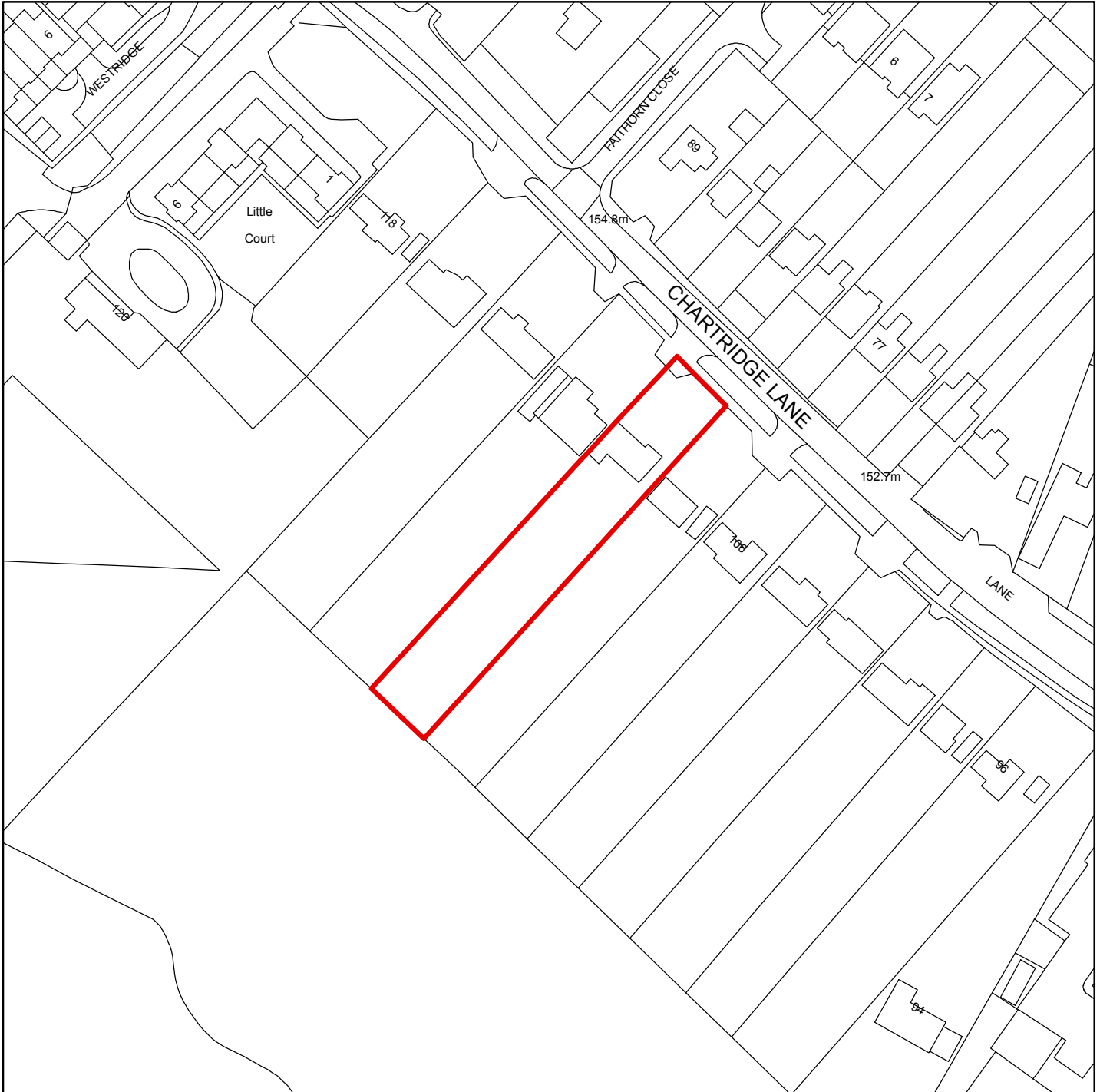
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<b>Department</b>	Planning & Environment
<b>Comments</b>	
<b>Date</b>	
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# PL/18/3540/FA

The Willows, 110 Chartridge Lane, Chesham  
Buckinghamshire HP5 2RG



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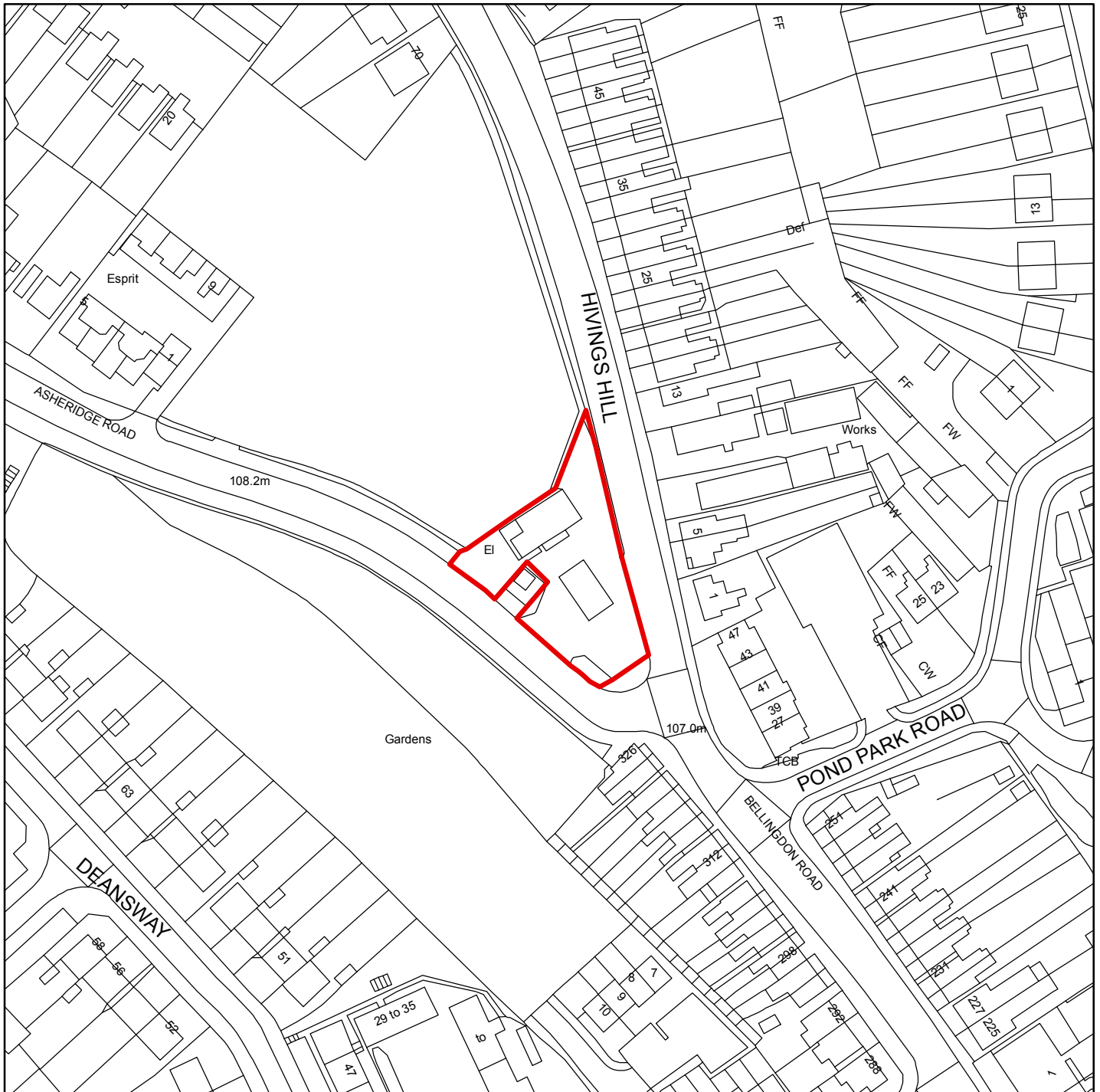
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# PL/18/4879/FA

Chesham Service Station, Asheridge Road, Chesham  
Buckinghamshire, HP5 2NT



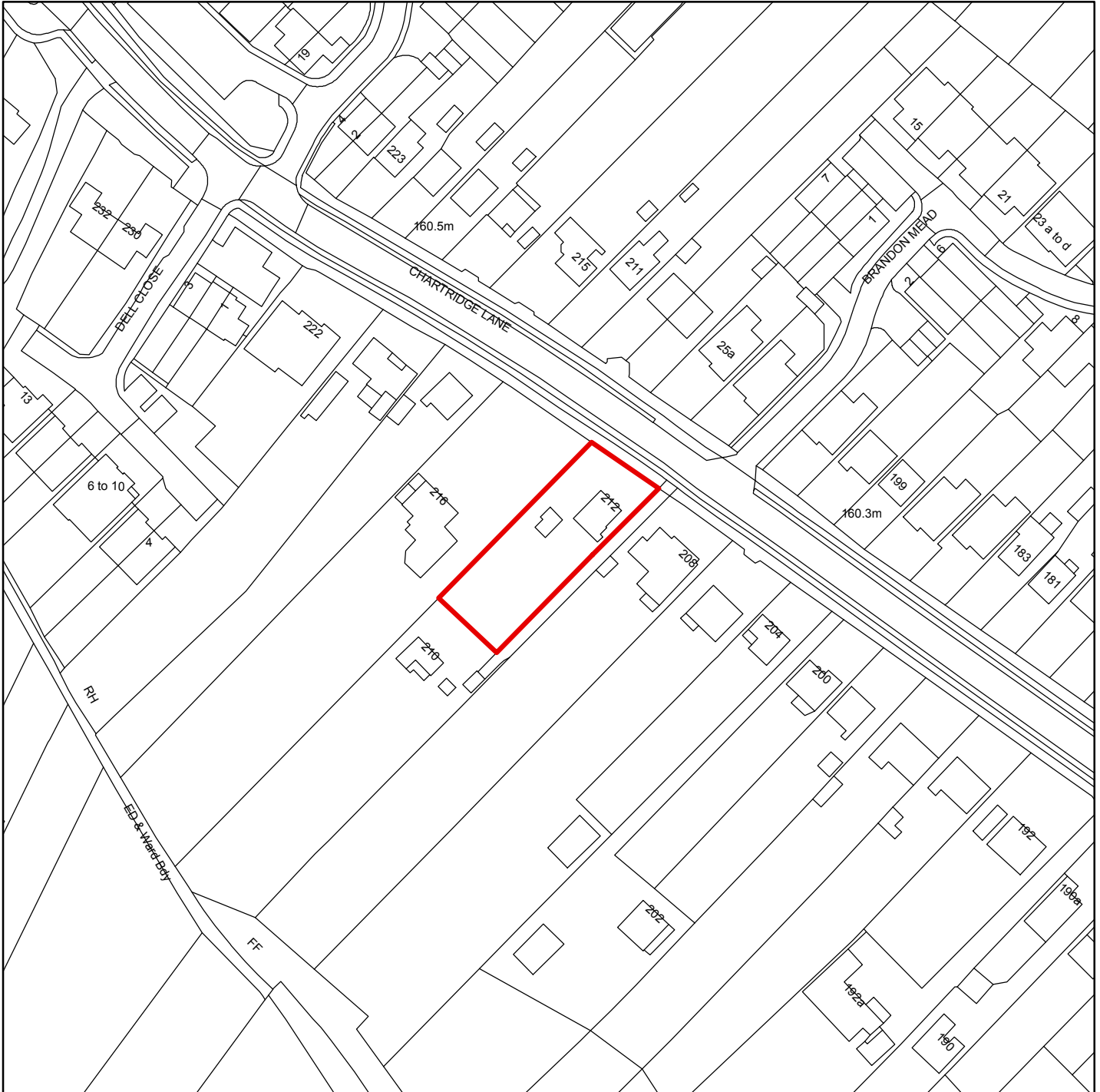
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212 Chartridge Lane, Chesham, Buckinghamshire HP5 2SF



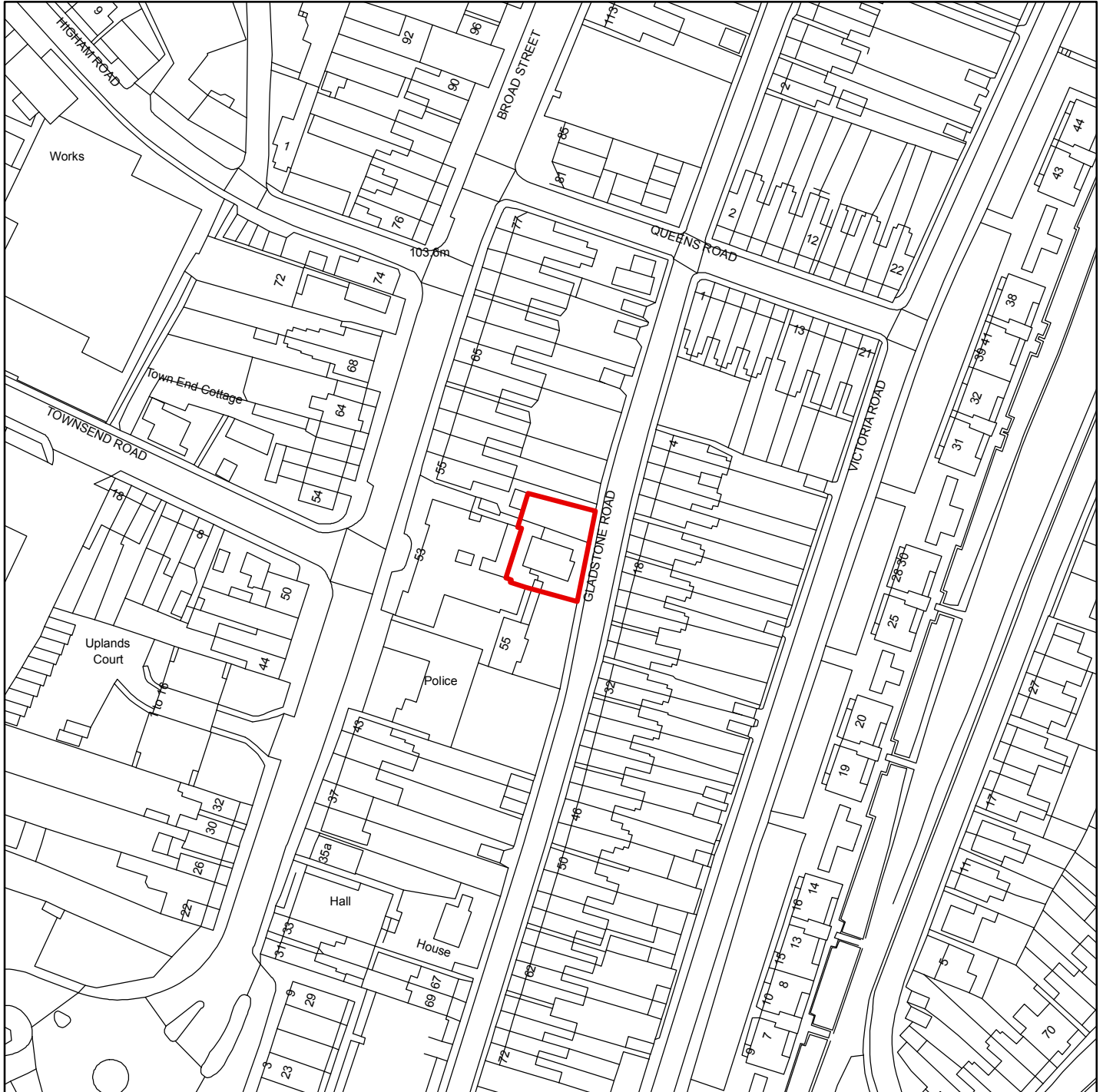
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**55 Gladstone Road, Chesham, Buckinghamshire HP5 3AD**



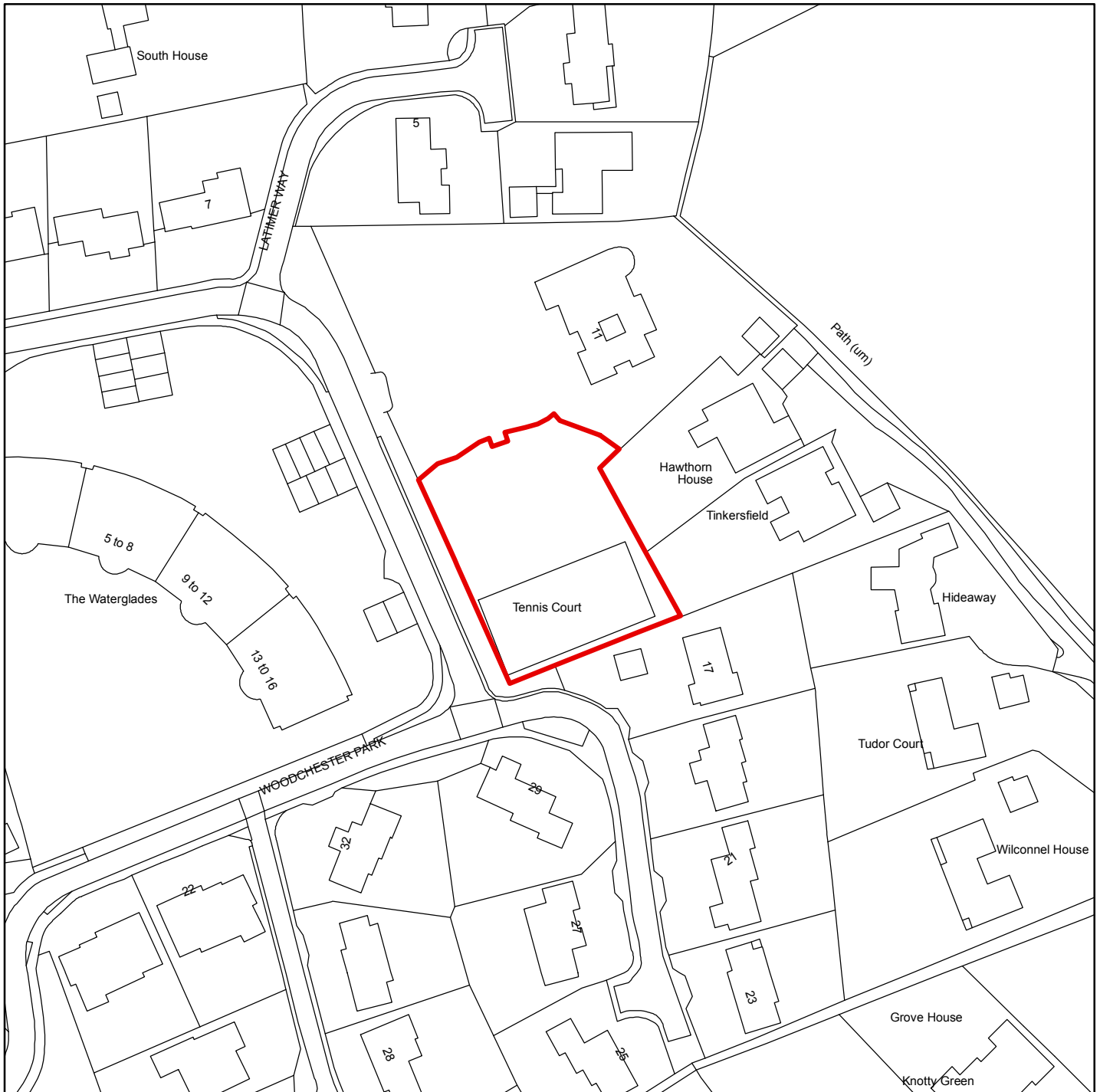
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## Woodchester, Woodchester Park, Knotty Green, Buckinghamshire



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## PLANNING COMMITTEE – 27 June 2019

### REPORT OF THE OFFICERS

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

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AGENDA ITEM No. 5

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#### 5 DEFERRED APPLICATIONS

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##### 5.1 Application reference PL/18/3577/FA (*Case Officer: Mike Shires*)

Redevelopment of site with 2 detached dwellings, with associated access, parking and landscaping following demolition of existing dwelling and surrounding equestrian buildings.

Stable Farm, Amersham Road, Chalfont St Peter SL9 0PX

##### **Matter for consideration**

5.1.1 Members will be aware that this planning application was heard by the Planning Committee at the meeting of 17<sup>th</sup> January 2019. The original Case Officer's report is attached at Appendix FP.01.

5.1.2 The application was deferred to allow Officers to negotiate with the applicant to achieve a different design for the dwellings proposed.

5.1.3 New drawings have now been received and the applicant has amended the design of the dwellings proposed. Officers consider this to be acceptable and the report sets out this reasoning in more detail.

5.1.4 Councillor Wertheim originally requested that the application was referred to the Planning Committee.

##### **Representations received**

5.1.5 Since the previous Planning Committee meeting, the revised drawings have been publicised for a 14 day period. No additional representations have been received.

##### **Evaluation**

##### **New design of dwellings proposed**

5.1.6 Members raised concerns about the design of the new dwellings proposed. The original application drawings proposed two dwellings with a flat roof and simple contemporary designs; with one dwelling also having a basement. Two car ports had also been proposed. Members did not raise concerns regarding the principle of development of the site, or the impact on the Green Belt. The concerns were purely regarding the appearance of the buildings.

5.1.7 The above was discussed with the agent, who was also present at the previous Committee meeting and was hence aware of the Members' discussions. After liaising with his client, the agent has amended the drawings and these were submitted with a new design for the dwellings. The landscaping was also slightly changed. The two car ports remain the same.



- 5.1.8 Further information has also been submitted by the agent, namely an amended Tree Report. The report reflects the siting of the new dwellings and moves them further away from the large plane tree. There is little change compared with the previous Tree Report.
- 5.1.9 The new design of the houses is entirely different to that originally proposed, being much more traditional, with pitched roofs, dormers, rooflights, brick and stone detailing and the addition of traditional chimneys. The proposed materials are red multi-bricks and natural slate tiles. Stone is also proposed for some of the elevations which can be secured by condition. The external appearance would therefore be much more traditional than the previous scheme and Officers consider that this is acceptable and addresses the concerns of Members at the previous Planning Committee meeting.
- 5.1.10 In terms of the impact on the Green Belt, the revised designs have a greater bulk, as a result of the introduction of pitched roofs. However, Members will recall that the previous proposal had significantly less bulk than the existing buildings on site, hence why there were no specific concerns raised regarding the impact on the Green Belt. As explained in the original report, paragraph 145 of the NPPF lists some forms of development which are not considered to be inappropriate in the Green Belt, including the partial or complete redevelopment of previously developed land, providing there is no greater impact on the openness of the Green Belt. Even with the additional bulk now proposed from the pitched roofs, the overall scale and volume of development proposed still remains notably less than the existing buildings. As such the revised scheme would still not have a greater impact on the openness of the Green Belt than the existing development. As such there are no new concerns raised regarding the impact on the Green Belt.
- 5.1.11 The Applicant has also withdrawn the concurrent planning application (PL/18/3563/FA), which was originally for two similar dwellings with a different siting.
- 5.1.12 At the previous Planning Committee, some Members commented on localised flooding. It has been clarified that the site is in Flood Zone 1, which is at the least risk of flooding. The footprint of the two new dwellings also occupies less of the site than the existing buildings.

## Conclusion

- 5.1.13 It is considered that the amended design of the dwellings is much more in keeping with the rural character and appearance of the locality. The revised design of the dwellings would still not have a greater impact on the openness of the Green Belt than the existing buildings and Officers therefore consider that the proposal is acceptable, having regard to the relevant Development Plan policies and all other material considerations.

## Recommendation

- 5.1.14 Grant Conditional Permission, subject to the Conditions and Informatives set out in the original report, with the Approved Plans Condition (No. 15) altered to reflect the amended drawing numbers. Decision delegated to Head of Planning & Economic Development.

## **5.2 PL/18/4466/FA (Case Officer: Emma Showan)**

**Creation of grass pitch and store, construction of fence, barrier and entrance gates to grass pitch perimeter, installation of floodlights and hardstanding.**

### **Chiltern Hills Academy, Chartridge Lane, Chesham**

#### **Matter for consideration**

- 5.2.1 Planning application PL/18/4466/FA was considered by Members at the Planning Committee of 21st March 2019. The original Case Officer's report is attached as Appendix FP.02.
- 5.2.2 The Committee deferred its decision "to allow Officers to establish the relationship of the current application with the simultaneous Buckinghamshire County Council application".
- 5.2.3 The Buckinghamshire County Council (BCC) application seeks proposed expansion works at Chiltern Hills Academy to include a new purpose built science block, extensions to the existing sports hall block with additional 6th form classrooms on the first floor and an extension to the English block. The proposals also include an expansion to existing car park areas and the re-provision of external hard play and sports areas. Specifically, a new two storey building would be located to the south-west of the site where it would be sited adjacent to the site boundary; a two storey extension is proposed to the rear of the existing main school building; and a small front extension is proposed alongside the entrance to the building. Additional parking is to be provided to the side and front of the site. In total, 135 parking spaces would be provided. Other modest alterations and refurbishments are also proposed throughout the site.
- 5.2.4 The application has not yet been determined by BCC. However, Officers have requested that BCC have regard to the proposed scale and siting of the new buildings and in particular the type, colour and texture of the external construction materials, given that the site is located within the Chilterns Area of Outstanding Natural Beauty. The District Council has also advised that they have concerns regarding the highways impacts of the proposal. It is considered that there is a lack of parking space on site at present and would like the latest proposal to overcome this deficiency. At the same time, in order to reduce the visual impact of the increase in hardstanding on site, the District Council would recommend that BCC considers how the parking area could be landscaped in order to soften its impact from the street scene. Finally, it has previously been stated that the footpaths along Chartidge Lane in the vicinity of the site would be upgraded and a pedestrian crossing installed in order to improve pedestrian safety. The District Council wishes for these measures to be considered as part of this application.
- 5.2.5 It is noted that two additional representation letters have been submitted since the previous Planning Committee meeting. These representations have raised concern regarding the lights, hours of use, parking and the noise management plan.
- 5.2.6 The Applicant has also submitted additional information in support of their submission. This includes a Noise Management Plan, Travel and Parking Management Plan, elevational drawing of the proposed storage container to show the proposed external materials; elevational drawing of the ball stop fence/floodlight mast and plan of the sports pitches on site. Alongside this, the Applicant has proposed to install new planting along part of the south-western playing field boundary to reduce the visual impact of the development from Pednor and the Chilterns AONB. This planting can be secured by way of condition.
- 5.2.7 The Applicant has also considered whether the proposed maintenance equipment store could



be relocated closer to the school buildings. This is considered to not be possible as the closest building will be subject to building work once the Academy extension programme is implemented and secondly a vehicle with brushing implements to be housed within the equipment store must have direct access to the pitch to perform regular maintenance activities and the access route must contain a hardstanding surface for the vehicle to prevent any contamination being trafficked onto the pitch surface that would affect its performance quality and longevity. A plan showing the equipment store to be clad has instead been submitted to show how the visual impact of the store can be improved.

5.2.8 Furthermore, additional information has been provided regarding the proposed height of the floodlights. The proposed 15 metre mounting height is proposed as it would ensure that the lighting is directed fully downwards towards the playing pitch surface; avoids sky glow; and achieves full cut-off as recommended by The British Astronomical Association's Campaign for Dark Skies. Higher masts would require more intensive lighting while lower masts would result in increased overspill and glare. Details of floodlight management are also provided, confirming that the system will be controlled via sensors/a timer to ensure that floodlights cannot be ignited until dusk and are extinguished at the correct times. It is also proposed to allow the pitch to be illuminated in halves, when only half the pitch is in use.

5.2.9 Finally, a material consideration is the decision regarding the planning appeal at Penn and Tylers Green Football Club. (Appeal Decision is attached as Appendix FP.03). This appeal was allowed and planning permission was granted for the erection of 6 retractable floodlight columns (2.8 metres rising to 15 metres) at the football club which is located in the open Green Belt, Chilterns Area of Outstanding Natural Beauty and adjacent to a Conservation Area. In the Inspector's deliberations, it was considered that the proposal would not represent inappropriate development in the Green Belt, the use of floodlights would not have a detrimental impact on the landscape and scenic beauty of the AONB and finally that they would not have an adverse effect on the settings of the nearby Listed buildings and the character and appearance of the Conservation Area. The Inspector also commented on neighbouring concerns relating to parking, traffic and highway safety and stated that 'there is no compelling evidence to indicate that the proposed floodlights would lead to a significant intensification of use of the ground or generate extra traffic.' No additional parking was proposed or required as part of this development.

5.2.10 Based on the above, it is considered that sufficient evidence has been provided by the Applicant to overcome previous concerns. It is also considered that the application would be acceptable in light of the proposed application submitted to BCC. Therefore, the recommendation remains for approval, subject to the conditions included below.

#### 5.2.11 Conclusion

The Officer recommendation remains as per the previous report.

#### **Recommendation**

##### **Conditional permission**

1. The artificial grass pitch, fencing, barrier and entrance gates to grass pitch perimeter, installation of floodlights and hard standing, to which this permission relates, 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. In relation to the new storage container building only, this permission is granted for a limited period which will expire on 31st March 2024 and at the expiration of this period the storage container building hereby permitted shall be removed from the site immediately unless a further permission has previously been granted by the Local Planning Authority.

Reason: While being satisfied that the appearance of this temporary building will be acceptable for the period hereby granted, the Authority wishes to take account of its appearance at the expiry of this period before agreeing to its retention for a further period.

3. The use of the artificial grass pitch hereby permitted shall be restricted to only between the hours of 8.00am and 10.00pm daily Mondays to Fridays and 9.00am and 8.00pm Saturdays, Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby residential occupiers.

4. Prior to commencement of use of said pitch, all fences surrounding the artificial grass pitch shall be insulated in accordance with the recommendation set out in Section 9.3 of the Acoustic Consultants Limited report dated January 2019 (ref: 7607/DO).

Reason: To safeguard the amenities of nearby residential occupiers.

5. The layout of the artificial grass pitch shall incorporate the impact mitigation measures set out on page 19 of the Design and Access Statement (DAS) and Planning Statement of 23rd November 2019 (ref: LSUK 18-0176) submitted to the LPA by Labosport Ltd. These impact mitigation measures shall be maintained in perpetuity.

Reason: To safeguard the amenities of nearby residential occupiers.

6. The development hereby permitted shall not come in to use until a written Management Plan has been submitted and approved by the Local Planning Authority. The contents of the Plan shall have regard to the practical control of noise and artificial light associated with the use of the artificial grass pitch. Thereafter, all agreed measures shall be maintained in perpetuity.

Reason: To ensure that the users of the all-weather pitch are aware of the need to use the facility in a manner that minimises the impact on the amenity of local residents.

7. The artificial lights hereby permitted shall not be illuminated except between the hours of 8.00am and 10.00pm daily Mondays to Fridays, and 9.00am and 8.00pm Saturdays, Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby residential occupiers.

8. The artificial lights hereby permitted shall be controlled by photoelectric switches to automatically limit their operation having regard to paragraphs 9 and 10 on page 19 of the Design and Access Statement (DAS) and Planning Statement of 23rd November 2019 (ref: LSUK 18-0176) submitted to the LPA by Labosport Ltd. These controls shall be maintained in perpetuity.

Reason: To safeguard the amenities of nearby residential occupiers.

9. Prior to the installation of the screen planting, detailed proposals including planting detail plans, species, quantity and density and planting specifications shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the AONB and the open Green Belt.

10. Prior to the installation of the screen planting, a scheme for maintenance and aftercare

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the AONB and the open Green Belt.

11. The approved screen planting shall be undertaken within the first available planting season.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the AONB and the open Green Belt.

12. Within five years of the screening planting being implemented, any tree or shrub which dies, becomes diseased or damaged shall be replaced during the next planting season.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the AONB and the open Green Belt.

13. Before the installation of the store, details of the timber cladding materials to be used in its external construction shall be submitted to and approved in writing by the Local Planning Authority and the store shall be clad in accordance with these details.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality and the open Green Belt.

14. This permission relates to the details shown on the approved plans.

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**6 ITEMS FOR NOTING**

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**6.1 PLANNING APPLICATION REQUIREMENTS – PROPOSED REVISED LOCAL LIST**

Chiltern and South Bucks shared Planning Service is reviewing its local list of planning validation requirements and a proposed revised list has recently been produced for consultation.

By way of background Local Planning Authorities are required to publish a list of their information requirements for applications, a 'local list', which should be proportionate to the type, nature and scale of development proposals. These should be reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question. Local information requirements have no bearing on whether a planning application is valid unless they are set out on such a list.

In addition to an up-to-date local list being published on the Local Planning Authority's website, information requested with a particular planning application must be:

- reasonable having regard, in particular, to the nature and scale of the proposed development; and
- about a matter which it is reasonable to think will be a material consideration in the determination of the application.

The new local requirements link to national and local policies and the information is required in order for the Local Planning Authority to be able to consider the submitted proposal and come to a decision on the application. Provision of this information at the point of validation therefore reduces any delay in the processing and determination of planning applications.

Information on the national and proposed local planning application requirements can be found at [www.southbucks.gov.uk/planning/par](http://www.southbucks.gov.uk/planning/par) & <https://www.chiltern.gov.uk/planning/par>. The requirements will depend on what type of application and development is being proposed.

Applicants and agents are being directed to the relevant checklists for a breakdown of the requirements and the criteria of when these will apply. There are two checklists, where the requirements for the listed application types are similar. If an application type is not listed on either of the checklists, then it is just the national planning validation requirements that apply and the particular requirements are stated toward the end of the respective application forms.

Public consultation is currently being carried out via the websites. Furthermore, the agents who regularly attend the CDC/SBDC planning agent forums have also been notified direct. All comments received after the closing date of 19 June 2019 will be taken into account when preparing the final list, which will then be published in due course on both Council websites.

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## 6.2 NEW PLANNING AND ENFORCEMENT APPEALS

**CH/2017/1228/AV** – Two non-illuminated freestanding advertisement signs (retrospective), Land Adjacent to Jewsons, Chesham Road, **Hyde End**

**CH/2017/1637/FA** - Residential development to create two 1bed flats and 2 duplex flats with five residents parking bays, bin and cycle store, Land Rear of 61 Rickmansworth Road, **Amersham**

**PL/18/2249/FA** – Demolition of existing buildings, erection of two-storey community centre, alteration to existing access, formation of new vehicular access and provision of cycle parking, car park, bin stores, boundary treatment and landscaping, Little Chalfont Village Hall, Cokes Lane, **Little Chalfont**

**PL/18/2956/FA** – Erection of detached residential dwelling, vehicular access, landscaping and associated works, Land Adjacent to Woodcote, Burtons Lane, **Little Chalfont**

**PL/18/4762/FA** – Erection of detached dwelling, Land Adjacent to Netherfield, Kiln Road, **Prestwood**

**PL/18/4774/FA** – Detached garage, 378 Chartridge Lane, **Chesham**

**PL/18/4808/FA** - Construction of five dwellings with associated hardstanding and landscaping. Provision of garages and vehicular access, Old Britannia, Bottom Road, **Buckland Common**

**PL/18/4825/FA** - Construction of single storey detached garage, Hawthorn Lodge, 11 Rickmansworth Lane, **Chalfont St Peter**

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## 6.3 APPEAL DECISIONS

**2013/00142/AB** - Appeal against enforcement notice alleging without planning permission, the change of use of the Land from agricultural and its authorised equestrian use (including the use of one caravan/mobile home approximately 9m x 3m for use as a day room/wash room ancillary to the lawful use of the Land for agriculture/equestrian purposes in the position marked C on Plan 2) to a mixed use for agricultural purposes, equestrian purposes and for residential purposes including the stationing and use of a Fifth Wheel American Style Mobile Home to provide residential accommodation, in the position marked A on Plan 1 and shown hatched and marked A on the attached plan labelled Plan 2 ("Plan 2") and for the stationing of a container (the "Container") to provide residential storage (in the position marked B on Plan 1 and shown hatched and marked B on Plan 2), Clemmit Farm, Wycombe Road, Prestwood  
**Appeal Decision: Appeal Allowed (13.05.2019)**

**CH/2013/1270/FA** - Change of use of land for the stationing of a mobile home for residential purposes in connection with the equestrian use of the land for a temporary period of 3 years, Clemmit Farm, Wycombe Road, Prestwood  
Officer Recommendation: Refuse Permission  
Committee Decision: Refuse Permission  
**Appeal Decision: Appeal Allowed (13.05.2019)**

**CH/2018/0075/FA** - Detached dwelling within curtilage with attached garage and creation of a new vehicular access (amendment to planning permission CH/2016/0549/FA), Land Adjacent to Giles House and to Rear of Larkes Field, Doggetts Wood Lane, Little Chalfont  
Officer Recommendation: Conditional Permission  
Committee Decision: Refuse Permission  
**Appeal Decision: Appeal Allowed and Award of Costs Refused (30.04.2019)**

**CH/2018/0299/FA** - Erection of an outbuilding (retrospective), Austens, 11 The Greenway, Chalfont St Peter  
Officer Recommendation: Conditional Permission  
Committee Decision: Refuse Permission  
**Appeal Decision: Appeal Allowed (20.05.2019)**

**CH/2018/0471/FA** - Erection of attached two storey dwelling with associated parking provision and amenity space, 2 Wardes Close, Prestwood  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (11.06.2019)**

**CH/2018/0714/FA** - Erection of new dwellinghouse with integral garage, Land Adjacent (to North of) Idaho Cottage, 36 Wycombe Road, Prestwood  
Officer Recommendation: Conditional Permission  
Committee Decision: Refuse Permission  
**Appeal Decision: Appeal Allowed (30.04.2019)**

**CH/2018/0726/FA** - Detached dwelling with attached garage, vehicular access and associated hardstanding, Land Adjacent to 20 Pennington Road, Chalfont St Peter  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (30.04.2019)**

**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  
Officer Recommendation: Council failed to determine application  
**Appeal Decision: Appeal Dismissed (16.05.2019)**

**PL/18/2681/OA** - Outline application for the erection of a dwelling with off road parking, Land at Woodley Hill, Chesham  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Allowed (03.05.2019)**

**PL/18/3191/FA** – Construction of detached garage, 129 Stanley Hill, Amersham  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (11.06.2019)**

**PL/18/3264/FA** – First floor rear extension, 5 Grange Fields, Chalfont St Peter  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (11.06.2019)**

**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  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (21.05.2019)**

**PL/18/3698/FA** - Two storey rear and single storey front extensions, 10 Charter Drive, Amersham  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Dismissed (22.05.2019)**

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#### 6.4 WITHDRAWN APPEALS

**PL/18/2316/FA** - Redevelopment of site with three dwellings following demolition of existing dwelling and using same vehicular access, Lantern Lodge, Chiltern Hill, Chalfont St Peter  
Officer Recommendation: Refuse Permission  
**Appeal Decision: Appeal Withdrawn (07.05.2019)**

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#### 6.5 CONSENT NOT NEEDED

**PL/19/1154/KA** - Remove the dead branches from the lower canopy of the large pine in Coleshill Churchyard (Coleshill Village Conservation Area), All Saints Church, Barrack Hill, Coleshill

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#### 6.6 PERMISSION/PRIOR APPROVAL NOT NEEDED

**PL/19/1035/PNC** - Prior notification under Class R of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 - Change of use from Agricultural to a flexible use within Class B1 (Business), Land at Front of Highlands, Cherry Lane, Woodrow

**PL/19/1088/PNC** - Prior notification under Class R of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 - Change of use for Agricultural to a flexible use within Class B1 (Business), Hazeldene Farm, Asheridge Road, Asheridge

**PL/19/1104/PNE** - Notification of proposed single storey rear extension; depth extending from the original rear wall of 4.2 metres, a maximum height of 3.5 metres and a maximum eaves height of 2.2 metres, 71 Broad Street, Chesham

**PL/19/1137/PNE** - Notification of proposed single storey rear extension; depth extending from the original rear wall of 6.0 metres, a maximum height of 3.4 metres and a maximum eaves height of 3.0 metres, 2 Sandycroft Road, Little Chalfont

**PL/19/1150/PNE** - Notification of proposed single storey rear extension; depth extending from the original rear wall of 8.0 metres, a maximum height of 3.0 metres and a maximum eaves height of 2.85 metres, Applebelle House, Orchard Leigh

**PL/19/1368/TP** - Crown reduction of a hornbeam and crown thinning of a beech - both protected by a Tree Preservation Order, Great Bois Wood House, Great Bois Wood, Chesham Bois

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#### 6.7 WITHDRAWN APPLICATIONS

**CH/2018/0773/FA** - Alterations and change of use of public house with overnight accommodation (mixed A4/C1 use) to use as a public house (A4) with ancillary accommodation above and separate dwelling (Class C3) . Alterations and change of use of the

Barn to two dwellings (Class C3) including minor elements of demolition and erection of part single part two storey rear extension. Provision of car parking, communal garden and alterations to existing access and hard and soft landscaping, The George Inn Public House, 94 High Street, **Great Missenden**

**CH/2018/0774/HB** - Listed Building consent for internal and external alterations to facilitate the subdivision and change of use of public house with overnight accommodation (mixed A4/C1 use) to use as a public house (A4) with ancillary accommodation above and separate dwelling. Internal and external alterations (including minor elements of demolition) part single part two storey rear extension to facilitate change of use of the Barn to two dwellings, The George Inn Public House, 94 High Street, **Great Missenden**

**PL/18/3883/FA** – Erection of outbuilding, Land at Flaunden End Farm, Horse Hill, **Ley Hill**

**PL/19/0258/AV** - Installation of 2 no. non-illuminated wall signs, Ground Floor and Basement at King George V House, King George V Road, **Amersham**

**PL/19/0581/FA** - Two storey front and single storey side extensions, hip to gable roof extension to rear, dormer to side, porch canopy, installation of flue, decking to rear and changes to existing fenestration including enlargement of rear dormer, Willow Tree Cottage, Hawridge Vale, **Hawridge**

**PL/19/0686/FA** - Loft conversion including dormer. Rear infill extension and single front extension. Fenestration alterations, 16 Upper Hollis, **Great Missenden**

**PL/19/0760/FA** - Demolition of garage and erection of single storey rear extension and front porch, 17 Captain Cook Close, **Chalfont St Giles**

**PL/19/0787/DE** - Subdivision of plot and erection of detached dwelling and garage with associated landscaping (submission of details pursuant to outline planning permission CH/2015/1304/OA), Idaho Cottage, 36 Wycombe Road, **Prestwood**

**PL/19/0863/FA** – Vehicular access, 119 Waterside, **Chesham**

**PL/19/0896/SA** - Application for certificate of lawfulness for proposed: Single storey infill to rear extension, 94 Sunnyside Road, **Chesham**

**PL/19/0950/FA** - Single storey office/store with voltaic cells, Land to the Rear of 88 Bois Lane, **Chesham Bois**

**PL/19/1099/NMA** - Non-material amendment to planning permission PL/18/2012/FA (Conversion of barn into a single dwelling with integral garage) to allow timber cladding to exterior), Former Turkey Barn, Chartridge Lane, **Chartridge**

**PL/19/1109/PNE** - Notification of proposed single storey rear extension; depth extending from the original rear wall of 3.0 metres, a maximum height of 3.5 metres and a maximum eaves height of 2.3 metres, 8 Partridge Close, **Chesham**

**PL/19/1149/NMA** - Non-Material amendment to planning permission CH/2018/0255/FA (Modifications to The Beacon school car parks including additional hard standings, relocated vehicular and pedestrian entrance, landscaping and lighting) to allow: Changes to car park including pedestrian access, new post and rail fence, hardstanding for bin store, extend 3 existing parking bays and provision of 1 new parking bay, The Beacon School, 15 Amersham Road, **Chesham Bois**

**PL/19/1161/FA** – First floor side extension, 4 The Farthings, **Chesham Bois**

**PL/19/1246/HB** - Application for listed building consent relating to extending residential curtilage around dwelling, Hill Farm Cottage, Forty Green Road, **Forty Green**

**PL/19/1335/FA** - Conversion of existing single dwelling into 2 flats incorporating front rooflights and rear juliet balcony, 9 Sandycroft Road, **Little Chalfont**



**PL/19/1526/NMA** - Non-material amendment to planning permission CH/2014/0189/FA (Part two storey, part single storey side/rear extension to north west elevation and south west elevations, incorporating basement linked to existing underground chamber) to allow additional ground floor window to north elevation and raising of eaves and roof ridge, Windmill Farm, Windmill Hill, **Coleshill**

**PL/19/1531/NMA** - Non-material amendment to planning permission CH/1999/1873/FA (Erection of detached building to provide toilet facilities) to allow addition of an undercover archaeological demonstration dig area, Chiltern Open Air Museum, Newland Park, Gorelands Lane, **Chalfont St Giles**

**PL/19/1630/NMA** - Non-material amendment to planning permission CH/2018/0371/FA (Rear and side roof dormers and rooflights) to allow enlargement of rear dormer, 29 Pavilion Way, **Little Chalfont**

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## 6.8 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.

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**AGENDA ITEM No. 7**

## 7 REPORTS ON MAIN LIST OF APPLICATIONS

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**AGENDA ITEM No. 8**

## 8 EXCLUSION OF THE PUBLIC

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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

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# REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

## Main List of Applications 27th June 2019

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### PL/18/3540/FA

Case Officer: Lucy Wenzel  
Date Received: 25.09.2018  
Parish: Chesham  
App Type: Full Application  
Proposal: Construction of single storey building for use in conjunction with nursing home.  
Location: The Willows  
110 Chartridge Lane  
Chesham  
Buckinghamshire  
HP5 2RG  
Applicant: Mrs Lynne Woodstock

Decide by Date: 24.06.2019  
Ward: Asheridge Vale And Lowndes

### SITE CONSTRAINTS

Adjacent to C Road  
Within Green Belt other than GB4 GB5  
North South Line  
Townscape Character

### COMMITTEE CALL IN

Councillor Bacon has called this application forward to planning committee should the recommendation be for approval.

### SITE LOCATION

The application site is located to the west of Chesham to the western side of Chartridge Lane. The site accommodates a care home which is located within a large detached building set to the front of a long narrow plot. The scale of the building and plot depth reflects neighbouring dwellings along Chartridge Lane.

### THE APPLICATION

The application seeks planning permission for the erection of a single storey building to be used in conjunction with the nursing home.

The building measures approximately 12 metres in width with a depth of 6.1 metres. The roof will be pitched with a ridge height of 3.45 metres and eaves of 2.45 metres.

### RELEVANT PLANNING HISTORY

CH/1996/0835/FA - Alterations and change of use of dwelling house to residential home for the elderly. Conditional permission.

CH/2010/0491/FA - Retention of detached outbuilding. Conditional permission.

CH/2010/1102/FA - Variation of Condition 3 of planning permission CH/1996/0835/FA in order to permit residential accommodation and car for up to 11 people and a single storey front extension. Conditional permission.

CH/2017/0900/FA - Replacement of outbuilding (retrospective). Conditional permission.

**TOWN COUNCIL** - Received on the 30th October 2018

"Whilst cognisant of the need to be legally compliant in respect to conditions laid down for nursing homes, the Committee would not wish to see a precedent being set for similar single dwellings in the area that may become private homes."

## **REPRESENTATIONS**

Eight letters of objection have been received from neighbouring dwellings. Their comments have been read in full but have been summarised for ease below:

- The proposed building will impact upon the privacy and enjoyment of neighbouring gardens.
- Light pollution will occur if the proposed building is granted permission.
- Noise and disturbance will result from the use of the building.
- The building proposed is of a large scale which is not required to be so big to house a member of staff.

## **CONSULTATIONS**

**Buckinghamshire County Council's Highways Authority** - Received 25th October 2018

"The proposed development has been considered by the County Highway Authority who has undertaken an assessment in terms of the expected impact on the highway network including net additional traffic generation, access arrangements and parking provision. The Highway Authority is satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway.

Mindful of the above, the Highway Authority raises no objections and in this instance no conditions to include on any planning consent you may wish to grant."

## **POLICIES**

National Planning Policy Framework (NPPF), February 2019

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

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011: Saved Policies GC1, GC3, H19, CSF1, TR11 and TR16

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25 February 2015

### **Principle of Development**

1. The application site is located within the built-up area in Chesham, Policy H19 states that the erection of small self-contained residential annexes for domestic staff may be granted in exceptional circumstances where the Council considers that an extension is not appropriate. Additionally, Policy CSF1 provides a general policy for the provision of community services and facilities in the built-up areas stating that community buildings often provide a vital function in the built-up areas of the District.

2. Having regard to the above it is proposed to erect a detached self-contained annexe to the rear of The Willows to provide additional accommodation for care staff in association with The Willows. In terms of the proposed annexe it would be sited to the rear of the main building with no external access routes apart

from entering and exiting directly through The Willows. The care home is already of a scale which is considerable in comparison to other dwellings in the surrounding locality and has significant widthways spread reducing the potential to extend the building to accommodate extra staff accommodation internally. In assessing the proposed scale of the annexe, it measures 72 square metres which is larger than what would normally be regarded as small for the purposes of Policy H19. However, contained within the annexe is a bedroom, bathroom, two storage areas and an area of amenity space which encompasses the kitchen, dining room and living room. Although the scale is acknowledged, the provision of space for those staff members utilising the building is deemed appropriate in its scale and the provision of extra storage amenities will further increase storage availability for the care home. As such the proposed annexe is acceptable having regard to Policy H19.

3. Further to the provision of additional staff accommodation, the Manager of the Care Home has stated that following a fire safety inspection on the 4th April 2018, it was specified that an additional member of staff was required to be on site at all times in case that a fire broke out. This is to assist in the aid of those persons living in the care home to exit the premises. This helps clarify the need for the additional built form on site and as aforementioned the care home has constraints which reduce the acceptability of an extension.

#### **Character/appearance and design**

4. The proposal seeks to erect an outbuilding to the rear of the nursing home within its plot. The outbuilding will be sited horizontally within the plot extending to near the full width. Within the plot sited to the rear of the existing care home are already a number of outbuildings which provide additional storage facilities for the nursing home. The proposed outbuilding will provide additional accommodation for care staff that is required on site as there is limited space within the existing care home to provide extra accommodation for staff and additionally, the building has already been extended as laid out in the planning history above. Likewise, given the limited space available within the existing care home the building will additionally provide storage space for the storage of facilities used within the care home. The outbuilding is sited roughly about half way down the plot and extends close to its full width. It will be positioned behind two existing outbuildings which will form a small cluster of built form towards the rear of the site.

5. When viewing the proposed development in the context of Chartridge Lane there are a number of outbuildings and structures sited within the rear plots of dwellings which vary greatly in scale and location. Additionally, the principal building line along Chartridge Lane is strong but to the rear there are a number of structures which have no rigid positions within the site boundaries. Taking these points into account, the proposed outbuilding will not divert from the existing character of plots nor will it introduce rear built form as it is already in existence. Therefore the proposed annexe has minimal negative impact upon the character and appearance of Chartridge Lane and is considered to be acceptable having regard to Policies GC1 and CS20.

#### **Residential Amenity**

6. In terms of the impact that the proposal will have upon neighbouring residential amenities it is acknowledged that the building will be sited within the rear of the plot serving the care home and as such the building will be visible from neighbouring dwelling when looking out towards the rear. In this regard, as aforementioned there are already rearwards sited buildings contained within the boundaries of the care home plot and as such the current proposal would be viewed within the context of a cluster of buildings. The building proposed is single storey in height, does not have considerable depth and is unobtrusive and simple in its form. The rear gardens of the dwellings lining Chartridge Lane are considerable in depth and when viewing aerial photographs from Council records it is clear that a number of dwellings have rear built form spread inconsistently across the depths of their plots. This therefore sets an acceptability for the provision of built form to the rear. However it is acknowledged that the building will be visible from the surrounding dwellings given the rearwards siting. Nevertheless when using the rear amenity spaces of the neighbouring

dwelling to the care home, the building would only be marginally visible given its form and is as such not considered to impede detrimentally on amenity levels currently enjoyed.

7. Neighbours have commented with regards to possible light pollution produced by the proposed building. This point is acknowledged but there would be ambiguity in the level of light produced; at what points during the day/night and at what times of the year. A level of light pollution is already in existence from the number of dwellings sited along Chartridge Lane and this point alone is not substantive enough as to warrant a refusal. Although regard must be given to the general amenities of neighbouring residents and light pollution would fall into this category it is not considered that the proposed outbuilding would impede on other aspects such as privacy, visual intrusion or overlooking to such a significant degree to further warrant a refusal. Therefore the proposal is considered acceptable having regard to Policies GC3 and H14.

#### **Parking/Highways implications**

8. The unit will not be occupied independently to the care home and as such would not have a required need to have its own parking facilities. There are existing parking facilities serving the care home which provide sufficient parking spaces and therefore there are no concerns raised.

#### **Conclusion**

9. In conclusion, having regard for the above assessment it is considered that the proposal for the outbuilding to be used in conjunction with the care home is acceptable subject to a number of conditions.

#### **Working with the applicant**

10. 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 suggesting solutions.

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

#### **Human Rights**

11. 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 development to which this permission relates 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 exterior of the development hereby permitted shall only be constructed in the materials specified on the plans hereby approved or in materials which shall previously have been approved in writing by the Local Planning Authority.

Reason : To ensure that the external appearance of the development is not detrimental to the character of the locality.

3 The outbuilding shall only be used for purposes in connection with and incidental to the running of The Willows as a private care home and shall at no time be occupied as an independent dwelling unit.

Reason: To protect the amenities of the occupiers of nearby properties.

4 AP01 Approved Plans

## **PL/18/4879/FA**

Case Officer: Emma Showan  
Date Received: 28.12.2018  
Parish: Chesham  
App Type: Full Application  
Proposal: Demolition of existing structures and the construction of a 3 storey block of 9 flats with associated parking, cycle/bin storage and landscaping.  
Location: Chesham Service Station  
Asheridge Road  
Chesham  
Buckinghamshire  
HP5 2NT  
Applicant: W.E. Black Ltd  
Decide by Date: 24.06.2019  
Ward: Asheridge Vale And Lowndes

### **SITE CONSTRAINTS**

Adjacent to Unclassified Road  
Biodiversity Opportunity Areas  
Brownfields CDC  
Bovingdon Technical Radar Zone  
Critical Drainage Area  
North South Line  
Townscape Character  
Thames Groundwater Protection Zone GC9  
Area for Business, Storage, Distribution

### **CALL IN**

Councillor MacBean has requested that this application be determined by the Planning Committee if the Officer recommendation is for approval.

### **SITE LOCATION**

The application site is located on a corner plot at the junction between Asheridge Road, Hivings Hill and Bellingdon Road in the built-up area of Chesham. The site is in a prominent location at the confluence between these three roads and is currently comprised of a former fuel filling station and vehicle sales centre. To the north and east, the site is bordered by two storey residential dwellings and to the west the site is bordered by allotments. There are also a number of industrial and commercial units within close proximity to the site, in addition to a three storey block of flats across the road from the site at Nos. 27-49 Bellingdon Road.

### **THE APPLICATION**

This application proposes the demolition of the existing structures and construction of a three storey block of 9 flats with associated parking, cycle/bin storage and landscaping.

The proposed block would be 3 storeys high and would incorporate 9 two-bedroom flats. The block would have a maximum width of 20 metres, depth of 17.4 metres and pitched roof height of 10.5 metres, with an eaves height of 6.7 metres.



It would be served by an existing access onto Asheridge Road and would provide 11 parking spaces alongside a bin and cycle store.

A Design & Access Statement, Supporting Statement and Sustainability Statement have been submitted in support of this application.

### **RELEVANT PLANNING HISTORY**

CH/2002/2271/FA - Erection of canopy to provide car cleaning area, conditional permission.

CH/1994/0337/AD - Retention of internally illuminated free standing totem sign, canopy fascia lettering, shop sign and bullnose section on shop fascia, free standing column with internally illuminated clock and temperature gauge and non-illuminated free standing utility box, conditional consent.

CH/1993/0903/AD - Retention of internally illuminated canopy fascia, shop fascia, free standing totem sign and non-illuminated directional sign and proposed freestanding column with clock and two proposed freestanding poster signs, refused permission.

CH/1983/1778/FA - Installation of two new 2000 gallon underground storage tanks, conditional permission.

CH/1983/0899/FA - Extension to existing sales building/lube bay to provide MOT testing bay, refused permission.

CH/1981/0317/FA - Extension of existing car and petrol sales office, conditional permission.

CH/1978/1203/FA - Extension to petrol sales shop, change petrol pumps to self-service pumps and alterations to existing crossovers, conditional permission.

CH/1977/1474/FA - Use of part of forecourt for the display and sale of cars, conditional permission.

### **TOWN COUNCIL**

The Committee recommends refusal of this application on the grounds of being over-development; bulk; being overlooking; having an adverse effect on existing amenity space and the lack of parking provision.

### **REPRESENTATIONS**

14 letters of objection received which can be summarised as follows:

- Concern regarding location of soakaway
- Concern regarding contamination
- Concern regarding mud on the highway
- Concern regarding siting of bin store
- Insufficient parking
- Potential disruption
- Out of character
- Loss of light and view
- Loss of privacy
- Three storeys is out of character with the locality
- Bin store increases potential for rodents
- Concern regarding highway safety
- Siting of proposed trees would interfere with light into neighbouring properties
- Loss of employment land
- Lack of supporting infrastructure and road improvements

- Flats along Ash Grove were limited to being two storey in height
- Overload of small flats locally
- The adjacent apartment block is three storey but has the appearance of being two storey
- Increase in congestion
- Impaired highway visibility
- Increased demand for local schools, doctors and roads
- Proposal is an eyesore
- Potential for inconsiderate, nuisance or illegal parking
- Potential for anti-social behaviour
- Contrary to local policies
- Inappropriate density

## CONSULTATIONS

**Buckinghamshire County Highways Officer:** 'The application is for full planning permission for 9 two bedroom flats and 11 car parking spaces with use of the existing access off Asheridge Road.

The site is located at the junction of Bellingdon Road, Asheridge Road and Hivings Hill, approximately 1km north of the centre of Chesham.

The site is currently in use as a car sales place and was formerly a petrol station. Ash Grove, to the north of the development site, is a recently completed residential development that received planning permission in 2016.

There are currently 4 accesses into the site; two accesses from Asheridge Road and two from Hivings Hill.

Asheridge Road leads to the Asheridge Industrial Estate which is located 400 metres north of the site. During my site visit I noticed that the road was frequently used by cars and LGVs.

Asheridge Road is 6.6m wide with a 3.4m wide footway on the northern side and a 1.8m footway on the southern side. The road is subject to a 30mph speed limit and has double yellow lines near the junction with Bellingdon Road and north of the development site.

No Transport Statement has been submitted with the application, but information is provided in the Design and Access Statement (DAS).

The DAS explains that the site is situated in a sustainable location with a bus stop nearby and the train station and centre of Chesham 1km from the site. I can conclude that the site is accessible by non-car modes.

The eastern existing access off Asheridge Road will be retained to access the car parking. All other accesses will be closed off. No dimensions have been provided but the access appears to be approximately 6m wide which is wide enough for two vehicles to pass, thereby allowing simultaneous two-way vehicle movements in and out of the site.

My site visit revealed that visibility from this access exceeds the MfS requirements of 2.4m by 43m for a 30mph road. I am therefore satisfied that the proposed vehicle access is adequate for the development proposals.

A new pedestrian access will be provided to Bellingdon Road.

A total of 11 car parking spaces have been provided. I assume that the Local Planning Authority will consider the adequacy of the proposed vehicle parking provision.

A cycle store for 14 cycles has been provided which is adequate for the proposed development.

Servicing will be conducted from Asheridge Road and the bin store is located within servicing distance from the road.

From calculations using the Trip Rate Information Computer System (TRICS®) database, the 9 two bedroom flats have the potential to generate in the region of 36 daily two-way vehicle movements. The 800m<sup>2</sup> car showroom has the potential to generate in the region of 180 daily two-way vehicle movements. The proposed use is therefore likely to result in a decrease in vehicle movements to and from the site and therefore the impact of the proposed development is acceptable in traffic impact terms.

There are currently double yellow lines along Asheridge Road near the junction with Hivings Hill and Bellingdon Road. These double yellow lines continue along the northern edge of the carriageway along the site frontage but not along the southern side of Asheridge Road. The double yellow lines discontinue for a distance of 53m after which they continue again opposite Ash Grove.

It is considered that the double yellow lines on the southern side of Asheridge Road require extending southwards from Ash Grove for a distance of 15m past the proposed site access, in order to prevent parking in that location and hence leaving sufficient room for vehicles to turn into and exit the development site. This will require an amendment to the existing TRO.

Mindful of the above, this application is acceptable in Highway terms subject to a Legal Agreement to secure a contribution of £15,000 for the amendments to the TRO and conditions.'

**Building Control - Access for the disabled:** 'No objections or comments to make.'

**Building Control - Fire-fighting access:** 'No objections or comments to make.'

**Economic Development Officer:** 'As an Economic Development Team, our focus is upon supporting the growth and prosperity of the local economy. This can only be achieved through providing an environment in which businesses can start and grow, and the availability of appropriate and affordable commercial space is essential to this. As such, we are unlikely to support any application that involves the loss of employment land.'

With any application proposing the loss of employment land, we would be looking for clear evidence that the applicant has marketed the site comprehensively and appropriately, and that this activity and local market conditions suggest very little likelihood of the premises or site becoming occupied. This is also clearly articulated in policy CS16 of the Core Strategy for Chiltern:

"Where an employment site (including sites covered by policies E2 and E3) is within the built-up areas excluded from the Green Belt, the loss of employment land as a result of redevelopment for other uses, including residential use, will be acceptable where there is no reasonable prospect of the site being used for employment purposes, or where it is creating significant amenity issues, or where the existing use is creating significant highway problems."

This application is proposing the loss of 108sqm of commercial space and to our knowledge, no evidence has been provided to support the argument that there is no reasonable prospect of the site being used for employment. In fact, the site is currently occupied by a Jeep sales centre which in itself would suggest there is a demand for this space. Should this application be approved, we would have concerns over the future of this

business. Commercial space is difficult to find within the Chiltern area and there would be a significant risk that this business would be lost from the district, resulting in the loss of local employment. As an Economic Development Team we wish to retain businesses and employment in the district, not lose them.

To conclude, given the proposed loss of employment land, the Economic Development Team objects to this proposal. The presence of an existing business on site suggests there is demand for commercial usage - further information is required on the current commercial occupier, for example, to understand whether they have expressed an interest in relocating or have already found an alternative site. In addition to this, evidence that other occupiers would be unlikely to be found for the site needs to be demonstrated, through a comprehensive and appropriate marketing exercise.'

**Environmental Health Officer:** 'Demolition of existing structures and the construction of a 3 storey block of 9 flats with associated parking, cycle/bin storage and landscaping.

The Council's historical maps show that the site was adjacent to Benham's Farm during the 1874-1891 epoch, the farm is labelled Bottom Farm on the historical map for the 1924-1925 epoch, a depot is shown on site during the 1961-1971 epoch, an electrical sub-station is shown on site during the 1970-1988 epoch.

The site was formerly operated as a petrol filling station. The environmental permit for the installation was revoked in 2002. The site is currently operated as a car sales lot, an electrical sub-station is shown on the Council's raster map.

Based on this, the standard Land Quality Condition is required on this and any subsequent applications for the site.'

**Waste Officer:** 'Inadequate capacity for waste containment. Please refer to waste planning guidance document for more details. Required change to bin store to accommodate the following waste containers: 1x1100 litre refuse bin; 1x660 litre mixed recycling bin; 1x660 litre paper recycling bin.'

## **POLICIES**

National Planning Policy Framework (NPPF), 2018.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS8, CS16, CS20, CS24, CS25 and CS26.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, GC4, H3, H11, H12, S13, TR2, TR3, TR11 and TR16.

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25 February 2015.

## **EVALUATION**

### **Principle of development**

1. The site is located within the built-up area of Chesham where in accordance with Policy H3 proposals for new dwellings are acceptable in principle subject to there being no conflict with any other Local Plan policy. Proposals should be compatible with the character of those areas by respecting the general density, scale, siting, height and character of buildings in the locality of the application site, and the presence of trees, shrubs, lawns and verges. In addition, the spatial strategy for Chiltern District, in accordance with Policies CS1

and CS2 of the Core Strategy, is to focus development on land within existing settlements outside of the Green Belt and Chilterns Area of Outstanding Natural Beauty.

2. The site is also currently in employment use and is operating as a vehicle sales centre. Core Strategy Policy CS16 seeks to secure the long-term retention of a portfolio of employment sites and premises within the District which are attractive to the market and which will provide a range of jobs to meet local needs. The Policy states that: 'Where an employment site is within the built-up areas excluded from the Green Belt, the loss of employment land as a result of redevelopment for other uses, including residential use, will be acceptable where there is no reasonable prospect of the site being used for employment purposes, or where it is creating significant amenity issues, or where the existing use is creating highway problems.'

3. All other relevant Development Plan policies should also be complied with.

#### **Loss of employment land**

4. Core Strategy Policy CS16 seeks to secure the long-term retention of employment sites. The Council's Economic Development Officer has been consulted on this application and has raised concerns over the future of the existing business on site and prospect of the site being used for another commercial use. In response, the Applicant has put together a supporting statement which states that: the current site owners are retiring and have been unable to sell the premises within the motor trade; Chesham already has four other petrol stations; the site is not suitable for a motor sales operation; the buildings do not meet the MEES requirements; the site is likely contaminated; there is an ongoing supply of empty office space in Chesham; an office development on the adjacent site failed; commercial agents have declined to market the property for commercial use.

5. Despite the contents of the Applicant's statement, no evidence has been submitted from the Applicant or commercial agents to indicate that the premises have been marketed and no interest has been forthcoming. It is accepted that the former office use of the adjacent site was redundant and the site has since been redeveloped for residential use, however the marketing assessment undertaken for this site was executed in 2013 (as part of application CH/2013/1259/FA) and so is now six years out of date. Whilst it may be that there is little demand for a commercial vehicle sales centre in this location, it is not considered that sufficient evidence has been put forward to demonstrate that the site would not be suitable for another commercial venture. The Applicant has stated that there is an ongoing supply of empty offices in Chesham but there may be other business enterprises, and not necessarily office-based businesses, that would be interested in the site. In the absence of a marketing exercise, it is not possible to determine this need and therefore to make a balanced judgment on whether the site would have a prospective future use as employment land. As such, the proposal fails to comply with the provisions of Core Strategy Policy CS16 which seeks to secure the long-term retention of employment sites.

#### **Design/character & appearance**

6. The application site is located at the confluence between Asheridge Road, Bellingdon Road and Hivings Hill and forms a broadly triangular shape. It currently comprises a former fuel filling station with a forecourt to the front laid out to accommodate a vehicle sales business. To the rear, the site borders a new development of two storey semi-detached houses and apartment blocks. To the east of the site, across the road along Hivings Hill, there are two storey Victorian terraces and an apartment block accommodating 12 flats over three storeys (planning reference: CH/1993/0937/FA). To the west, the site borders allotments and within the surrounding area there are also industrial and commercial premises. The area has a mixed character with a range of vernacular styles.

7. It is proposed to demolish the existing filling station and to replace the building and forecourt with a block of 9 flats. The proposed building would be sited so that it sits in the point between Hivings Hill and

Asheridge Road with the car park being located to the rear. The building would be three storeys in height, with the third floor accommodation being provided within the roof space. In terms of the design of the building, it would incorporate a crown roof with a number of projecting gable ends. It would comprise a fairly traditional vernacular which is not considered to be at odds with the local area. In terms of the siting of the building, it would be set off each boundary so that the building does not appear overly cramped and space would be retained for landscaping to help soften the impact of the proposal on the locality. In addition, the proposed building would be set back from the highway junction which would further help to reduce its prominence.

8. The proposed building would be three storey which is considerably taller than the single storey filling station and associated buildings on site. The building would also be taller than the two storey residential development to the rear, at Asheridge Grove. However, the third floor accommodation would be contained within the roof space which would reduce the bulk of the proposal. It is also noted that the building would be of a comparable height to the building at No. 17 Asheridge Road and it would not be the first three storey building to look onto this highway junction. Opposite the application site, at No. 29-49 Bellingdon Road, there is an existing three storey apartment block encompassing pitched roof dormers and projecting gable ends akin to those proposed within this application. Furthermore, it is considered that the proposed projecting gable ends, dormers and pitched roof slopes would break up the bulk of the proposal so that the building does not appear excessive or overly inflated within the context of its surroundings.

9. Overall, it is considered that the scale of the building would be acceptable taking into account the varied pattern of development locally and the siting of the building at the highway junction where it would sit independently. Adequate space would be maintained around the site to allow for appropriate landscaping and this would further reduce the prominence of the building and it is noted that there are other three storey buildings adjacent to the site. Finally, given the nature of the existing site and its chaotic appearance, the proposed building is considered to be a visual improvement that would relate well to the residential development to the rear of the application site and the local context. Nonetheless, should the proposal be found to be acceptable, then a condition requiring the submission of materials prior to commencement of works above ground level would ensure that the building relates well to the local context.

### **Residential amenity**

10. Local Plan Policy GC3 states that new development should achieve good standards of amenity for future occupiers and seeks to protect the amenity of existing properties. In this respect, the proposed building would be visible from the surrounding houses, however it would be sited on average of 33 metres away from the rear elevations of the dwellings at Asheridge Grove and 17.5 metres away from the rear boundaries of these neighbouring properties. It is considered that this 33 metre separation distance would be sufficient to prevent the proposal from appearing unduly overbearing to these neighbouring properties. To the east of the site, 16 metres would separate the proposed building from Nos. 1-5 Hivings Hill and this separation would be over the public highway. This too is considered to be an acceptable distance to prevent the proposal from appearing overbearing. In terms of intrusion, windows are proposed at three levels in all four elevations of the proposed building. However, again, there will be considerable separation between these windows and those of neighbouring properties and views will not be direct, but would be over the public highway and car parking areas. Given the distance and relationship between the proposed windows and neighbouring properties, no objections are raised in regards to intrusion.

11. Local Plan Policy H12 requires new development to provide adequate amenity space for future residents to utilise. It is recommended that 30 square metres be provided for every two bedroomed unit and on this basis the development should provide approximately 270 square metres of amenity space. In this respect, it is proposed to provide a shared amenity space to the rear/side of the building. The total amount of amenity space surrounding the building is approximately 320 square metres and each flat would also have a

Juliet balcony for private amenity use. It is therefore considered that adequate amenity space would be provided for future occupiers of the development.

12. The site benefits from existing waste collection routes and it is proposed to provide a bin store adjacent to the site entrance and within the car parking area. The proposed bin store has been relocated away from the boundary with the neighbouring properties and is now sited in an acceptable location. The Waste Officer has confirmed that larger bins will be required but this can be the subject of a condition should planning permission be granted.

### **Parking/highway implications**

13. Local Plan Policy TR16 concerns the amount of parking to be provided as part of a new development. It states that for each dwelling with a floor area between 50 to 120 square metres, two parking spaces should be provided. Accordingly, for the proposed development, it is recommended to provide 18 spaces. In contrast, the application proposes 11 parking spaces, which equates to one parking space per flat with the addition of two visitor spaces.

14. It is important to note that the standards set out in Local Plan Policy TR16 are not minimum standards as this would be contrary to national Government guidance. The Council approved a resolution in 2007 to explicitly change the interpretation of the parking standards from minimum standards to recommended standards. Therefore, if a site is in a sustainable location, it should not be reasonably required to provide the full parking standard.

15. In the case of this application, the site is located in a sustainable location. It is located 0.7 miles away from the town high street where services and facilities are located, including Chesham Underground Station. The site is also located on existing bus routes. As the site is clearly located in a sustainable location, it is considered that the parking standards can be relaxed and the provision of 11 parking spaces for a development of 9 units is considered to be acceptable.

16. The County Highways Authority has assessed the impact of the development on the local highway network and raised no objection to the proposal. It is stated that adequate visibility splays can be achieved. Nonetheless, it is also stated that the double yellow lines on the southern side of Asheridge Road require extending southwards from Ash Grove for a distance of 15 metres past the proposed site access, in order to prevent parking in that location and hence leaving sufficient room for vehicles to turn into and exit the development site. A legal agreement is therefore required to secure a contribution of £15,000 for the amendments to the existing TRO and conditions.

17. Cycle storage will also be provided on site.

### **Contamination**

18. The application site had a previous use as a filling station and representations have raised concern regarding the possibility of site contamination. The Council's Environmental Health Officer has reviewed this proposal and confirmed that no objections are raised, subject to the inclusion of conditions requiring the reporting of contamination and management of contamination should it be found on site.

### **Affordable housing**

19. For proposals under five residential units, Policy CS8 of the Core Strategy requires a financial contribution towards off-site affordable housing to be made. However, there are now specific circumstances set out in the NPPG (National Planning Practice Guidance) where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development, including developments of 10 units or less, which have a gross floor space of less than 1,000

square metres. A contribution towards affordable housing provision is not therefore required as part of this development.

### **Working with the applicant**

20. In accordance with Chapter 4 of the NPPF Chiltern District Council take a positive and proactive approach to development proposals focused on solutions. Chiltern District Council works with applicants/agents in a positive and proactive manner by:

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

In this case, the proposal did not accord with the Development Plan, and no material considerations were apparent to outweigh these matters. It was not considered that any changes during the course of the application would have reasonably overcome these issues, so the application was recommended for refusal on the basis of the submitted plans.

### **Human Rights**

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

### **RECOMMENDATION: Refuse permission**

For the following reasons:-

1 Core Strategy Policy CS16 seeks to secure the long-term retention of employment sites. It states that where an employment site is within the built-up areas excluded from the Green Belt, the loss of employment land as a result of redevelopment for other uses, including residential use, will be acceptable where there is no reasonable prospect of the site being used for employment purposes, or where it is creating significant amenity issues or where the existing use is creating significant highway problems. In this instance, the Applicant has failed to undertake a marketing exercise of the premises and has failed to adequately demonstrate that the site would have no future use as employment land. In the absence of supporting documentation, it is not possible to determine whether the site could be used for other employment purposes and so the proposal fails to comply with Policy CS16 of the Core Strategy for Chiltern District - Adopted November 2011.



## **PL/19/0450/FA**

Case Officer: Melanie Beech  
Date Received: 11.02.2019 Decide by Date: 26.06.2019  
Parish: Chesham Ward: Asheridge Vale And Lowndes  
App Type: Full Application  
Proposal: **Redevelopment of the site to provide 6 dwellings (4 apartments and 2 houses) with associated access, amenity and car parking.**  
Location: 212 Chartridge Lane  
Chesham  
Buckinghamshire  
HP5 2SF  
Applicant: Mr & Mrs Brendan

### **SITE CONSTRAINTS**

Adjacent to C Road  
North South Line  
Townscape Character

### **CALL IN**

Councillor Bacon has requested that this application be determined by the Planning Committee if the officer's recommendation is to approve.

### **SITE LOCATION**

The application site is located on the South-western side of Chartridge Lane within the built up area of Chesham. It slopes steeply downwards away from the road and currently consists of a detached dwelling situated towards the front of the plot and a detached single garage to the south-west of the dwelling.

The site is surrounded by residential development; no.216 to the north-west, no. 210 to the rear, and a development site to the south-east consisting of two pairs of semi-detached houses at the front of the site (planning permission PL/18/4372/VRC) and 5 dwellings at the rear of the site (planning permission CH/2017/0846/FA). These are currently under construction.

### **THE APPLICATION**

The application seeks planning permission to demolish no.212 Chartridge Lane and associated outbuildings, and to redevelop the site to provide 6 residential units. Plots 1 - 5 are located within a two storey building situated towards the front of the plot, and plot 6 is a detached bungalow located to the rear.

Plots 1 and 2 are two bedroom apartments located on the ground floor, plots 4 and 5 are one bedroom apartments located on the first floor. Plot 3 is a three bedroom dwelling attached to the apartments and spread over 2 floors. Plot 6 is a detached bungalow with a bedroom and bathroom within the roof space. There are two bedrooms on the ground floor.

The proposed building at the front of the plot has a maximum width of 14.9m, depth of 12.7m and height at the front of 8.2m with an eaves height of 4.8m. It includes a central pitched roof gable on the front elevation and 3 pitched roof gables on the rear elevation. A flat roof single storey element extends 2.2m from the rear

elevation. The proposed bungalow measures 8.2m wide by 9.2m deep. It has a ridge height of 5.8m and an eaves height of 2.6m.

The proposed materials are Audley antique brick and red antique clay roof tiles.

It is proposed to retain the existing access and provide a new access drive to the south-east of the apartment building. 1 car parking space is provided for each apartment and 2 spaces are provided for each of the dwellings.

A private rear garden is provided for each of the dwellings and a communal amenity area is provided for the apartments. The existing hedges around the site are to be retained.

### **RELEVANT PLANNING HISTORY**

CH/2015/1713/FA - Land at 206 - 212 Chartridge Lane. Erection of three detached dwellings and detached garage, creation of vehicular access - Conditional Permission

CH/2017/0846/FA - Re-development of site (Land at and to the rear of 206 - 208 Chartridge Lane), 5 detached dwellings (4 with integral garages, 1 detached garage), associated hard landscaping, parking and creation of vehicular access - Refused, allowed on appeal

CH/2017/1959/FA - Re-development of site (Land at and To The Rear Of 206 - 208 Chartridge Lane) comprising 5 dwellings (4 with integral garages), associated hard landscaping, parking and creation of vehicular access - Refused

CH/2018/0854/FA - Demolition of Nos. 206 and 208 Chartridge Lane and erection of two pairs of semi-detached dwellings along Chartridge Lane and one detached dwelling to the rear (comprising the reconfiguration of plot 5 approved under planning permission CH/2017/0846/FA), associated hard landscaping, parking and altered vehicular access - Conditional Permission

PL/18/3904/VRC - Variation of Condition 14 of planning permission CH/2018/0854/FA (Demolition of Nos. 206 and 208 Chartridge Lane and erection of two pairs of semi-detached dwellings along Chartridge Lane and one detached dwelling to the rear (comprising the reconfiguration of plot 5 approved under planning permission CH/2017/0846/FA), associated hard landscaping, parking and altered vehicular access) to allow amended design of detached dwelling on plot 5 - Conditional Permission

PL/18/4372/VRC -Variation of Condition 14 of planning permission CH/2018/0854/FA (Demolition of Nos. 206 and 208 Chartridge Lane and erection of two pairs of semi-detached dwellings along Chartridge Lane and one detached dwelling to the rear, associated hard landscaping, parking and altered vehicular access) to allow amended design of semi-detached dwellings on Plots 6 to 9 - Conditional Permission.

### **TOWN COUNCIL**

"The Committee recommends REFUSAL of this application on the grounds of being overdevelopment in terms of bulk and mass: overbearing; out of keeping with the existing street scene and back garden development."

### **REPRESENTATIONS**

3 letters have been received in relation to the application, which are summarised below:

- Loss of privacy (to nos. 210 and 216 Chartridge Lane)
- Reduction of light into front garden of no. 216
- Access to the site is dangerous due to hesitancy, misunderstanding, speed of traffic, proximity to Brandon Mead

- Single track driveway is inadequate for this number of dwellings plus pedestrians
- Having the front door of plot 6 straight onto the driveway is dangerous
- Insufficient parking and manoeuvring space will lead to overspill parking onto the road and verges
- Bus service along Chartridge Lane is inadequate
- Over development which is out of character to the area
- Insufficient amenity space for the new dwellings
- Concerned developer will make further applications to increase size of plot 6 as they have at the neighbouring site
- Consider bats and birds on site
- Consider drainage of site
- Comments relating to the ownership of the driveway [officer note: this is a civil matter that does not affect the determination of the planning application].

## **CONSULTATIONS**

### **Highway Authority**

No objection subject to widening of access to 4.8m.

### **Ecology**

No objection subject to condition to require ecological enhancements.

### **Firefighting Access**

The access serving the development should comply with Approved Document B5 of the Building Regulations and should have a minimum road width of 3.7m and minimum gate widths of 3.1m. However, the arrangement shown will be acceptable if a fire fighting pump vehicle can gain access to within 45m of all points within all of the dwellings.

### **Strategic Environment Team**

No objection subject to a condition relating to contaminated land.

### **Waste services**

"In accordance with local service policies, waste collections would take place from the highway. Waste containers would need to be presented at the entrance point, where the boundary meets the public highway."

## **POLICIES**

National Planning Policy Framework (NPPF), February 2019.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS8, CS20, CS24, 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, GC2, GC3, GC4, H3, H11, H12, TR2, TR11, TR15, TR16.

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25 February 2015

## **EVALUATION**

### **Principle of Development**

1. The site is located within the built up area of Chesham where in accordance with Local Plan Policy H3, proposals for new dwellings are acceptable in principle subject to there being no conflict with any other Local Plan policy. In addition, the spatial strategy for Chiltern District, in accordance with Policies CS1 and CS2 of the

Core Strategy, is to focus development on land within existing settlements and in particular to the built up areas of the main settlements which includes Chesham.

### **Design/character & appearance**

2. The area is residential in nature with a variety of dwellings situated in a range of plot shapes and sizes. This includes detached and semi-detached dwellings fronting onto Chartridge Lane with a number of dwellings and outbuildings situated to the rear of these residential plots. Policy H3 states that proposals should be compatible with the character of the area by respecting the general density, scale, siting, height and character of buildings in the locality, and the presence of trees, shrubs, lawns and verges.

3. It is acknowledged that the replacement of a single dwelling with 6 residential units significantly increases the density of development on the site. Provided this does not adversely affect the character of the area, this is considered to be a good thing as it makes efficient use of land in a sustainable location within Chiltern District, which cannot currently demonstrate a 5 year land supply for housing.

4. The siting of the proposed dwellings is considered to be acceptable, which will be viewed within the context of the permitted dwellings to the south-east of the site and the existing dwellings located to the north-west and south-west. These are shown on the submitted site layout plan. There is sufficient space between and around the proposed dwellings so that the development does not appear cramped or represent an overdevelopment of the plot. In particular, the proposal complies with Policy H11 which requires a minimum of 1m between the flank elevation of the proposed dwelling and the plot boundary.

5. The scale, height and design of the proposed dwellings are shown on the submitted plan entitled "proposed house types". Plots 1 - 5 which are situated within the building proposed at the front of the plot will be viewed within the context of the permitted dwellings to the south-east. The proposed street scene (shown on the submitted plan) clearly demonstrates that the proposal is comparable to the approved scheme in terms of its height and scale, and the overall appearance is compatible with the design. The street scene also shows the generous gaps between the buildings.

6. Plot 6 is a bungalow, and given its height, scale and siting, will not be highly visible from Chartridge Lane or other public viewpoints. It is therefore considered that it will fit in with the variety of the surrounding dwellings and not adversely affect the character of the area.

7. In terms of the presence of trees, shrubs, lawns and verges, the existing hedge around the site is to be retained. Policy GC1 of the Local Plan adds that the appearance of car parking should be considered as part of a proposal, and the layout of any development should not be dominated by access roads or car parking. Although the car parking for plot 1-5 is located at the front of the plot, adjacent to Chartridge Lane, this is the same layout that was approved at the neighbouring site and therefore it would be unreasonable to object to it at this site. Furthermore, the car parking area has been softened by the addition of some planting and it is recommended that conditions be imposed on any planning permission relating to the materials of the parking area, and landscaping, in order to ensure that the proposed development does not adversely affect the character of the area.

8. Based on the above assessment, it is considered that the proposal does not adversely affect the character of the area and complies with the relevant Development Plan policies in this regard. However, to ensure that the site is not developed further without the Council's control, a condition is recommended to restrict Permitted Development rights.

### **Residential amenity**

9. Local Plan Policy GC3 refers to the protection of amenities throughout the district. It states that the Council will seek to achieve good standards of amenity for the future occupiers of that development and to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties. Where amenities are impaired to a significant degree, planning permission will be refused.

10. No. 216 Chartridge Lane is situated to the north-west of the application site but is set back over 30m from the road. As such, the proposed front building will be adjacent to their driveway and parking area, and will not overlook any private areas. The comments from this neighbouring property are noted but any views from the rear windows of the proposed dwellings at the front of the site into the neighbouring property will be angled and at least 15m away. Similarly, the proposed bungalow is sited so that it is adjacent to the neighbouring garage at no. 216 and given that it is single storey, will not cause any visual intrusion or loss of privacy.

11. No. 210 Chartridge Lane is situated to the south-west of the application site on lower land, approximately 11m away from the proposed bungalow. There is an existing outbuilding, driveway and parking area between no.210 and the proposed bungalow and there are no habitable room windows on the side elevation of the proposed bungalow. As such, it is not considered that the proposal will adversely affect this neighbouring property to a significant degree.

12. In addition, the proposal has been designed and sited so that it does not adversely affect the amenities of the new dwellings which are being constructed to the south-east. Conditions are recommended to restrict any side windows being installed in the flank elevations of the front building, and all four elevations of the bungalow.

13. With regard to the amenities of future occupiers of the development, each dwelling has been provided with a private rear garden and the flats have a communal amenity area to the rear. Although it is acknowledged that the gardens are relatively small, they provide adequate outdoor amenity space and are comparable to others in the vicinity, including the single dwelling permitted to the south-east and properties in Dell Close and Groves Way. Bin storage has also been provided and no objections are raised from the Council's waste team.

### **Parking/Highway implications**

14. In accordance with Policy TR16 of the Local Plan, the Council's parking standard for dwellings or flats with a gross floor area of less than 120sqm is two spaces. These have been provided for plot 3 and plot 6. In accordance with the policy, the parking standard for flats with an internal floor area of 50sqm or less and which have two habitable rooms or fewer, is one space. Plot 4 is 50sqm and only has two habitable rooms and as such, only 1 space is required. The other plots (plots 1, 2 and 5) are 53sqm, 59sqm and 51.6sqm respectively. As such, in accordance with the policy, the parking standard for the flats is 2 spaces. As only 1 space is provided per flat, there is a shortfall of 3 spaces in accordance with the policy, but it must be noted that the parking standards are not minimum standards and policy TR16 should only be given limited weight.

15. In this regard, it is important to note the comments from the Appeal Inspector who allowed the development to the south-east in January 2018. He stated that,

"Paragraphs 17 and 39 of the Framework collectively state that growth should be managed to make the fullest use of walking, cycling and public transport and that local parking standards should take into account the accessibility of development and the availability of public transport. In view of this, and the site's location within an urban area approximately 1 mile from the town centre and train station, and near to local bus stops, I am satisfied that future occupants would have good accessibility to a wide range of employment,

services and facilities via walking, cycling and public transport and that a reduced parking standard would therefore be acceptable."

16. It is also noted that in another appeal decision dated 4th September 2018 (CH/2017/1943/FA), the Inspector stated that Policy TR16 can only be given limited weight because it is not wholly consistent with the NPPF. Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given that the flats are only marginally larger than those which would only require 1 space, that the site is in a sustainable location, and noting the Inspector's comments in relation to the neighbouring site, no objections are raised to the proposal with regard to parking.

17. With regard to the impact of the development on the highway network, the comments from the local residents are noted. However, in consultation with the Highway Authority, no objections are raised in this regard, subject to a condition to widen the access to 4.8m wide.

### **Ecology**

18. A Preliminary Roost Assessment and a single nocturnal survey have been carried out, which confirm that overall the site offers low roosting opportunities for bats. Therefore, in consultation with the Ecology Officer, no objections are made to the application in terms of ecology, subject to a condition to require details of ecological enhancements to ensure that a net gain in biodiversity is achieved.

### **Drainage**

19. The site is not located within any designated critical drainage area but it is acknowledged that the proposed development would increase the amount of hard surfacing and that drainage is a particular issue in Chesham. In this regard, the condition requiring details of the proposed materials would ensure that the parking and turning areas would be constructed in permeable materials. Furthermore, it is noted that it is an offence under the Highways Act for water to run off onto the highway. The development would also need to meet building regulations with regard to proper drainage.

### **Affordable Housing**

20. With regard to affordable housing, Policy CS8 of the Core Strategy requires at least one affordable housing unit on sites of 5 to 7 dwellings. However, the National Planning Practice Guidance (NPPG) states that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought, including from small scale and self-build development, such as developments of 10 units or less, or which have a gross floorspace of less than 1,000sqm. As the proposed development falls below these thresholds and the NPPG carries greater weight than the Core Strategy, no objections are raised to the scheme without a contribution to affordable housing.

### **Conclusions**

21. In conclusion, it is acknowledged that the proposed development significantly increases the density of development on this site. However, the design and siting of the proposed dwellings is not considered to adversely affect the character of the area, amenities of neighbouring properties, highway safety, trees or ecology. As such, the proposal complies with the relevant Development Plan policies and is therefore recommended for approval, subject to conditions.

### **Working with the applicant**

22. 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.

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

### **Human Rights**

24. 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 development to which this permission relates 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 Before any construction work above ground commences, details of the materials to be used for the external construction of the development hereby permitted, including the surface materials for the new access road, parking and turning areas, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in the approved materials.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality or create flooding issues, in accordance with Policies GC1, GC10 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and Policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

3 Prior to the commencement of any works on site, detailed plans showing the existing ground levels and the proposed slab and finished floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.

Reason: To protect, as far as is possible, the character of the locality, in accordance with Policies GC1 and H3 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 and Policy CS20 of The Core Strategy for Chiltern District, Adopted November 2011.

4 Prior to the commencement of development approved by this planning permission,, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- i) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors

- potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

The above must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of this condition, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of this condition, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

5 Notwithstanding the details shown on the approved plans, no other part of the development shall begin until the new means of access has been sited and laid out in accordance with details that shall first have been submitted to and approved by the Local Planning Authority.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway, in accordance with Policies TR2 and TR3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 and Policies CS25 and CS26 of The Core Strategy for Chiltern District, Adopted November 2011.



6 The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway, in accordance with Policies TR2, TR3, TR11 and TR16 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 and Policies CS25 and CS26 of The Core Strategy for Chiltern District, Adopted November 2011.

7 No development shall take place, including works of demolition, until a Construction Traffic Management Plan (CTMP) has been submitted to and approved by the Local Planning Authority, in conjunction with the Highway Authority. The CTMP shall include details of:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- operating hours
- wheel washing facilities

The approved plan shall be adhered to throughout the construction period.

Reason: In the interests of highway safety, convenience of highway users and to protect the amenities of residents, in accordance with Policies TR2 and TR3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 and Policies CS25 and CS26 of The Core Strategy for Chiltern District, Adopted November 2011.

8 No development above ground level shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping at a scale of not less than 1:500 which shall include indications of all existing trees and hedgerows on the land, with details of those to be retained, those to be felled being clearly specified, and full details of those to be planted. This shall include full details of the locations, size and species of all trees, hedgerows and shrubs to be planted, removed and retained and should include the installation of bat and/or bird bricks and/or boxes.

Reason: In order to maintain, as far as possible, the character of the locality and to ensure biodiversity enhancements and to ensure a good quality of amenity for future occupiers of the dwellings hereby permitted, in accordance with policies GC1, GC4 and H3 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 CS24 of the Core Strategy for Chiltern District (Adopted November 2011).

9 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to maintain, as far as possible, the character of the locality and to ensure biodiversity enhancements and to ensure a good quality of amenity for future occupiers of the dwellings hereby permitted, in accordance with policies GC1, GC4 and H3 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 CS24 of the Core Strategy for Chiltern District (Adopted November 2011).

10 Prior to the commencement of development above ground level, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall then be erected/constructed prior to the occupation of the dwellings hereby permitted.

Reason: To protect, as far as possible, the character of the locality and the amenities of the adjoining properties and approved dwellings, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

11 Prior to the commencement of development above ground level, full details of the proposed bin storage for each new dwelling shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of each new dwelling and permanently retained for bin storage.

Reason: To ensure that the development respects the character of the area, does not appear cluttered with bins and to ensure that there is adequate bin storage for future occupiers of the development, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no windows/dormer windows other than those expressly authorised by this permission, shall be inserted in the flank elevations of the dwellings on plots 1 - 5 hereby permitted, or in any of the elevations of the bungalow on plot 6 hereby permitted.

Reason: To protect the amenities and privacy of the adjoining properties, in accordance with policy GC3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011.

13 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A - E of Part 1 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site unless planning permission is first granted by the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider whether any future proposals will be detrimental to the character of the locality or the amenities of neighbouring properties, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

14 AP01 Approved Plans

## **PL/19/0655/FA**

Case Officer: Melanie Beech  
Date Received: 28.02.2019 Decide by Date: 26.06.2019  
Parish: Chesham Ward: Hilltop And Townsend  
App Type: Full Application  
Proposal: Two storey front extension, first floor front and side extensions, roof extensions with rear dormer and front and rear rooflights, subdivision to form 5 residential flats, changes to fenestration, associated hardstanding and landscaping, erection of boundary wall and widening of existing vehicular access.  
Location: 55 Gladstone Road  
Chesham  
Buckinghamshire  
HP5 3AD  
Applicant: Mr M Rehman

### **SITE CONSTRAINTS**

Adjacent to Unclassified Road  
Air Quality Management Area  
Biodiversity Opportunity Areas  
Bovingdon Technical Radar Zone  
Critical Drainage Area  
North South Line  
Townscape Character

### **CALL IN**

Councillor Culverhouse has requested that this application be determined by the Committee if the officer's recommendation is to approve.

### **SITE LOCATION**

The application site is located on the western side of Gladstone Road within the built up area of Chesham. The land slopes down to the west, away from Gladstone Road.

The existing building on the site is a detached 4 bedroom house with a living room, dining room, cloakroom, kitchen and two studies on the ground floor, and 4 bedrooms and a bathroom on the first floor. There is also a basement, and a parking area to the north.

To the west of the site is a large building (53 Broad Street) which has recently been converted to 15 flats. To the south of the site is the parking area for that development. To the north of the site are the driveways, garages and rear accesses to the terraced dwellings along Broad Street. To the west are terraced dwellings located on the other side of Gladstone Road.

### **THE APPLICATION**

The application seeks planning permission to convert the existing dwelling into 5 x 1 bedroom flats. To enable this, it is proposed to construct a first floor side extension on the southern elevation with a ridge and eaves height to match the existing dwelling. This will include a flat roof dormer window on the rear elevation. In addition, a two storey extension is proposed on the front and northern side elevation which will also match

the ridge and eaves height of the existing dwelling. It is also proposed to alter the number and position of doors and windows, and make minor variations to the front boundary wall.

The development will include 3 car parking spaces to the north, with a new timber fence to the rear of the parking spaces. Behind the parking spaces is a communal garden area measuring approximately 60sqm. Space is also provided for bin and bicycle storage.

### **RELEVANT PLANNING HISTORY**

CH/1990/0069/FA - Change of use of dwelling to Doctors surgery and consulting rooms together with new vehicular access and car park - Conditional Permission.

CH/1991/0193/FA - Alterations, single storey side extension with part basement to provide doctors surgery. Front boundary wall with access ramp for wheelchairs, front porch canopy and parking area - Conditional Permission.

CH/2011/0696/FA - Change of use from Doctors surgery (Use Class D1) to residential (Use Class C3) to form 3 two-bed flats, widening of existing vehicular access and laying of hardstanding - Refused permission and dismissed at appeal.

CH/2011/1682/SA - Application for a Certificate of Lawfulness for a proposed use of a building as a dwelling (Use Class C3) - Certificate granted.

### **TOWN COUNCIL**

"The Committee recommends REFUSAL of this application as the off-street parking provision does not meet the required parking standards in a road with a historical lack of sufficient on-street parking. Moreover the proposals are deemed as overdevelopment in terms of size and bulk and being overlooking to the gardens in Berkhamstead Road."

### **REPRESENTATIONS**

10 letters have been received in relation to the application, which are summarised below:

- Loss of privacy
- Building will be very oppressive
- Out of keeping with the rest of the road
- Overdevelopment, building is not suitable for 5 flats
- Does not cater for disabled people (e.g. No lift, inadequate space in flats)
- Insufficient parking will exacerbate existing on-street parking problems
- Road is not wide enough for refuse collections
- Inadequate provision for bin and recycling storage, which should be a proper built brick structure
- Disturbance during construction (noise, road closures/blockages, dust and mess)
- Pressure on utilities (gas, electricity, water)
- Pressure on services (e.g. doctors, dentists, schools)
- Need to maintain right of way across back of 55 and 57 Gladstone Road to Broad Street
- Accept building could do with updating.

### **CONSULTATIONS**

#### **Environmental Health**

No objection subject to a condition relating to the reporting of any contaminated land, and the carrying out of any necessary remediation works.

### **Highway Authority**

Object to the application because the development would result in an intensification of an existing access at a point where visibility is substandard and would lead to danger and inconvenience to people using it and to highway users in general. In addition, there is inadequate turning space within the site which would result in vehicles reversing onto the highway.

### **POLICIES**

National Planning Policy Framework (NPPF), February 2019.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20, 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, GC2, GC3, H3, H7, H11, H12, H13, H14, H15, H16, H18, TR2, TR11, TR15, TR16.

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25 February 2015

### **EVALUATION**

#### **Principle of Development**

1. Policy CS1 of the Core Strategy aims to focus new development on land within existing settlements, in particular within the built up areas of the main settlements within the district, which includes Chesham.
2. Policy H3 of the Local Plan states that new dwellings will be acceptable in the built up areas, subject to there being no conflict with any other Local Plan policy. Proposals should be compatible with the character of the area by respecting the general density, scale, siting, height and character of buildings in the locality, and the presence of trees, shrubs, lawns and verges.
3. Policy H7 of the Local Plan states that within the built up areas, the conversion of an existing dwelling into more than one self-contained unit of accommodation will be acceptable where it can be achieved without significantly damaging the character and appearance of its immediate locality or impairing the amenities of the occupiers of adjoining properties.
4. Taking the above policies into account, the principle of extending and converting the existing dwelling into 5 flats is acceptable, provided other relevant Development Plan policies are complied with.

#### **Design/character & appearance**

5. The eastern side of Gladstone Road is characterised by tall, terraced dwellings located to the front of long narrow plots in a dense form of development. The western side however, is dominated by driveways, parking areas and garages serving the properties fronting onto Broad Street. 55 Gladstone Road is in fact one of the only properties to have a frontage onto the western side of Gladstone Road. This makes the application site fairly unusual in its setting.

6. With regard to the appearance, the proposed extension on the southern elevation has a width of approximately 3.5m and does not extend beyond the side wall of the existing ground floor element. Similarly, the proposed extension on the northern elevation does not extend beyond the side wall of the existing dwelling and the proposed front extension is set no further forward than the existing front elevation of the building which supports the chimney. As such, the extended building, although much larger than the existing, will be sited on a very similar footprint.

7. Given the space that surrounds the building to the north and south, the proposed extensions are considered to be acceptable in terms of their design as they will not be detrimental to the character and appearance of the area. With regard to the impact of the extensions on the building itself, the ridge and eaves height match the existing dwelling and although create a larger building, are considered to respect the overall scale and proportions of the existing building.

8. The dormer window is 3m wide x 3m high and has a maximum depth of 3.6m. It is therefore a large dormer window but is situated to the rear of the building and is of a size and scale which could be constructed any time under permitted development (and hence without applying for planning permission). As such, no objections are raised to this element of the proposal. The alterations to the fenestration are also considered to be acceptable.

9. The proposed parking area reflects the character and appearance of existing parking areas along this side of Gladstone Road and the proposed alterations to the front boundary wall are minor, and will not adversely affect the character and appearance of the area.

10. Converting a single dwelling into 5 flats may also have an impact on the character of the area in terms of the activity in and around the site, in addition to the alterations to the appearance. In this regard, it should be noted that the building has previously been used as a doctor's surgery, which would have had many comings and goings. Furthermore, there are other flats in the vicinity and no objections were raised by the Inspector to converting this building into 3 flats in terms of character under planning application CH/2011/0696/FA (appeal reference APP/X0415/A/11/2158397/NWF). This appeal was dismissed on other grounds, which are discussed later in the report.

11. Overall, given the space around the site and the sympathetic design of the proposed extensions, the proposal is considered to respect the character and appearance of the area, and as such complies with Policies GC1, H3 and H7 of the Local Plan, and Policy CS20 of the Core Strategy.

### **Residential amenity**

12. Local Plan Policy GC3 relates to the protection of amenities throughout the district. It states that the Council will seek to achieve good standards of amenity for the future occupiers of that development and to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties. Where amenities are impaired to a significant degree, planning permission will be refused. Local Plan Policy H12 sets out expected standards for outdoor amenity space.

13. The comments from the residents along Gladstone Road are noted, some of whom are concerned about a loss of privacy. It is acknowledged that the proposed development will introduce first floor windows into the front elevation of the building where there are currently none. However, the occurrence of residential windows facing other residential windows across a street is not an unusual relationship in a built up area. The proposed windows will only overlook the front elevations of the houses on the opposite side of Gladstone Road which can already be viewed from the street. As such, it is not considered that the proposal would result in an unacceptable loss of privacy for these residents.

14. As stated above, the land to the north and south of the site is occupied by driveways, parking areas and garages. The proposed windows on the north and southern elevations do not cause any additional overlooking to that which already exists from the current windows in these elevations.

15. With regard to the flats contained within 53 Broad Street, the floor plans for that development show that the first floor windows in the rear elevation of that building serve non-habitable rooms and as such, no objections are raised with regard to the impact of the proposal on these flats.

16. With regard to amenity for future occupiers of the flats, it is relevant to note that in 2011, an application was made to convert 55 Gladstone Road into 3 flats (reference CH/2011/0696/FA). This was refused due to the poor amenity provided for the future occupiers of the flats in terms of outlook and amount of outdoor amenity space. The refusal was appealed and the Inspector agreed that the outlook from flat 2, which occupied the basement and part of the ground floor, was unacceptable. However, he concluded that the amount of outdoor amenity space was acceptable.

17. This is a relevant appeal decision because the current proposal has addressed the concerns of the Inspector by locating the bedroom and bathroom for flat 1 in the basement and moved the living room and study to the ground floor. This provides the living area with a better and more acceptable outlook. The other flats, which are located on the remainder of the ground floor, the first floor and within the roof space, also have sufficient light, space and outlook so that the proposal complies with Policy GC3 of the Local Plan. In response to a comment regarding accessibility for disabled people, the development would have to comply with building regulations and is not a matter that is controlled by planning legislation.

18. With regard to outdoor amenity space, a communal garden is provided to the north of the site which has an area of approximately 60sqm. In addition, an "all weather surfaced area" measuring approximately 30sqm is provided adjacent to the basement for flat 1. The text following Policy H12 of the Local Plan advises that 1 bedroom flats should have approximately 25sqm of outdoor amenity space, to include areas for refuse disposal. In this case, the communal garden provides approximately 20sqm of outdoor space for flats 2 - 5 which is considered acceptable because the area for refuse disposal is located elsewhere. The outdoor amenity area for flat 1 meets the standards and although is situated between the building and a brick wall, the residents will also have access to the communal garden. It should also be noted that the 15 flats at 53 Broad Street have minimal outdoor amenity space.

19. Overall, the proposal is considered to provide acceptable levels of amenity for future occupiers of the flats, and the amenities enjoyed by existing neighbouring properties are protected, in accordance with Policy GC3 of the Local Plan.

#### **Parking/Highway implications**

20. In accordance with Policy TR16 of the Local Plan, one car parking space is required for flats with 2 habitable rooms or fewer and an internal floor space of less than 50sqm. 2 spaces are required for flats with an internal floor space of between 50sqm and 120sqm. Based on these standards, flat 1 requires 2 spaces and the other flats all require 1 space, giving a total of 6 spaces. The proposed development includes 3 spaces, which is therefore a shortfall of 3 in comparison to the standards set out in Policy TR16.

21. It is acknowledged that parking is a major local issue and reason for concern for local residents. However, the appeal decision on this site from 2011 is a material consideration that must be taken into account in determining this application. Although that application only proposed 3 flats, they were larger flats and therefore required 6 spaces to meet the standards set out in Policy TR16 (i.e. the same shortfall as the current application). The Council did not object to the level of parking because it was a vast improvement on the shortfall that existed for the doctor's surgery, which was the lawful use of the building at the time. Furthermore, the officer's report refers to an appeal decision from 2008 at Victoria House, located approximately 90m away on Victoria Road, where a scheme for 8 residential units was considered (reference CH/2007/0124/FA). Although the appeal was dismissed due to a loss of employment and poor living conditions, the Inspector raised no objection to the scheme with no parking at all, stating that the site is in a sustainable location with the town centre and public transport facilities close by. He also said the following, which is of relevance to the current application:

"It is clear from the letters received from local residents that there is a severe shortage of spaces for residents to park in the area ... However, I consider that this is a problem that already exists, with a similar number of parking spaces being required whether the appeal property is used for employment purposes or housing. Whilst there may be high levels of car ownership in the district, this would be less likely to apply to the occupiers of small flats in this sustainable location."

22. Since these appeal decisions, the NPPF has been published, which states at paragraph 109 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In light of the above assessment, it is considered that the level of parking proposed is acceptable and no objections are raised in this regard.

23. With regard to the impact of the development on the highway, the comments from the Highway Authority are noted. They have confirmed that the local highway network within the vicinity of the site can safely accommodate the proposed development but are concerned about vehicles reversing onto Gladstone Road. However, there are numerous examples of parking spaces and driveways along the western side of Gladstone Road which would require vehicles to reverse onto Gladstone Road due to insufficient manoeuvring space within the plot. As such, it would seem unreasonable to refuse a similar situation at this site. Furthermore, the previous use of the building as a doctor's surgery would have the potential for many more vehicle movements than 5 dwellings and therefore it is not considered that the proposed development would have an unacceptable impact on highway safety.

24. Some of the local residents have raised concern about disruption during construction, particularly in relation to blocking the road. This matter is not a planning consideration but the applicant should be advised that it is an offence under the Highways Act 1980 to obstruct the free passage of the highway. This can be added as an informative on any planning decision notice issued.

### **Conclusions**

25. It is acknowledged that 5 flats may seem excessive for this site and the concerns from the local residents are certainly noted. However, the above assessment has taken into account the character of the area, the space around the site to the north and south, the previous use of the building as a doctor's surgery, the current use of the building as a dwelling and its existing positioning of windows, and the location of the site within a sustainable location in Chesham. Based upon this assessment, the proposal is considered to comply with the Development Plan policies and there are no defensible reasons to refuse the application. As such, the application is recommended for approval, subject to conditions.

### **Working with the applicant**

26. 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.

### **Human Rights**

27. 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 development to which this permission relates 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 materials to be used in the external construction of the development hereby permitted shall match the size, colour and texture of those of the existing building, and the materials to be used for the new parking area shall be permeable.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality or create flooding issues, in accordance with Policies GC1, GC10 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and Policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

3 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4 The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to park clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway, in accordance with Policies TR2, TR3, TR11 and TR16 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 and Policies CS25 and CS26 of The Core Strategy for Chiltern District, Adopted November 2011.

5 Prior to the commencement of development above ground level, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall then be erected/constructed prior to the occupation of the dwellings hereby permitted.

Reason: To protect, as far as possible, the character of the locality and the amenities of the adjoining properties and approved dwellings, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

6 Prior to the commencement of development above ground level, full details of the proposed bin storage shall be submitted to and approved in writing by the Local Planning Authority. The approved details

shall be implemented prior to the occupation of the dwellings hereby permitted and permanently retained for bin storage.

Reason: To ensure that the development respects the character of the area, does not appear cluttered with bins and to ensure that there is adequate bin storage for future occupiers of the development, in accordance with policies GC1, GC3 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

7 Prior to the initial occupation of the dwellings hereby permitted, the communal garden area shown on the approved plans shall be provided and shall thereafter not be used for any other purpose.

Reason: To ensure that there is sufficient outdoor amenity space for the future occupiers of the development, in accordance with policies GC3 and H12 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011.

8 AP01 Approved Plans

## INFORMATIVES

1 INFORMATIVE: The applicant is advised that information for developers and guidance documents relating to contaminated land can be found online at <http://www.chiltern.gov.uk/article/2054/Information-for-Developers>

2 INFORMATIVE: No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980.

## **PL/19/1264/VRC**

Case Officer: Lucy Wenzel  
Date Received: **09.04.2019** Decide by Date: **24.06.2019**  
Parish: **Penn** Ward: **Penn And Coleshill**  
App Type: Variation or Removal of a Condition  
Proposal: **Variation of condition 12 of planning permission PL/18/4331/FA (Redevelopment of site to provide three new dwellings with two detached garages and one carport, creation of two new vehicular accesses and associated hardstanding) to allow design changes**  
Location: **Woodchester  
Woodchester Park  
Knotty Green  
Buckinghamshire**  
Applicant: **Mr M Garner**

### **SITE CONSTRAINTS**

Article 4 Direction  
Adjacent to Unclassified Road  
North South Line  
Tree Preservation Order  
Townscape Character

### **COMMITTEE CALL IN**

Councillor Waters has requested that the application is referred to the Planning Committee should the Officers' recommendation be for approval.

### **SITE LOCATION**

The site is located to the north of Knotty Green along Woodchester Park. The site has been subject to a number of planning applications for the accommodation of new dwellings on site. Within the site surroundings the dominant dwelling type is that of large detached properties sited within spacious plots with a mixed character type.

### **THE APPLICATION**

Planning permission was granted on the 5th April 2019 for the "Redevelopment of the site to provide three new dwellings with two detached garages and one carport, creation of two new vehicular accesses and associated hardstanding".

Condition 12 of that planning permission relates to approved plans. This application seeks to vary Condition 12 of that permission to allow for some small amendments to the house designs.

This application is submitted under Section 73 of the Town and Country Planning Act 1990 and if approved, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. The National Planning Practice Guidance states that Local Planning Authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original permission.

### **RELEVANT PLANNING HISTORY**

CH/2011/1283/SA. Application for a Certificate of Lawfulness for a proposed operation relating to the erection of three detached dwellings and garages (Plots 14, 15 and 16) as approved under application reference CH/1989/1316/OA and CH/1989/2497/DE. Certificate granted.

CH/2012/0782/FA. Demolition of existing dwelling and erection of five detached dwellings and garages, refused permission.

CH/2012/1807/FA. The application proposes the demolition of the existing dwelling and the erection of five detached dwellings and garages, refused permission. Subsequent Appeal Dismissed: Due to the scale, orientation and proximity to side boundary Plot 17 would overwhelm and dominate the outlook from the rear garden and impair living conditions at No.4 Latimer Way to a significant degree.

Due to the depth, height and proximity to side boundary Plot 18 would have an overbearing effect on the occupiers of Hawthorn House when in the rear garden and rear conservatory and impair living conditions of these neighbours to a significant degree.

CH/2013/1906/FA. Redevelopment of site to provide three dwellings and one detached garage, creation of two new vehicular accesses and laying of associated hardstanding, conditional permission.

CH/2016/0914/FA - Redevelopment of site to provide two dwellings and one detached garage, creation of two new vehicular accesses and laying of associated hardstanding (amendment to Plots 15 and 16 of planning permission CH/2013/1906/FA), conditional permission subject to a legal agreement.

CH/2018/0122/FA - Redevelopment of site to provide two new dwellings and one detached garage, creation of two new vehicle accesses and laying of associated hardstanding (amendment to planning permission CH/2016/0914/FA), conditional permission subject to a legal agreement.

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, refused permission by reason of the proposed dwellings heights, scale and rear garden depths resulting in the dwellings appearing as cramped and out of keeping with surrounding residential development.

PL/18/4331/FA - Redevelopment of site to provide three new dwellings with two detached garages and one carport, creation of two new vehicular accesses and associated hardstanding. Conditional permission subject to a legal agreement.

### **PARISH COUNCIL**

Received on the 17th May 2019: "Strong objection - we object to the variation of condition 12 which requires the houses to be built without garden rooms and dormer windows." [Officer note: Condition 12 does not state this].

### **REPRESENTATIONS**

Three letters of objection have been received which have been summarised below:

- The 1.8 metre high continuous closeboard fence should remain.
- The ridge heights of the dwellings has been increased making them overbearing to the rear neighbours. [Officer Note: this is not the case, they are as previously approved].
- The proposed rear extension on Plot 1 is a significant addition. [Officer note: it is single storey, set well away from all other properties and is a minor addition].
- The roof pitches are steeper than previously consented, increasing their domineering nature. [Officer Note: this is not the case, they are as previously approved].

- The dwellings are invasive and produce a cramped nature to the site. [Officer Note: they are largely as previously approved].

## **CONSULTATIONS**

### **Chiltern and South Bucks Waste Management Team**

Received on the 30th April 2019: "Waste service note the proposal at Woodchester, Woodchester Park. Waste has no objections to properties for Plots 1-3."

### **Chiltern District Council's Tree Officer**

Received on the 13th May 2019: "The received proposals do not appear to show any changes that would affect the tree retention proposals. However the Site Plan shows an additional extension to the rear of the proposed dwelling on Plot 1 and additional patio areas on all three plots. It also shows different indicative planting proposals but these would be covered by an existing condition on PL/18/4331/FA. I have no objections to the proposed changes."

### **Buckinghamshire County Council's Highway Authority**

Received on the 14th May 2019: "I note that the amended designs brought forward in this application, are not materially different to those from our previous correspondence on the former full application, dated 17th December 2018. Having reviewed the amended proposals in question, I am satisfied that there will not be any material change to the highway network as a result. Mindful of the above, I have no objection to the proposal from a highways perspective, and no new conditions to include in any discharge or variation of condition you may grant."

## **POLICIES**

National Planning Policy Framework (NPPF), February 2018.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS8, CS20, CS24, CS25, CS26, CS31 and CS32.

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, GC4, H3, H11, H12, H18, TR2, TR3, TR11, TR16 and TW3.

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25th February 2015

## **EVALUATION**

1. This application is submitted under Section 73 of the Town and Country Planning Act 1990 and as outlined above, seeks a variation of Condition 12 of PL/18/4331/FA. In determining this type of application the National Planning Practice Guidance states that Local Planning Authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original permission.

2. In this instance, the relevant Development Plan policies have not changed and there are no material changes on the site. The principle of the development has already been established under the previous application and is still found to be acceptable.

### **Design/character & appearance**

3. The proposed variation seeks permission to allow slight amendments to the house designs for Plot 1-3. The amendments include the addition of small rooflights on all three dwellings, a single storey rear addition

on Plot 1 and a small single storey projecting bay on the rear of Plot 2. The overall scale, heights, distance from the two storey elements to the boundaries and rear garden depths all remain unchanged from the previous permission. The addition of the rooflights is not considered to be significant in their impact upon the previous approved planning permission given that they are to be located in roof slopes which already have rooflights present or are of a minor scale which does not pose a negative change to the appearances of the dwellings. They could also be installed anyway, without any further permission being required, after the dwellings had been completed. Other changes sought are to Plot 1 and Plot 2 with the erection of small single storey rear additions. Plot 2 is proposed to have a small centralised bay erected on the rear elevation of the dwelling. This minor projection would not be visible outside the site and when viewed within the context of the approved dwelling is clearly subordinate and very minor in scale. The rear addition proposed on Plot 1 is also a minor change, tucked away to the side of the dwelling. It will not extend the full width of the rear elevation and will project very modestly along the northern flank elevation of the dwelling close to the boundary line. When viewed in the context of the wider site of Woodchester Park, the dwellings remain largely the same as approved, and there are no planning reasons whatsoever to refuse such small additions, as there would be no harm to the character or appearance of the locality.

#### **Residential amenity**

4. As aforementioned, the additional rooflights pose no concern given their location within the roof slopes of the dwellings and there being no proposed new rooflights on the rear elevations. The rear addition proposed on Plot 2 is very small and the addition at Plot 1 is also minor and set well away from all neighbouring dwellings. There can be no argument whatsoever that there would be any adverse impact on the amenities of neighbouring properties. As such, no concerns are raised regarding Policies GC3 and H14.

5. The overall garden depths serving each plot will not be changed and as such the level of rear amenity space proposed remains appropriate to the scale of the proposed dwellings and remains to be considered acceptable having regard to Policy H12.

#### **Parking/Highway implications**

6. In relation to parking and highways, the proposed amendments pose no alterations to the access, hardstanding and parking facilities and therefore there are no concerns having regard to Policies TR11 and TR16.

#### **Trees**

7. Taking note of the comments provided by the District Tree Officer, the proposed changes do not alter the tree retention proposals provided under the previous application. It is however noted that the indicative landscaping has altered but this will be covered by a condition, as with the previous scheme.

#### **Affordable Housing**

8. As the proposal seeks planning permission for the erection of three dwellings and as the application site forms part of a larger site in Woodchester Park, the combination of site areas measures at over 0.5 hectares. As such, in line with the NPPF the applicant must enter into a unilateral undertaking to pay a total of £75,000 towards off-site affordable housing for this proposal based on a contribution of £25,000 per plot.

9. It is noted that such an agreement was completed and although this current application, in effect, grants a new planning permission it was included within the previous agreement under clause (4.7) that is permission was varied by a section 73 application, the agreement would remain binding in relation to the implementation of the new permission. Therefore no new or varied agreement is required.

### Conclusions

10. The proposed variations are considered to be extremely minor in scale when considered against the original planning scheme granted permission and they will not adversely affect the character or appearance of the area, the amenities of neighbouring properties, or have parking/highway implications. There are certainly no planning grounds whatsoever to justify a refusal. As such, the proposal is considered to be acceptable.

11. If approved, this planning permission will in effect grant a new planning permission. Therefore it is necessary to impose the same conditions which were imposed on the previous permission, albeit with reference to the new plans submitted.

### Working with the applicant

12. 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

13. 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 development to which this permission relates must be begun before the expiration of three years from the date of the previous permission PL/18/4331/FA.

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 and Country Planning Act 1990, as amended.

2 Before any construction work commences above ground level, named types, or samples of the facing materials and roofing materials to be used for the external construction of the development hereby permitted shall be made available to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality.

3 Prior to the commencement of any works on site, detailed plans, including cross section as appropriate, showing the existing ground levels and the proposed slab and finished floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point normally located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.

Reason: To protect, as far as is possible, the character of the locality and the amenities of neighbouring properties.

4 No development shall take place until an Arboricultural Method Statement, which shall include a Tree Protection Plan, has been submitted to and approved in writing by the Local Planning Authority, which shall detail all work within the root protection areas of the retained tree and hedges. This statement shall include details of protection measures for the trees and hedges during the development, and information about any excavation work, any changes in existing ground levels and any changes in surface treatments within the root protection areas of the trees, including plans and cross-sections where necessary. In particular it shall show details of specialised foundations, ground protection measures and no-dig construction where appropriate. The work shall then be carried out in accordance with this method statement.

Reason: To ensure that the existing established trees and hedgerows in and around the site that are to be retained, including their roots, do not suffer significant damage during building operations, in accordance with Policy GC4 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

5 No tree or hedge shown to be retained on the Tree Protection Plan approved under condition 4 shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation of the development hereby approved without the prior approval in writing of the Local Planning Authority. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree shall be planted of such size and species as shall be agreed in writing by the Local Planning Authority. Furthermore, the existing soil levels within the root protection areas of the retained trees and hedges shall not be altered.

Reason: To ensure the retention of the existing established trees and hedgerows within the site that are in sound condition and of good amenity and wildlife value, in accordance with Policy GC4 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

6 Prior to the construction of any development, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be at a scale of not less than 1:500 and shall include full details of all species. The trees to be planted along the rear boundary shall be no less than 8 metres high at the time of planting. A detailed timetable for the planting of these trees and general landscaping and the method to be used for the tree planting along the rear boundary (including the vehicles to be used and their access points to the site) shall also be submitted to and approved in writing by the Local Planning Authority. The landscaping shall then take place in accordance with the approved details and timetable.

Reason: In order to maintain, as far as possible, the character of the locality and to protect the amenity levels of rear neighbouring dwellings.

7 Before any construction work commences, full details of the means of enclosure to be retained and erected along all external boundaries of the site and between the individual gardens of the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure along the external boundaries of the site shall be constructed, erected or planted prior to the commencement of any other construction work on the site and the approved means of enclosure between the individual gardens shall be erected prior to the occupation of that dwelling and shall be maintained as such thereafter.

Reason: To safeguard the visual amenities of the locality and the privacy of the adjoining properties.

8 No other part of the development shall begin until the new means of access to serve Plots 1, 2 and 3 have been sited and laid out in accordance with the approved drawing.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development.



9 The scheme for parking, garaging and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose. The garages shall not be converted to provide habitable accommodation at any time.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to protect

10 Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development falling within Classes A to B of Part 1 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site, unless planning permission is first granted by the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider whether any future proposals will constitute overdevelopment of the site or will in any other way be detrimental to the character of the locality or the amenities of neighbouring properties.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order, with or without modification), no windows/rooflights/dormer windows or openings other than those expressly authorised by this permission shall be inserted or constructed at any time at first floor level or above in the three dwellings hereby permitted.

Reason: To protect the amenities and privacy of the adjoining properties.

12 AP01 Approved Plans

## INFORMATIVES

1 **INFORMATIVE:** In relation to Condition 6 (landscaping), the applicant is reminded that the trees to be planted along the rear boundary must be at least 8 metres high at the time of planting. Furthermore, this condition requires details of the method of planting and a timetable to be approved. This is because the size of the planted trees will need specialist, large, equipment and once the house footings are in place, it may not be possible to access the rear boundary by the necessary size of vehicle; hence the need for the timetable of planting to be approved.

2 **INFORMATIVE:** In relation to Condition 3, the applicant is advised that the Planning Committee required the dwellings to be set 0.25 metres into the ground to reduce the overall height of those dwellings being erected. This is to improve the relationship with the rear neighbouring dwellings Hawthorn House and Tinkerfield.

3 **INFORMATIVE:** The applicant is advised that it is contrary to section 163 of the Highways Act 1980 for surface water from private development to drain onto the highway or discharge into the highway drainage system. The development should therefore be so designed and constructed that surface water from the development shall not be permitted to drain onto the highway or into the highway drainage system.

4 **INFORMATIVE:** The applicant is advised that it is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.

5 **INFORMATIVE:** The applicant is advised that no vehicles associated with the building operations on the development site should be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980.

6       INFORMATIVE: The applicant is advised that a licence must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge or other land forming part of the highway. A period of 28 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for information or apply online via Buckinghamshire County Council's website at <https://www.buckscc.gov.uk/services/transport-and-roads/licences-andpermits/apply-for-a-dropped-kerb/>

Transport for Buckinghamshire (Streetworks)  
10th Floor, New County Offices  
Walton Street, Aylesbury,  
Buckinghamshire  
HP20 1UY  
01296 382416

**The End**

**PL/18/3577/FA**

Case Officer: Laura Rheiter  
 Date Received: **28.09.2018** Decide by Date: **14.01.2019**  
 Parish: **Chalfont St Peter** Ward: **Austenwood**  
 App Type: Full Application  
 Proposal: **Redevelopment of site with 2 detached dwellings, with associated access, parking and landscaping following demolition of existing dwelling and surrounding equestrian buildings (Option 1).**  
 Location: **Stable Farm  
 Amersham Road  
 Chalfont St Peter  
 Buckinghamshire  
 SL9 0PX**  
 Applicant: **Daniel Family Homes**

**SITE CONSTRAINTS**

Article 4 Direction  
 Area Special Advertising Control  
 Archaeological site  
 Biodiversity Opportunity Areas  
 Critical Drainage Area  
 National Flood Zone 2  
 National Flood Zone 3  
 Within Green Belt other than GB4 GB5  
 Heathrow Safeguard (over 45m)  
 Mineral Consultation Area  
 North South Line  
 Denham Safeguard zone  
 Northolt Safeguard zone  
 Tree Preservation Order  
 Colne Valley Park R15

**CALL IN**

Councillor Wertheim has requested that the application be referred to the Planning Committee if the officer recommendation is for approval.

**SITE LOCATION**

This site is located on the eastern side of Amersham Road (A413), Chalfont St Peter. The application site is accessed via a side road off Amersham Road and is within open Green Belt. The site comprises a dwelling and redundant equestrian buildings. Gerrards Cross Golf Club lies to the east, the adjoining land consists of (former) paddocks and a manege.

**THE APPLICATION**

Planning permission is sought for the erection of two detached dwellings following the demolition of the existing dwelling and buildings. The dwellings would be single storey above ground, flat roofed with a basement underground and would have a maximum width of 18.5 metres, a maximum depth of 11.5 metres

with a height of 3.5 metres (eaves height 3.0 metres) and an additional roof lantern with a height of 1m. The dwelling to the east would have a basement under the whole of the dwelling whilst the dwelling to the west would have a partial basement to ensure that tree roots are not affected. Access to the dwellings would be provided by creating a new gravel driveway using the existing access. Two barn type garage structures would be provided with parking for three vehicles in each. Landscaping would also be provided. The houses would be orientated such that the front elevations would face north-east and they would be situated next to each other. When entering the site (from the north-west) Plot 2 would sit behind Plot 1 with most of Plot 2 being screened by Plot 1.

Amended plans have been submitted whereby tree T12 is now correctly shown to be removed as per the Tree Report.

This application is one of two different schemes submitted for the redevelopment of the site, Option 2 forming application PL/18/3563/FA.

### **RELEVANT PLANNING HISTORY**

PL/18/3563/FA - under consideration - Redevelopment of site with 2 detached dwellings, with associated access, parking and landscaping following demolition of existing dwelling and surrounding equestrian buildings (Option 2).

CH/2016/0047/FA - conditional permission - Replacement dwelling.

CH/2013/0235/FAE - conditional permission - Replacement single storey dwelling (extension to time limit of planning permission CH/2010/0370/FAE).

CH/2010/0370/FAE - conditional permission - Replacement single storey dwelling (extension to time limit of planning permission CH/2005/1107/FA).

CH/2005/1107/FA - conditional permission - Replacement single storey dwelling.

CH/2003/2145/EU - granted - Application for certificate of lawfulness for an existing use relating to the occupation as a separate self-contained dwelling.

### **PARISH COUNCIL**

Object to inappropriate development in the green belt and flood plain. Unsuitable design for green belt. Believe floor area does not include garages and basements and their inclusion make this over development in green belt. If officers minded to approve would like to see condition that prevents further development of the site.

### **REPRESENTATIONS**

One representation letter has been received which can be summarised as follows:

With reference to the above application we would like to draw attention to the fact that the site is within the Denham Aerodrome Traffic Zone. Denham is a long established Civil Aviation Authority Licensed Aerodrome providing facilities for business aviation and flying training for both fixed and rotary wing aircraft and may be available for use at any time. It is inevitable that any occupants in this location will both hear and see aircraft operations and it is important that all concerned are aware of the juxtaposition of the sites.

## **CONSULTATIONS**

### **Highways Authority**

No objections subject to condition - The Highway Officer comments as follows: The application site is located along Amersham Road which is classified as the A413 and is subject to the national speed limit, due to Amersham Road being a dual carriageway this is 70mph. Access to the property is taken via a private road which leads to a golf club.

The existing access drive meets the public highway at the A413 to the south of the site. From a recent site visit the access has been constructed to the appropriate construction and has adequate visibility.

The redevelopment of this site would increase vehicle trips associated with the site. The existing dwelling and agricultural uses would likely generate minimal vehicle trips; the proposed development would generate approximately 4-8 vehicle movements per dwelling. The Highway Authority does not consider this increase to be significantly detrimental in terms of its impact upon the existing highway network nor does it introduce unacceptable impacts relating to highway safety.

Within the limit of the site it is proposed for six parking spaces to serve the two new dwellings, The Local Planning Authority as the Parking Authority should make an informed decision on the quantum of parking required for this scale of development. The Highway Authority is satisfied that there is adequate turning and manoeuvring within the limits of the site.

Therefore taking the above into consideration the Highway Authority has no objections.

### **Ecology Officer**

No objections subject to conditions - The Ecology Officer comments that she has reviewed the ecological assessment produced by All Ecology (August 2018) and overall is satisfied that the potential presence of protected species has been given due regard. The proposed development area on the whole largely comprises habitats of low ecological value. Safeguards are required to ensure off-site habitats such as the River Misbourne are protected during construction, along with enhancements to ensure a net gain in biodiversity is achieved.

The Ecology Officer therefore recommends that details of ecological enhancements such as native landscape planting, including species of known benefit to wildlife, and provision of artificial roost features, including bird and bat boxes shall be secured by condition. A Construction Environmental Management Plan is also required to protect species and habitats during the construction period, as well as a lighting design strategy to prevent disturbance to species. These have all been included as conditions attached to this application.

### **Tree Officer**

No objection subject to condition - The Tree Officer comments as follows: The application includes a Report on the impact on trees of proposals for development, which includes a tree survey and tree protection proposals. The whole site is covered by Tree Preservation Order No 6 of 1951, which protects all the trees that were present when the Order was made in 1951.

Much of the site is enclosed by trees with lines of Leyland cypresses about 15m in height (H3) along the western and northern boundaries of the site around the northern corner of the site. There are similar lines of Leyland cypresses (H16) around the southern corner of the site. The gap between these lines consists of hedgerows and old trees largely associated with the path of an old water course.

There are two very large old London plane trees towards the front of the plot, which are over 30m in height and with diameters of about 2-3m. These are important veteran trees that appear to have been planted as part of the 18th century parkland landscape of Chalfont Park House. One of the trees has fire damage at the base but this does not seem to have had a significant effect on its health. There is an existing gravelled area in

the front part of the site but the Proposed Site Plan seems to show a reduced area of hardstanding with a new edge to the access drive. Any work in this vicinity should be carried out with care to avoid root damage to the London plane trees.

Option 1 consists of two different dwellings in line facing the north-eastern side of the site. Option 1 also includes two triple garages.

The plans propose the removal of most of the trees in the south-eastern half of the site opening it up significantly. This includes the removal of the lines of Leyland cypresses (H16), which are too young to be protected by the Tree Preservation Order and the report states have now grown too large to be reduced to a manageable hedge. Most of the old hedgerow trees are also shown for removal. The three large sycamores T11-13 are all in poor condition with damage, poor structures and decline with old age. The beech T14 has a dead top and has a dangerous decay fungus at its base. The hawthorns are all small trees that have grown up from the hedge. The plans show the retention of an ash T4 and the site plan shows the retention of sycamore T12 although the tree report shows it removed.

The tree report includes various precautionary procedures to avoid root damage during both the demolition and construction phases of the proposed project and these are considered to be appropriate.

The tree report also includes some landscaping proposals. These consist of hornbeam hedging around the boundary of the proposed rear gardens, a dawn redwood to the front of the house on Plot 2 and three holly trees in the rear gardens of the properties.

Overall the proposal involves significant tree loss opening up the site to public views but this would be justifiable based on the condition of the trees. Consequently I have no objections to the application provided there is adequate protection for the retained trees, particularly the two veteran London plane trees.

He also suggests a possible condition for protection of the trees.

### **Strategic Environment**

No objection subject to conditions - The proposed development involves the redevelopment of site with 2 detached dwellings, with associated access, parking and landscaping following demolition of existing dwelling and surrounding equestrian buildings.

The Council's historical maps show a copse of trees on site during the 1874-1891 epoch. No changes are shown on the last historical map to which we have access (1960-1976). The site does not appear to have had a previous potentially contaminative use.

The aerial photograph of the area shows a group of buildings that appear to have corrugated cement sheets on roofs. There is a manege to the north east and a mound to the south east. This may be a manure pile. There are some vehicles parked on site.

Consideration should be given to the possibility that the roofing sheets may contain asbestos fibres. Other activities such as the parking of road vehicles may have given rise to contamination on the site. The proposed development will result in a sensitive end use.

Based on this, the standard Land Quality Condition is required on this and any subsequent applications for the site.

### **Waste team**

No objection - The Waste Officer comments that both properties will have to present their refuse & recycling on Amersham Road. Crews will not access the gravel drive.

## **Building Control**

No objections - The Building Control Officer comments that they have no objections to fire brigade access and that disabled access should be in accordance with building regulations which is to be determined via a Building Regulation application in due course.

## **POLICIES**

National Planning Policy Framework - July 2018

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20 and CS24.

The Chiltern Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies GC1, GC3, GB2, GB7, H12, TR2, TR3, TR11 and TR16.

Chalfont St Peter Neighbourhood Plan - November 2016

Sustainable Construction and Renewable Energy Supplementary Planning Document (SPD) - Adopted 25 February 2015.

## **EVALUATION**

### **Principle of Development**

1. The site is located in the open Green Belt where, in accordance with Chapter 9 of the NPPF, most development is considered to be inappropriate development. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. Nonetheless, paragraph 145 of the NPPF lists some forms of development which are not considered to be inappropriate, including the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

2. There are 10 buildings on the site including one residential unit which has planning permission for a replacement dwelling. There are no commercial equestrian activities carried out on the site. The remainder of the buildings on site are former stables and other outbuildings.

3. The application proposes the removal of all buildings. The floor area of the existing buildings is a total of 732.38 m<sup>2</sup> with a maximum height of 4.5 metres. The proposed dwellings would have a floor area (above ground) of 529.54 m<sup>2</sup> with a proposed maximum height of 3.5 / 3.3 metres (plot 1 / plot 2) and a maximum height of 3.3 metres (eaves height of 3.0 metres). An additional roof lantern with a maximum height of 1.0 metres is situated on the roof. As a consequence the floorspace of the proposed dwellings has a reduced floorspace of 202.84 m<sup>2</sup> (27.7%) compared with the floorspace of the existing buildings. Given that the proposal would reduce the number of buildings and the dwellings would be of a modest size and scale it is considered that they would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

4. As discussed above, paragraph 145 of the NPPF accepts that the complete redevelopment of a site is acceptable provided that it would not have a greater impact on the openness of the Green Belt. The proposed dwellings would result in a reduction of the total floorspace and the overall height would be lower than the highest existing building and have a low eaves height of 3.0 metres and a flat roof. It is therefore considered that the proposal would cumulatively improve the openness of the Green Belt when compared to the existing situation.

### **Design/character & appearance**

5. The dwellings would be located in the centre of the site with the dwellings broadly in the same location as the existing dwelling and cabin. The dwellings would be partly screened by new hedging to the south, east and north, in addition existing trees would be retained to the north, north-west and north-east. In particular

the most significant trees including two large London plane trees are located along the road frontage and would screen the dwellings from the road. A small number of native trees would also be planted to west, east and south of the dwellings. The dwellings would be modest in scale and height and the level of existing hardstanding would be reduced and the area would be landscaped with new landscaped curtilages to each dwelling. The visual appearance would be improved by removing the unsightly and semi-derelict buildings and hardstanding and replacing them with modern designed dwellings and car ports with landscaped front and rear gardens and driveway. The dwellings would be located on large plots and the design would be contemporary incorporating rendered walls and timber cladding for the dwellings and the garage/barn structures would have a traditional design with brick plinth and timber framed walls. The contemporary design of the dwellings would be supported by the NPPF. It is therefore considered that the proposal would not adversely affect the character and appearance of the locality. Therefore no objections are raised with regard to Local Plan policy GC1 and Core Strategy policy CS20.

### **Residential amenity**

6. Policy GC3 of the local plan seeks to protect the amenities of existing residents and ensure good standards of amenities for future occupiers. There are no immediate neighbours and the proposal would be a considerable distance away from other dwellings in the area. There is ample amenity space for each of the dwellings, rear gardens have a maximum depth of 15 metres (plot 2) and 20 metres (plot 1). There are also garden areas proposed to the front and side of the dwellings. Native hedge planting and trees are proposed and the landscaping of the site will be greatly enhanced and improve the amenity for residents. It is considered that adequate amenity space for future occupiers of the development would be provided. The proposed development would be in accordance with policies GC2, GC3 and H12 of the Local Plan.

### **Parking/Highway implications**

7. The new dwellings would have a floor area of more than 120 square metres. The parking standard is three parking spaces for each dwelling. There are two car ports proposed to the side and front of the dwellings providing parking space for six cars. It is proposed to use the existing access to the site and a gravel driveway would be created, which allows for vehicles to enter and exit the site in forward gear. The Highways Officer confirms that, from a recent site visit, the access has been constructed to the appropriate construction and has adequate visibility. There would be a small increase in vehicle movements and the Highway Authority does not consider this increase to be significantly detrimental in terms of its impact upon the existing highway network nor does it introduce unacceptable impacts relating to highway safety. It is noted that Buckinghamshire County Highways Authority have no objections to the proposals. As such, it is considered that the proposal adheres to policies TR2, TR3 and TR11 and TR16.

### **Trees and Landscaping**

8. The proposal involves significant tree loss opening up the site to public views but this would be justifiable based on the condition of the trees. Adequate protection for the retained trees, particularly the two veteran London plane trees is proposed. A Tree Report, including a Tree Retention Plan and a Tree Protection Measures Plan for the construction phase, has been submitted by the applicant which is found to be satisfactory with the Tree Officer. A condition has been attached to comply with these plans to ensure protection of the trees. It is noted that the Tree Officer has no objection to the proposals. The Tree Report also includes proposed landscaping and in collaboration with the Tree Officer it is proposed that new hedging should also be included to the south-east and north-east of Plot 2 so that it continues all the way around both dwellings. This would be secured through a landscaping scheme that would have to be submitted as described in condition 3.

### **Ecology**

9. The Ecological Assessment submitted by the applicant shows that the potential presence of protected species has been given due regard. The proposed development area on the whole largely comprises habitats



of low ecological value. Safeguards are required to ensure off-site habitats such as the River Misbourne are protected during construction, along with enhancements within the site to ensure a net gain in biodiversity is achieved. These can be secured by conditions which have been attached to the application. It is noted that the Ecology Officer raises no objections.

#### **Other issues**

10. Waste collection/bin stores - The Waste Team have no objections and bins need to be presented on the public highway.

11. Flooding - The site lies within Flood Zone 1 and therefore there is no requirement for a flood risk assessment. The site is not within the 8 metres buffer zone of the River Misbourne and there is no requirement for a flood risk permit from the Environment Agency.

12. Aerodrome - The site is within Northolt Safeguard Zone, within the Denham Aerodrome Traffic Zone and under the flight path. The site is for residential development and there is already a residential dwelling on the site.

#### **Pre-commencement conditions**

13. The agent has agreed to all suggested pre-commencement conditions.

#### **Working with the applicant**

14. 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**

15. 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 Before any construction above ground level commences, details of the materials to be used for the external construction of the development hereby permitted, including the surface materials for the new access road, parking and turning areas, shall be made available to and approved in writing by the Local Planning Authority. The development shall only be carried out in the approved materials.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality, in accordance with Policies GC1 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 of the Core Strategy for Chiltern District (Adopted November 2011).

3 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping at a scale of not less than 1:500 which shall include indications of all existing trees and hedgerows on the land, with details of those to be retained, those to be felled being clearly specified, and full details of those to be planted. This shall include full details of the locations, size and species of all trees, hedgerows and shrubs to be planted, removed and retained and should include the installation of bat and/or bird bricks and/or boxes.

Reason: In order to maintain, as far as possible, the character of the locality and to ensure biodiversity enhancements and a good quality of amenity for future occupiers of the dwellings hereby permitted, in accordance with policies GC1, GC4 and H3 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011, and policy CS20 and CS24 of the Core Strategy for Chiltern District (Adopted November 2011).

4 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to maintain, as far as possible, the character of the locality.

5 The development hereby approved shall be implemented in accordance with the tree and hedge protection measures described in the Report on the impact on trees of proposals for development Ref 1-38-4639/OPT 1 dated 17th September 2018, the Tree Retention and Tree Protection Measures (Site Preparation Phase) plan Ref 1-38-4639/OPT1/P2v3 dated 17-Sep-18 and the Tree Retention and Tree Protection Measures (Construction Phase) plan Ref 1-38-4639/OP1/P3v2 dated 17-Sep-18 by John Cromar's Arboricultural Company Limited. This shall include the use of tree protection fencing and the use of appropriate measures for the removal of existing hard surfaces, for no-dig construction and for foundations for the triple garage.

Reason: To ensure that the existing established trees and hedgerows in and around the site that are to be retained, including their roots, do not suffer significant damage during building operations, in accordance with Policy GC4 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011.

6 Prior to occupation of the development space shall be laid out within the site for parking for six cars, cycles, loading and manoeuvring, in accordance with the approved plans. This area shall be permanently maintained for this purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway, in accordance with Policies TR2, TR3, TR11 and TR16 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011 and Policies CS25 and CS26 of the Core Strategy for Chiltern District, adopted November 2011.

7 Prior to the commencement of development above ground level approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- i) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors

- potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.

iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

The above must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

9 Reporting of Unexpected Contamination: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 Prior to the commencement of development above ground level, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall then be erected/constructed prior to the occupation of

the dwellings hereby permitted and thereafter retained in situ, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect, as far as possible, the character of the locality and the amenities of the adjoining properties and approved dwellings, in accordance with policies GC1, GC3 and H3 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).

11 Prior to the commencement of development above ground level, details of ecological enhancements shall be submitted to and approved by the Local Planning Authority. The scheme will include details of native landscape planting, including species of known benefit to wildlife, and provision of artificial roost features, including bird and bat boxes.

Reason: In the interests of improving biodiversity in accordance with NPPF and policy 24 of the Chiltern District Core Strategy and to ensure the survival of protected and notable species protected by legislation that may otherwise be affected by the development.

12 Prior to occupation, a "lighting design strategy for biodiversity" for buildings, features or areas to be lit shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for wildlife and that are likely to cause disturbance in or around breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: The prevention of disturbance to species within the site during operation in accordance with policy 24 of the Chiltern District Core Strategy.

13 No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

a) Risk assessment of potentially damaging construction activities;

b) Identification of "biodiversity protection zones" including off-site receptors;

c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

d) The location and timing of sensitive works to avoid harm to biodiversity features;

e) The times during construction when specialist ecologists need to be present on site to oversee works;

f) Responsible persons and lines of communication;

g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person; and

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The prevention of harm to species and habitats within and outside the site during construction in accordance with Core Strategy Policy 24: Biodiversity of the Chiltern District Core Strategy.

14 Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A, B & E of Part 1 of Schedule 2 to the said Order shall be erected, constructed, or placed within the application site unless planning permission is first granted by the Local Planning Authority.

Reason: the site is located within the Metropolitan Green Belt wherein strict control over development is necessary to maintain the openness of the Green Belt and to ensure a satisfactory development in accordance with policies GB2 and GB7 of the Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) consolidated September 2007 and November 2011.

15 AP01 Approved Plans

## INFORMATIVES

1 INFORMATIVE: The applicant is advised that information and guidance documents on land quality for developers can be found online at [http://www.southbucks.gov.uk/information\\_for\\_developers](http://www.southbucks.gov.uk/information_for_developers)  
<http://www.chiltern.gov.uk/article/2054/Information-for-Developers>

2 INFORMATIVE: The applicant is advised that, in accordance with section 4 of the NPPF, Chiltern District Council take a positive and proactive approach to development proposals focused on solutions. Chiltern District Council works with applicants/agents in a positive and proactive manner by:

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

3 INFORMATIVE: For clarity, the applicant is advised that a landscaping scheme required to be submitted as per condition 3 would override the proposed planting shown on any drawings in the Tree Report.

**PL/18/4466/FA**

Case Officer: Emma Showan  
 Date Received: 27.11.2018 Decide by Date: 18.03.2019  
 Parish: Chesham Ward: Asheridge Vale And Lowndes  
 App Type: Full Application  
 Proposal: **Creation of artificial grass pitch and store. Construction of fence, barrier and entrance gates to grass pitch perimeter, installation of floodlights and hard standing.**  
 Location: **Chiltern Hills Academy  
 Chartridge Lane  
 Chesham  
 Buckinghamshire  
 HP5 2RG**  
 Applicant: **Kevin Patrick**

**SITE CONSTRAINTS**

Adjacent to C Road  
 Area of Special Advertising Control  
 Biodiversity Opportunity Areas  
 Critical Drainage Area  
 Within Green Belt other than GB4 GB5  
 North South Line  
 Adjoining Public Amenity Open Space

**CALL IN**

Councillor MacBean has requested that this application be determined by the Planning Committee if the Officer recommendation is for approval.

**SITE LOCATION**

This application relates to the Chiltern Hills Academy secondary school which is located in the open Green Belt outside of Chesham. The site comprises the school and its associated buildings and playing fields and is bordered to the south and west by the Chilterns Area of Outstanding Natural Beauty. The school is accessed off Chartridge Lane which is characterised by ribbon development along both sides, with residential properties being located both across the road from the school and to the north. The site is located on a hill, with the land decreasing in altitude from both north to south and east to west.

**THE APPLICATION**

This application proposes the creation of an artificial grass pitch with associated features.

The proposed grass pitch would be 113.2 metres by 77.2 metres. It would be surrounded by a high level fenced enclosure with 4.5 metre high ball stop fencing and entrance gates. A second pitch perimeter barrier is proposed with entrance gates internally to segregate the playing area from the hardstanding area. The hardstanding area would adjoin the playing field and would be comprised of porous asphalt. Another area of hardstanding would connect the grass pitch for pedestrian and emergency access.

A new floodlight system is proposed comprising 16 luminaires mounted onto 8 new floodlight masts of a height of 15 metres.

A new maintenance equipment store would be located within the fenced enclosure and would be comparable to a shipping container in form. It would have a height of 2.6 metres.

### RELEVANT PLANNING HISTORY

CH/2006/1177/FA - Installation of six 8 metre high lighting poles each containing two floodlights. Refused permission due to detrimental impact on open Green Belt.

CH/2004/2035/RB - Two storey teaching block teaching block with covered link to existing science block, re-siting of two tennis courts and four floodlights, conditional permission.

CH/1998/0491/FA - Retention of use of part of college building for social purposes ancillary to Chesham Rugby Union Club during the hours 17:30-23:00 Monday-Friday (inclusive), 11:00-23:00 Saturdays and 10:00-22:30 Sundays, conditional permission.

CH/1997/1658/FA - Retention of four 6 metre high lighting poles each containing two lights, conditional permission.

### TOWN COUNCIL

The Committee supports the principle of the application but welcomes the District Council's commitment to thoroughly examine the possible effect of noise and floodlighting on residents.

### REPRESENTATIONS

Three letters of support received which can be summarised as follows:

- The proposed facilities would allow teams to train mid-week, allowing the team to retain coaches for longer and therefore provide more teams at each age group
- Other local facilities are often fully booked
- Community facility
- Proposal would allow the club to grow and increase participation
- The proposal would benefit those unable to travel to similar facilities elsewhere

Two letters of objection received which can be summarised as follows:

- Concern regarding impact of floodlights on neighbouring amenities in Pednor
- Detrimental impact on Area of Outstanding Natural Beauty (AONB)
- Concern regarding impact of fencing
- Requirement to limit and enforce the times and days when floodlights may be used
- Existing lights are visible for miles
- Concerns if lighting fails to be as unobtrusive as claimed

### CONSULTATIONS

**Buckinghamshire County Highways Authority:** 'The application site is located on Chartridge Lane which is a C class road subject to a 30mph speed limit. Within the vicinity of the site there is access to pedestrian footways, public transport links and street lighting is present.

The creation of the artificial grass pitch and store on the grounds of Chiltern Hill Academy will be open to the use of the Academy and local clubs in the evening and at weekends for match days.

As set out within the Design and Access Statement and Planning Statement as a worst case scenario there will be a production of 80 vehicles on site outside of the school day in the evening or weekend, the existing school car park can accommodate 94 vehicles. Therefore this would negate the risk of any vehicle being displaced.

It is noted due to the use outside of school hours and weekends and the use by external parties the site is likely to result in an intensification of use, this said this would not conflict with the existing school traffic as activities shall be outside of these hours. Therefore the Highway Authority does not consider the intensification as material in terms of the capacity or safety upon the existing highway network.

Therefore taking the above into consideration the Highway Authority has no objections or conditions to add.'

**Environmental Health Officer:** No objections, subject to conditions.

## **POLICIES**

National Planning Policy Framework, 2018.

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20, CS22 and CS28.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011: Saved Policies: GC1, GC3, GB2, LSQ1, R6, LB2, CA2, AS2, AS3, TR11 and TR16.

## **EVALUATION**

### **Principle of development**

1. Within the Green Belt, most new development is considered to be inappropriate and there is a general presumption against such development. Inappropriate development is harmful to the Green Belt and should not be permitted except in very special circumstances.
2. However, the NPPF states that the provision of appropriate facilities for outdoor sports and recreation are not inappropriate as long as such facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Furthermore, Local Plan Policy GB2 states that new buildings to provide essential facilities for outdoor sport and outdoor recreation which preserve the openness and do not conflict with the purposes of including land in the Green Belt are not inappropriate development. In this instance, the proposal does relate to the provision of appropriate facilities for outdoor sports and recreation and so, the proposal could be acceptable in principle, provided there is no conflict with the openness of the Green Belt.

### **Local Plan Policy R6**

3. Proposals for floodlights are specifically referred to in Policy R6 of the Local Plan which states that, in the Green Belt, proposals for floodlights will be refused except where it can be demonstrated that they are essential to the use of the land for outdoor sport and where the following criteria are complied with: (a) The amenities of residents in the locality in which the floodlights are proposed would not be significantly impaired; (b) the character of the locality would not be significantly impaired; (c) other Local Plan policies are complied with. Further guidance indicates that although floodlighting may be desirable, it is not necessarily essential. It gives examples of information that will be of assistance to demonstrate the need for floodlights, for example, the level of competition to be attained, the number of people using the facility, the size of waiting lists, the anticipated increased level of use and the requirement of bodies controlling individual sports.
4. In this respect, a Design & Access Statement has been submitted stating that the proposed facilities would contribute to the improvement of sporting facilities for curriculum and community football use at the Academy. They will also be used for rugby training by the Academy and a local rugby club. The facilities would provide sporting benefits to pupils, local community groups and sports clubs in the local area and would help



to support The Football Association's development plans into grassroots football. Further technical information and specifications are provided in the Design & Access Statement as a rationale for the proposal.

### **Impact on Green Belt and AONB**

5. It is accepted that the provision of appropriate facilities for outdoor sports and recreation are not inappropriate as long as such facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is also accepted that, in accordance with the NPPF, the use of land within the Green Belt has a positive role to play in providing outdoor sport and recreation. This compares to the previous 2006 application which was refused prior to the introduction and adoption of the NPPF. This application was refused on the impact of the floodlights on the openness of the Green Belt and the reason for refusal stated that:

*'The floodlight poles by reason of their number, prominent location set away from the college buildings and relationship to the existing floodlights would result in a cluttered appearance and be visually obtrusive when viewed from the surrounding public vantage points including the nearby public footpaths. Given the site's location in open countryside within Green Belt and a locally important landscape, the proposal would result in inappropriate development within the open Green Belt and would also fail to conserve or enhance the natural beauty of the area. This effect would be further compounded when the floodlights are in use during periods of darkness and poor daylight thereby creating an illuminated area set away from the built up part of the application site and extending into the open countryside. The proposal conflicts with Policies GB2, GB28 LSQ3 and R6 of the Adopted Chiltern District Local Plan 1997 (Including Alterations Adopted May 2001 and July 2004).'*

Since the 2006 application, Development Plan Policy GB28 which relates to 'Other acceptable land uses and new ancillary buildings in the Green Belt' has not been saved and so this application will be assessed in regards to the impact of the proposed development and the provisions of the NPPF.

6. In this instance, although the sports pitch, floodlights, fencing and storage facility would represent new buildings (by definition) within the Green Belt, they would be associated with the usage of the school and its wider sports facilities. In this respect, the development would clearly be linked to the provision of outdoor sport and so is not necessarily inappropriate development, in accordance with the provisions of the NPPF and Development Plan Policy GB2.

7. It is considered that the sports pitch in-of-itself would not have a detrimental impact on the openness of the Green Belt. In terms of the floodlights, these would be tall, with a full height of 15 metres. This is a significant increase on the height of the portable of floodlights and it would therefore have a greater impact on the Green Belt. The Applicant has provided justification for the proposed height on the basis that the height of the floodlight masts was calculated using the method details in the CIBSE Guide LG4 'Sports Lighting'. This recommends angles projected from the centre of the pitch and the touchlines to produce a head frame location zone. When applied to the application site, the optimum mast height ranged from 15 metres to 18 metres, hence the decision to apply for 15 metre masts. The benefit of complying with the CIBSE Guide is that the optimum mounting height would allow for all luminaries to be mounted virtually parallel to the pitch surface and this will result in low vertical overspill and good uniformity on the playing surface. This will ensure that the lighting is directed fully downwards towards the pitch surface, it would avoid sky glow and would achieve the full cut off as recommended by The British Astronomical Association's Campaign for Dark Skies. In contrast, lower floodlights would result in a higher aiming angle for every luminaire, resulting in increased overspill and glare projected onto adjacent land. On the basis of this justification, it is considered that the height of the floodlights would be acceptable as they would be of an appropriate height to help facilitate the playing of sport and other recreational activities without having an overly adverse impact on the Green Belt.

8. Fencing is also proposed and this would be of a height of 4.5 metres. The rationale for this height is that the fencing would act as a ball stop to ensure balls are contained within the enclosure and it would also provide security. In order to mitigate against its impact in the open Green Belt and alongside the rural surroundings, the fencing is proposed to be comprised of a see-through mesh coloured dark green. The use of a mesh would reduce the visual impact of the proposal in the open Green Belt by permitting views throughout. Given that it is required in connection with the sporting use and that it would be comprised of materials to ensure that its impact on the openness of the Green Belt is reduced, the proposed fencing is considered to be acceptable in this respect.

9. It is proposed to station a 'shipping container' with a height of 2.6 metres to be used as a maintenance and equipment store. This would represent a new building in the open Green Belt, however, it would provide an appropriate facility to be used in connection with the outdoor sport to be undertaken on the associated pitch. The store is not considered to be unduly large for its intended purpose and it would be sited within the context of the other sporting facilities so as not to appear randomly sited. This would reduce the impact of the store in the open Green Belt and would ensure that it is viewed in the context of the other development on site. However, it is not considered appropriate to grant a permanent planning permission for a storage container, as they can deteriorate in appearance over time. The Council would normally impose a temporary restriction on such buildings and in this case, a five year period is considered appropriate.

10. The application site is not located within the Chilterns AONB but does border this area of special designation. The siting of the proposed development is such that it is not considered to intrude to a detrimental degree into the AONB and although elements of the proposal, namely the floodlights, may be visible from areas of the AONB, they would be located at a sufficient distance and within the context of the existing school so they are not considered to have a detrimental impact on the character of the adjacent AONB.

#### **Residential amenity**

11. The proposed development would be sited away from neighbouring properties so it is not considered to be overbearing in terms of the impact of the height of the fencing and floodlight masts.

12. In regards to the impact of the proposal in terms of noise and light pollution, the Council's Environmental Health Department have been consulted. The Environmental Health Officer has not raised any objections to the proposal, taking into account the impact of the proposal on the nearest residential dwellings along Chartridge Lane and at Pednor. This is based on additional information submitted by the Applicant regarding excess light affecting Pednor. Nonetheless, the Environmental Health Officer has suggested the inclusion of conditions limiting the hours of use and requiring appropriate sound insulation and mitigation measures be taken in order to limit the impact of the proposal on neighbouring amenities.

#### **Parking/Highway implications**

13. The proposed artificial pitch and its associated development would primarily be used by the Chiltern Hills Academy although it would be open to local clubs in the evenings and at weekends for match days. The Applicant's Design and Access Statement anticipates a maximum of 80 vehicles on site when the proposed facilities would be used outside of the school day, with the existing school car park being able to accommodate 94 vehicles. It is therefore considered that an adequate level of parking would be maintained at the site to accommodate the proposed development. In addition, it is noted that the site is located close to the town centre of Chesham and can be reached by a number of public transport routes which reinforces the fact that the site is within a sustainable location.

14. Buckinghamshire County Highways Authority have been consulted on this planning application and have stated that the proposal would not conflict with the existing school traffic as any external club activities

undertaken at the pitch would be outside of school hours. Therefore, the Highways Authority have stated that they do not consider the proposal to have a detrimental impact on the capacity or safety of the local highway network and so no objections are raised in this respect.

### **Conclusion**

15. It has already been established that the proposal is considered to be acceptable in the open Green Belt and that it would not have a detrimental impact on either neighbouring amenities or the local highway network. Further support for this application is provided under the provisions of Chapter 8 of the NPPF which seeks to promote healthy and safe communities. Paragraph 91 states that: 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which...enable and support healthy lifestyles, especially where this would address identified local health and well-being needs - for example through the provision of safe and accessible green infrastructure, sports facilities etc.' Furthermore, Paragraph 96 states that: 'access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities and opportunities for new provision'. On this basis and having regard to the assessment above, this application is recommended for conditional approval (with a temporary five year time limit applied to the storage container).

### **Working with the applicant**

16. In accordance with Chapter 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**

17. 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 artificial grass pitch, fencing, barrier and entrance gates to grass pitch perimeter, installation of floodlights and hard standing, to which this permission relates, 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 In relation to the new storage container building only, this permission is granted for a limited period which will expire on 31st March 2024 and at the expiration of this period the storage container building hereby permitted shall be removed from the site immediately unless a further permission has previously been granted by the Local Planning Authority.

Reason: While being satisfied that the appearance of this temporary building will be acceptable for the period hereby granted, the Authority wishes to take account of its appearance at the expiry of this period before agreeing to its retention for a further period.

3 The use of the artificial grass pitch hereby permitted shall be restricted to between the hours of 8.00am and 10.00pm Monday to Friday, 9.00am and 8.00pm Saturday, and 9.00am and 8.00pm Sunday and Bank Holidays.

Reason: To safeguard the amenities of nearby residential occupiers.

4 All fences surrounding the artificial grass pitch shall be insulated in accordance with the recommendation set out in Section 9.3 of the Acoustic Consultants Limited report dated January 2019 (ref: 7607/DO).

Reason: To safeguard the amenities of nearby residential occupiers.

5 The layout of the artificial grass pitch shall incorporate the impact mitigation measures set out on page 19 of the Design and Access Statement (DAS) and Planning Statement of 23rd November 2019 (ref: LSUK 18-0176) submitted to the LPA by Labosport Ltd. These impact mitigation measures shall be maintained in perpetuity.

Reason: To safeguard the amenities of nearby residential occupiers.

6 The development hereby permitted shall not come in to use until a written Management Plan has been submitted and approved by the Local Planning Authority. The contents of the Plan shall have regard to the practical control of noise and artificial light associated with the use of the artificial grass pitch. Thereafter, all agreed measures shall be maintained in perpetuity.

Reason: To ensure that the users of the all-weather pitch are aware of the need to use the facility in a manner that minimises the impact on the amenity of local residents.

7 The artificial lights hereby permitted shall not be illuminated except between the hours of 8.00am and 10.00pm Monday to Friday, 9.00am and 8.00pm Saturday, and 9.00am and 8.00pm Sunday and Bank Holidays.

Reason: To safeguard the amenities of nearby residential occupiers.

8 The artificial lights hereby permitted shall be controlled by photoelectric switches to automatically limit their operation having regard to paragraphs 9 and 10 on page 19 of the Design and Access Statement (DAS) and Planning Statement of 23rd November 2019 (ref: LSUK 18-0176) submitted to the LPA by Labosport Ltd. These controls shall be maintained in perpetuity.

Reason: To safeguard the amenities of nearby residential occupiers.

9 Before the installation of the store, details of the timber cladding materials to be used in its external construction shall be submitted to and approved in writing by the Local Planning Authority and the store shall be clad in accordance with these details.

Reason: To ensure that the external appearance of the development is not detrimental to the character of the locality and the open Green Belt.

10 AP01 Approved Plans



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## Appeal Decision

Appendix FP.03

Site visit made on 12 March 2019

**by JP Tudor Solicitor (non-practising)**

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

**Decision date: 16<sup>th</sup> April 2019**

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**Appeal Ref: APP/X0415/W/18/3203978**

**Penn and Tylers Green Football Club, Elm Road, Penn, Buckinghamshire  
HP10 8LG**

- 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 Penn and Tylers Green Football Club against the decision of Chiltern District Council.
  - The application Ref CH/2017/1958/FA, dated 19 October 2017, was refused by notice dated 23 February 2018.
  - The development proposed is erection of 6 retractable floodlight columns (2.8m rising to 15m) and lamps to light a football pitch plus associated control cabinet.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 6 retractable floodlight columns (2.8m rising to 15m) and lamps to light a football pitch plus associated control cabinet at Penn and Tylers Green Football Club, Elm Road, Penn, Buckinghamshire HP10 8LG in accordance with the terms of the application, Ref CH/2017/1958/FA, dated 19 October 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: numbered 754/BA/1; UKS15618\_1a; UKS15618\_1; E-CC-G.A.-001 A; PNE200/5/GA2 and PNE200/5/GA3.
  - 3) The floodlights hereby permitted shall remain fully retracted and not in use or illuminated except for football match play and only between the hours of 1900 and 2200 on up to 2 weekday evenings and between the hours of 1500 and 1800 on Saturdays and bank holidays. The floodlights shall not be used or illuminated on Sundays. The period in which the above use can take place will be for no more than 8.5 months of the year, in a scheme to be submitted to and approved in writing by the local planning authority.
  - 4) No other external lighting shall be installed within the site unless first agreed in writing by the local planning authority.
  - 5) The 3 existing 6 metre-high floodlight poles on the site will be removed before the development hereby permitted is brought into use.

## **Preliminary Matters**

2. A revised version of the National Planning Policy Framework (the Framework) was published in July 2018, after the Council had determined the application. The parties have been able to take any relevant changes into account during the appeal. The Framework was further updated in February 2019, but it was not necessary to revert to the parties for comment as the alterations are minor. I have taken account of the current Framework in my determination of the appeal.
3. For ease and brevity, generally, I shall use the term 'floodlight' in this decision to refer to the whole of each structure, including its composite elements such as columns and lamps.

## **Main Issues**

4. Given the location of the appeal site, the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt (GB), taking into account effects on the openness of the GB and its purposes, with regard to the Framework and relevant development plan policies;
  - the effect on the landscape and scenic beauty of the Chilterns Area of Outstanding Natural Beauty (AONB); and,
  - the effect on the settings of nearby listed buildings and the character and appearance of the adjacent Penn and Tylers Green Conservation Area (CA).

## **Reasons**

### *Whether inappropriate development in the GB*

5. The appeal site comprises the main football ground at Penn and Tylers Green Football Club (the Club). It is located to the rear of a line of houses, several of which are listed, along Elm Road, a main road through the pleasant rural village of Penn. A tennis club and a cricket club are situated to the north. All three sports clubs have use of the Penn & Tylers Green Sports and Social Club building and a car park, which is accessed via a lane from Elm Road. The football club has a second football pitch, just to the south of the main pitch. Open countryside is to the east and the appeal site lies within the GB, the AONB and is adjacent to the CA. It is proposed that 6 retractable floodlights would be sited around the main football pitch.
6. I appreciate that the Council has found that the proposal would not be inappropriate development within the GB. However, given the great importance which the Government attaches to Green Belts and the detailed policies within section 13 of the Framework, it is necessary for me to carefully consider that aspect.
7. The Chiltern District Local Plan (LP)<sup>1</sup> predates the Framework, first published in 2012, and most recently re-published in February 2019. As the Framework sets out the Government's planning policies for England and how these should be applied, it is an important material consideration in all planning decisions.

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<sup>1</sup> Adopted 1 September 1997 (including alterations adopted 29 May 2001)  
Consolidated September 2007 & November 2011

8. Where existing development plan policies predate the Framework, as in this case, paragraph 213 of the Framework indicates that due weight should be given to policies in the LP according to their degree of consistency with the Framework.
9. Paragraph 145 of the Framework advises that the construction of new buildings, which would include structures, should be regarded as 'inappropriate' within the GB. However, it also provides exceptions to that, including at 145.b): *'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation .... as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.'*
10. LP policy GB2 and R6 are similar to the Framework and include exceptions relating to the provision of facilities for outdoor sport. However, policy GB2 refers to 'essential' facilities and policy R6, which deals specifically with floodlights, indicates that it should be demonstrated that they are 'essential' to the use of land for outdoor sport, as well as meeting some other criteria. The requirement in those policies to show that the facilities or floodlights are 'essential' is a more stringent criterion than the requirement in the Framework for the provision of 'appropriate' facilities. Therefore, whilst having broad similarities with the Framework, to that extent policies GB2 and R6 are inconsistent with it. Consequently, I give the LP policies limited weight.
11. Paragraph 133 of the Framework says that the fundamental aim of GB policy is to prevent urban sprawl by keeping land permanently open. Framework paragraph 134 lists the five purposes of the GB, which include *'to assist in safeguarding the countryside from encroachment.'* The proposed floodlights would be used in connection with the existing use of land for outdoor sport. Therefore, the issue is whether they would preserve the openness of the GB and not conflict with its purposes.
12. The concept of 'openness' in the GB has spatial and visual aspects. In spatial terms, the floodlights would not have a substantial footprint, as they are relatively narrow columns and would be spaced out around the football pitch, even allowing for the addition of a control cabinet. Visually, although they extend to around 15 metres in height their main form would be slender and, when retracted, which they would be for most of the time, the floodlight columns would be only about 2.8 metres high. That is lower than the existing 3 x 6 metre floodlights on the northern side of the football pitch and 8 x 8 metre floodlights at the nearby tennis courts.
13. Given those factors, the design of the floodlights and the context of the site, amongst other sporting facilities and behind existing residential housing on the edge of a village, there would not be a detrimental effect on the openness of the GB. Similarly, as they would be sited around an existing football ground, there would be no conflict with the purposes of the GB in terms of, for example, safeguarding the countryside from encroachment or restricting urban sprawl. Indeed, paragraph 141 of the Framework supports the provision of opportunities for outdoor sport and recreation within Green Belts.
14. Floodlights are often used for outdoor sport to enable play in the late afternoons and evenings. Moreover, the appellant has provided persuasive

evidence, including relevant correspondence and documentation,<sup>2</sup> which explains that the floodlights are needed to meet Football Association (FA) ground requirements to enable two of the Club's senior teams to continue to play at their current level, a Step 6 competition within the FA National League System. That evidence and the nature of the development are sufficient, in my view, to conclude that the floodlights do constitute 'appropriate' facilities for outdoor sport, for the purposes of the Framework.

15. I am aware of the previous appeal decision<sup>3</sup> dating from 1997, which allowed floodlights at the adjacent tennis courts. However, as some third parties have alluded to aspects of the Inspector's findings regarding the GB, it is relevant that the methodology and policy for considering that aspect has changed with the advent of the Framework.
16. Overall, I have found that the floodlights would preserve openness and do not conflict with the purposes of including land within the GB. Therefore, the development would not be inappropriate development in the GB, as assessed against the Framework.

*The effect on the landscape and scenic beauty of the AONB*

17. Policy LSQ1 of the LP appears generally consistent with paragraph 172 of the Framework, which says that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
18. The appellant advises that the appeal site is located in a part of the AONB which is characterised by mostly dry valleys separated by ridges and plateau areas. Broadleaved woodland also contributes to the area's character, with the village sitting on a ridge, adjacent to farmland and with views towards woodland. The Council has not taken issue with that description and it appears to be broadly in accordance with what I saw on my site visit.
19. It is also relevant that the football club ground, adjacent to other sporting facilities on the edge of the village, forms part of the landscape of this part of the AONB and, notwithstanding some changes, has been an established feature for over a century. Floodlights would not necessarily be an unexpected or unusual feature at a football ground, seen in the context of a Sports and Social Club, a car park, goalposts, stands and a storage container, even in relation to a small club in a rural village. Indeed, there are already floodlights at the football pitch and the tennis courts.
20. Moreover, the appellant cites examples of other football and tennis clubs in the wider area, which have floodlights and are on the edge of settlements, some of which are within the GB, the AONB or border conservation areas. The Council has not specifically disputed those examples or sought to distinguish them from the appeal proposal. Whilst all proposals and sites have their individual characteristics and some third parties have referred to differences between the appeal site and those other sites, the examples lend support to the general point that the extent of the AONB means that it does encompass some sporting facilities with floodlighting.

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<sup>2</sup> Letter from Chief Executive, UHLSport Hellenic League dated 14 September 2017, inspection report and associated emails between representatives of the Club, Spartan South Midlands League and the FA Group.

<sup>3</sup> T/APP/X0415/A/96/267941/P9



21. It seems to me that the key aspects of the proposal are: that the design of the floodlights allows the columns to be lowered to about 2.8 metres and that the floodlights would only be extended and illuminated for limited periods. It is understood that the technology enables them to be fully retracted in less than a minute. Therefore, that should address one of the concerns, expressed by the Parish Council in relation to a previous proposal in 2012,<sup>4</sup> where the length of time that it would take to lower the floodlights led to doubt about whether that task would be undertaken on a daily basis.
22. The appellant has stated that the use of the floodlights would be limited to football matches on up to two weekday evenings, between 1900 and 2200 hours, and between 1500 and 1800 hours on Saturdays and bank holidays. The appellant has also proposed that the period of use would be further restricted to no more than 8.5 months of the year, reflecting the normal football season, in a scheme to be agreed and approved by the Council. When not in use the floodlights would be fully retracted and unlit. Those aspects could be secured by condition. I see no reason why such a condition could not be enforced.
23. Therefore, their use would be limited essentially to up to 9 hours a week during an 8.5-month period of the year. In practice, the appellants advise that it would be rare that home matches for the first and reserve teams would be scheduled on all 3 days of the same week. Furthermore, floodlighting may be unnecessary for the full periods of some matches during months with longer daylight hours. As a result, it is possible that actual usage may, in fact, be for lesser periods.
24. As the appeal site is behind a row of houses, there would be very limited views of the floodlights in their retracted state from Elm Road or the village green. Whilst they would be visible from the rear of some dwellings, views would be likely to be restricted by hedges and trees along the western boundary of the site, accepting that the effectiveness of screening vegetation would be reduced during the winter months because of loss of foliage. In any event, there are already views from public and private vantage points of existing floodlights at the football pitch and tennis courts which are taller than the proposed floodlights in their retracted state.
25. Views of the retracted floodlights would be obtainable from the surrounding countryside and public rights of way network, but most would be distant, and the floodlights would not appear prominent in their context and against the backdrop of the existing built form of the village.
26. When in use and at night the floodlights would be seen, but although they would be taller, there are already floodlights at the site and the adjacent tennis courts, along with other lighting. Therefore, given that three existing floodlights would be removed, the new floodlights would not, taking into account the limited periods of use, significantly affect the visual landscape.
27. In the appeal decision relating to floodlights at the tennis courts, already referred to, the Inspector considered that *'any impression of the pool of light would be in the wider context of the lighting in the built up area of High Wycombe and the illumination of the club car park and outdoor training area'*.

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<sup>4</sup> CH/2005/2012/FA

That appeal also took account of the absence of street lighting in the village. I take a similar view in relation to the effects of the proposed floodlights.

28. I conclude, therefore, that the development would not harm the landscape and scenic beauty of the AONB. Consequently, it would conserve it. It follows that the proposal would comply with LP policy LSQ1 which advises that development should conserve, and where considered appropriate and practicable, enhance the special landscape character and scenic quality of the AONB. It would not be appropriate or practicable to expect floodlights to enhance the AONB. The proposal would also comply with relevant parts of the Framework.

*The effect on the settings of nearby listed buildings and the adjacent CA*

29. The Planning (Listed Buildings and Conservation Areas) Act 1990 ss.66(1) and 72(1) require that decision makers have special regard to the desirability of preserving listed buildings and their settings and to preserving or enhancing the character or appearance of conservation areas. The 'setting' comprises the surroundings in which such heritage assets are experienced and can include views to and from the heritage asset.
30. The CA Appraisal<sup>5</sup> refers to the village green and the mainly original buildings which surround it and formed the old core of the settlement. The large pond and avenue of Elms are described as adding interest to the scene, along with views across open countryside to the east. Several of the attractive, detached and semi-detached houses which are set back from Elm Road, but run alongside it opposite the Green, are grade II listed. Some of the listed buildings and other houses along this part of Elm Road back onto the appeal site which is outside, but immediately adjacent to, the CA. The significance of the CA, therefore, derives broadly from the historic, rural character of Penn. That setting also contributes to the significance of the listed buildings.
31. When retracted, there would be very limited views of the floodlights from Elm Road or the village green. However, when they are extended to some 15 metres and illuminated, there would be visibility from parts of the village green and the road, especially at night. The floodlights along the northern and southern sides of the football pitch would be roughly in alignment with the grade II listed pairs of semi-detached houses at 'The Chestnuts' and 'Collaine', and 'Kenilworth' and 'Japonica', respectively. However, because of the orientation of the pitch, the two lines of three floodlights on each side would be running away from the CA and its listed buildings.
32. The site is also at a lower elevation than the village to the west and the nearest two corner floodlights would be in the region of 40 metres beyond most of the main rear elevations of dwellings on Elm Road. There are also trees on the village green, along the road and between some dwellings with further mature trees to the rear. Therefore, whilst there would be visibility of the floodlights when extended, between or above buildings from the road and the Green, it would be variable and partially dissipated by the above factors. The cowls fitted to the lamps would also help to reduce light intensity when viewed from within the CA.
33. Despite those mitigating factors, and whilst tall trees are a feature of the CA, the floodlights, when extended, with their metallic columns and lamps, rising

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<sup>5</sup> Conservation Area V32 - Penn & Tylers Green – as amended by Chiltern District Council 1992

- above the roofs of dwellings would cause some harm to the semi-rural setting of listed buildings and the character and appearance of the CA.
34. Although the land continues to fall away to the east, the floodlights would also be noticeable, when extended, from the surrounding countryside looking back towards the CA and its listed buildings. That would include some views from the grade II listed Puttenham Place Farmhouse. However, as already described, the floodlights would be seen in the general context of existing sporting facilities on the edge of the village, with residential housing in the backdrop. At night, notwithstanding the absence of street lighting, given the existing floodlights, other lighting at the site and tennis courts and in the conurbations beyond, the effects would be relatively limited. A similar view was taken by the Inspector in the appeal decision relating to the eight floodlights at the tennis courts, previously referred to.
35. As in relation to the other main issues, the key factors, which acknowledge the sensitive location of the site, are the retractable nature of the floodlights and the limited periods of proposed use. The three existing 6m high poles with floodlights currently located on the northern side of the pitch would also be removed.
36. Therefore, taking matters in the round, I conclude that there would be limited harm to the settings of listed buildings and to the character and appearance of the CA, when the floodlights are extended and in use. Consequently, there would be some conflict with policies LB2 and CA2 of the LP which seek to protect the settings of listed buildings and important views within, looking out of, or into a conservation area. However, in the language of the Framework, I consider that the harm would be 'less than substantial'.
37. Paragraph 193 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a listed building or a conservation area, great weight should be given to the asset's conservation, irrespective of whether the harm amounts to substantial harm, total loss or less than substantial harm.
38. I am also mindful that paragraph 194 of the Framework indicates that any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. Nevertheless, paragraph 196 of the Framework says that: '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal....*'. That aspect is not reflected in policies LB2 and CA2 of the LP, which predate the Framework. Therefore, they are inconsistent with the Framework to that extent and out-of-date, which limits the weight that can be afforded to the conflict with them.
39. The Club was established in 1905 and is run by volunteers. It has a membership of over 400 and offers sporting opportunities for children and adults in the local community. Indeed, I understand that it provides a range of teams from senior to youth and junior level, including sides for boys and girls. It is also clear that there has been investment in the Club and its facilities over the years, which is said to have been financed by the community and grants from public bodies.

40. I am satisfied that the Club offers an important sporting and recreational community facility, alongside the tennis and cricket clubs and the shared Sports and Social Club. In supporting a prosperous rural economy, the Framework encourages the retention and development of community facilities such as sports venues.<sup>6</sup> It also acknowledges that sports facilities can enable and support healthy lifestyles and advance the well-being of communities.<sup>7</sup>
41. The Clubs senior teams have played at the current level in the FA National League System for some 34 years. The evidence presented indicates that in order to avoid potential automatic relegation of two of its senior teams, because of a failure to meet the FA's mandatory ground requirements with regard to floodlighting, a temporary arrangement was put in place this season to enable the club to play home games at Amersham Town Football Club. I understand that there are costs associated with that arrangement and the appellant advises that the special dispensation from the FA to allow it was only given pending the outcome of this appeal, which appears to be supported by the surrounding correspondence already referred to.
42. In any event, whilst some third parties have suggested that the ground-share arrangement could continue, if the Club is to remain an important local sporting facility in a rural community, as supported by the Framework, it would be reasonable to expect that its senior teams would be able to play home games within that community, at their home ground. Whilst it is the two senior teams that would be most directly affected, their possible automatic relegation and the inability to play at the current league level would, it is reasonable to think, have a negative impact on the overall standing and continued success of the Club and associated facilities, such as the Sports and Social Club.
43. It is also reasonably likely, in my view, that relegation would harm the Club's ability to attract new players. It could also potentially discourage children and young people from joining and progressing through the junior and youth teams to play at senior level. The ability to do so would help to ensure that the health and well-being benefits associated with regular sporting activity and exercise are sustained into adulthood.
44. Therefore, the proposed floodlights are important to the Club's continued success and role as a sporting, recreational and social facility for this rural community and the surrounding area. I consider that those public benefits are sufficient to outweigh the 'less than substantial' harm that the development would cause to heritage assets, particularly given the limited periods of use sought, which could be secured by condition.

### **Other Matters**

45. In addition to the matters dealt with above, the occupier of 'The Chestnuts', one of the listed buildings along Elm Road, has expressed concern about the proximity of the floodlights to his house and garden, from where I viewed the appeal site. According to the Council, the nearest floodlights would be about 10 metres from the boundary of the nearest house on Elm Road and about 47 metres from the rear elevations of that dwelling, although other residents have suggested that the distance is shorter from some other dwellings.

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<sup>6</sup> Paragraph 83.d)

<sup>7</sup> Paragraph 91.c) and 96

46. However, what is apparent is that the relevant dwellings along Elm Road are characterised by long back gardens, providing a reasonable separation distance between rear elevations and the football ground. Existing floodlights at the adjacent sporting facilities can already be seen from 'The Chestnuts' and its rear garden. There would be views of some of the new floodlights, even when retracted. Notwithstanding, given existing views, the limited times when the new floodlights would be extended and lit and the separation distances, they would not change the view to an extent that would be significantly overbearing to adjacent residents. I note that the Council reached a similar conclusion and see no reason to take a different view.
47. Other local residents, particularly along Elm Road, have suggested that light spill from the floodlights would lead to sleep disturbance or affect privacy. However, in some cases, the relevant properties do not directly back on to the main football pitch where the floodlights would be sited. Moreover, my understanding is that the 3 existing floodlights (to be removed if the appeal were successful) and some portable floodlights have been used previously.
48. Given the cowls and focussed nature of the proposed lighting, as detailed by the appellant and their lighting engineers,<sup>8</sup> I am satisfied that it would not have a significant adverse effect on the living conditions of nearby residents. Existing hedges and trees should also mitigate light spill. In addition, it is pertinent that, according to the Council, their Environmental Health Department has no recorded complaints of 'nuisance' at the football club since 2007 and that the proposed illuminance falls within the acceptable guidance limits.
49. Reference has been made by the Council and others to a 'local policy' of disallowing street lighting within the village, although there is no reference to a development plan policy to that effect. In any event, whilst that may be common practice in this and other villages, the proposal is limited to the provision of floodlights to facilitate sporting activities during some late afternoons and evenings.
50. Moreover, as already discussed, there are existing floodlights and other lighting at the football and tennis clubs, with the tennis club floodlights approved at a previous appeal, where the absence of street lighting was also considered. Although all cases must be judged on their individual merits, floodlights at other villages in sensitive rural locations have been referred to in evidence.<sup>9</sup> Therefore, the absence of street lighting in the area and the effects of floodlights on the night skies do not lead me to alter my decision.
51. The Council refers to the level of local opposition to the proposal in the context of paragraph 172 of the Framework which says that planning permission should be refused for 'major development' in designated areas, such as AONBs, other than in exceptional circumstances and where it can be shown that the development is in the public interest.
52. The Council submits that because of the level of objection, the development would not be in the 'local public interest'. However, given that the development relates to 6 retractable floodlights, which would be in use for limited periods, in terms of nature, scale and setting, I have already found no

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<sup>8</sup> Abacus Lighting Ltd

<sup>9</sup> Prestwood and District Sports Centre and Great Missenden Tennis Club



significant effect on the AONB. Therefore, the proposal is not 'major development' for the purposes of paragraph 172 of the Framework.<sup>10</sup> In any case, whilst there is strong opposition to the proposal from some local residents and groups, there is also support from other members of the local community and in the wider area.

53. I have also considered alleged effects relating to parking, traffic and highway safety. Most of the houses that I saw along Elm Road appeared to have private off-road parking, but some residents have said that they have difficulty accessing their properties on match days due to inconsiderate street parking. Shouting from the pitch during matches is also referred to and it is suggested that spectators returning to their parked cars on Elm Road cause late night noise. However, the Council has not indicated that their Environmental Health Department has received complaints over recent years regarding noise and the relevant highway authority has not objected to the proposal.
54. Whilst many residents have referred to problems caused by on-street parking along Elm Road during games, there is no compelling evidence to indicate that the proposed floodlights would lead to a significant intensification of use of the ground or generate extra traffic. Rather, they are intended to enable the club's senior teams to continue to play at the ground at their current league level.
55. A submission on behalf of a group of Elm Road residents suggests, amongst other things, that the Club should have sought to negotiate further with the FA regarding compliance with their requirements. However, I have already found that sufficient evidence has been submitted regarding those requirements, as referred to in footnote 2 above, and that special dispensation was negotiated to enable the club to play its senior games elsewhere this season, pending the outcome of this appeal.
56. The planning history of the site is referred to in various submissions along with the fact that some applications appear to have been retrospective. However, there is no bar in law on successive planning applications. Although retrospective applications are not ideal, the law allows applicants to seek to regularise development which has taken place without planning consent, which may have occurred for a variety of reasons. Therefore, no adverse inference should be drawn based on those aspects in assessing the current proposal, which is not retrospective.
57. The absence of an Ecological report is referred to, but the Council has not expressed concern regarding effects on biodiversity and protected species. Given that the appeal site is already in use as a football ground with existing floodlighting, based on the evidence before me, I see no reason to take a different view from the Council on that issue. Submissions that the Council has not taken effective enforcement action in relation to previous alleged breaches of planning control or conditions should be pursued with the Council, if appropriate.
58. It is acknowledged that the proposal has generated a considerable degree of local interest and some controversy. It is also apparent that there are strong and sincerely held views on both sides of the debate. I have carefully considered the objections of various groups and individuals, including Penn & Tylers Green Residents Society, the Campaign for the Protection of Rural

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<sup>10</sup> See Footnote 55 to paragraph 172 on p.50 of the Framework.

England (Buckinghamshire Branch), the Chilterns Conservation Board (CCB), the Chilterns Society and the Parish Council. However, whilst I appreciate that my decision will be disappointing to a significant number of groups and individuals in the community, the various matters raised have either been dealt with in the main issues above or are not of sufficient weight to lead me to alter my decision.

### **Conditions**

59. The Council has suggested conditions which I have considered, making amendments, if necessary, to ensure compliance with the tests contained in the Framework<sup>11</sup> and the Planning Practice Guidance (PPG). A condition setting a time limit for commencement of the development is required by statute. It is appropriate for there to be a condition requiring the development to be carried out in accordance with the approved plans for certainty.
60. It is necessary for there to be a condition restricting the hours and periods of use of the floodlights in order to protect the GB, the AONB, heritage assets and the living conditions of nearby residents. The condition imposed is more restrictive than the Council's suggested condition and in line with a condition suggested by the appellant, in recognition of the sensitive location. It is appropriate for there to be a condition restricting the installation of any other external lighting for similar reasons. I have also included a condition to ensure that the 3 existing floodlight poles are removed, as the proposal was made on that basis and it would also help to safeguard the GB, the AONB and heritage assets.
61. I have considered examples of conditions applied to other developments in AONBs, provided by the CCB. However, they are either covered by the above conditions or do not meet the tests of necessity or reasonableness, referred to within the Framework and the PPG, when applied to the circumstances of this case.

### **Conclusion**

62. To sum up, I have found that the proposal would not harm the GB or the AONB. Less than substantial harm to the settings of listed buildings and the CA was identified leading to some conflict with policies LB2 and CA2 of the LP. However, that less than substantial harm is outweighed, applying the provisions of the Framework, by the public benefits of the proposal.
63. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*JP Tudor*

INSPECTOR

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<sup>11</sup> Paragraph 55



## Appeal Decisions

Hearing held and site visit made on 26 February 2019

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

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

**Decision date: 13 May 2019**

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### **Appeal A Refs: APP/X0415/C/14/2216326, 2216327 & 2216328**

#### **Clemmit Farm, Wycombe Road, Prestwood, Buckinghamshire HP16 0HJ**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeals are made by Mr D J Bright, Mrs S A Bright and Mr R Bright against an enforcement notice issued by Chiltern District Council.
  - The enforcement notice was issued on 4 March 2014.
  - The breach of planning control as alleged in the notice is the change of use of the land from agricultural and its authorised equestrian use (including the use of one caravan/mobile home approximately 9m x 3m for use as a day/wash room ancillary to the lawful use of the land for agricultural/equestrian purposes in the position shown hatched and marked C on the attached plan labelled Plan 2 ("Plan 2")) to a mixed use for agricultural purposes, equestrian purposes and for residential purposes including the stationing and use of a Fifth Wheel American Style Mobile Home to provide residential accommodation, in the position marked A on Plan 1 and shown hatched and marked A on Plan 2, and for the stationing of a container (the Container) to provide residential storage (in the position marked B on Plan 1 and shown hatched and marked B on Plan 2).
  - The requirements of the notice are (i) Cease all residential use (including residential storage) of the land; (ii) Remove both the Fifth Wheel American Style Mobile Home and the Container from the land; and (iii) Remove all paraphernalia from the land not reasonably required in connection with the agricultural and authorised equestrian use of the land.
  - The period for compliance with the requirements is 8 months.
  - The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended (the Act) and the appeal by Mr D J Bright is also proceeding on the grounds set out in section 174(2)(a) of the Act.
  - This decision supersedes those issued on 13 November 2014, 19 April 2016 and 14 July 2017. Those decisions were quashed by orders of the High Court.
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### **Appeal B Ref: APP/X0415/A/14/2215920**

#### **Clemmit Farm, Wycombe Road, Prestwood, Buckinghamshire HP16 0HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D J Bright against the decision of Chiltern District Council.
  - The application Ref CH/2013/1270/FA, dated 24 July 2013, was refused by notice dated 25 September 2013.
  - The development proposed is the stationing of a mobile home.
  - This decision supersedes those issued on 13 November 2014, 19 April 2016 and 14 July 2017. Those decisions were quashed by orders of the High Court.
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## Decision

1. The planning appeal and the ground (a) enforcement appeal are allowed, the enforcement notice is quashed, and planning permission is granted for the stationing of a mobile home at Clemmit Farm, Wycombe Road, Prestwood, Buckinghamshire, in accordance with the terms of the application Ref CH/2013/1270/FA, dated 24 July 2013, subject to the following conditions:

1. Occupation of the mobile home hereby permitted shall be limited to a person solely or mainly employed at Clemmit Farm in connection with the equestrian business (including any dependents of such a person residing with him, or a widow or widower of such a person).
2. The permission is granted for a three year period from the date of this decision. On or before the expiration of the three year period the use of the land for residential purposes shall cease and the mobile home shall be removed from the land together with all associated domestic paraphernalia.
3. The storage container on the land shall be removed within eight months of the date of this decision.
4. Within six months of the date of this decision the existing mobile home shall be removed from the land and a replacement mobile home for the duration of the planning permission shall be of the style shown on Drawing A with maximum external dimensions of 12m (length) x 4m (width) x 3.6m (height), and shall be placed in the location shown on Plan KCC2 (1054/19 05/16tk, May 2016).

## Procedural matters

2. This decision has been made *de novo*, but with regard to the three quashed decisions that are material considerations.
3. In the interests of clarity and precision, the development that has been permitted is that described in the planning application, rather than the breach of planning control set out in the enforcement notice.
4. The Appellants accept that the container, that is a subject of the enforcement notice, must be removed from the land. Rather than upholding the notice only to require the removal of the container, this is required by a condition of the planning permission that has been granted. The time limit for removal of the container is, appropriately, the same as the time period for compliance with the requirements of the notice. Taking this factor into account and the outcome of the ground (a) enforcement appeal and the planning appeal, the ground (g) enforcement appeals do not need to be considered.

## Reasoning

5. The ground (a) enforcement appeal and the planning appeal relate to the Fifth Wheel American Style Mobile Home (the existing mobile home).
6. Clemmit Farm is in the Green Belt and in the Chilterns Area of Outstanding Beauty (CAONB). The Appellant accepts that the existing mobile home, with regard to planning policy on Green Belts set out in the National Planning Policy Framework (the NPPF), is inappropriate development. The mobile home thus conflicts with the NPPF, and with policy GB2 of the Chiltern District Local Plan (LP).

## Background

7. The existing mobile home is predominantly white and is about 10.1 metres long and 2.5 metres wide, though it has three side, cantilevered, 'extension' elements. It is designed to be towed by a pick-up truck and therefore has road going tyres and an internal floor that is about 0.85 metres above ground level. The highest part of the slightly sloping roof is about 2.75 metres above floor level so the mobile home has an overall height of about 3.6 metres.

8. The Appellant has suggested that the existing mobile home could be replaced, in the same position, by a conventional mobile home (a replacement mobile home) and this could be achieved by imposition of a condition, which was discussed at the Hearing, and both main parties submitted draft conditions after the event. The replacement mobile home would be as shown on a drawing (Drawing A) and would be brown.

9. The Appellant has also suggested that the mobile home could be re-orientated to be in line with another mobile home that is adjacent and that is used as a day/rest room. For various reasons, including resultant access and hardstanding issues, this suggestion is without merit.

## The main issues

10. The main issues in the ground (a) enforcement appeal and the planning appeal are; first, whether the existing or replacement mobile home causes any other harm, with regard to the openness of the Green Belt and to the character and appearance of the CAONB; and second, the material considerations to be weighed against the harm caused.

## The first issue – other harm

11. Paragraph 133 of the NPPF states that "The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence". The existing or replacement mobile home is a substantial structure in itself and reduces the openness of the Green Belt. The top of either mobile home is visible from a nearby public right of way above a boundary fence, which is permitted development, and it therefore has, in addition, some effect on the visual openness of the Green Belt.

12. Paragraph 172 of the NPPF states that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues". The buildings at Clemmit Farm, apart from a remote field stable, are alongside and to the south-east of the aforementioned fence, which adjoins an unmade access track off Wycombe Road that provides vehicular and pedestrian access to the farm and to a dwelling, 149 Wycombe Road, which is to the south-west of the group of buildings. The buildings comprise, in increasing distance from the dwelling, a small stable building, a larger stable and store building, the day/rest room mobile home, and the existing mobile home. The access track is a public right of way which extends beyond the gated access in to Clemmit Farm as a footpath alongside a paddock to the north-east of the buildings.

13. The top of the existing mobile home is visible above the timber fence, that is about 1.8 metres high, but only for a short section of the right of way. It is seen in the context of the other buildings at Clemmit Farm and neighbouring residential

properties. Nevertheless, given its colour and its bulky extended form, in views from the right of way the existing mobile home is an incongruous feature that has a significant adverse effect on the character and appearance of the CAONB. A replacement mobile home, given its more appropriate colour and conventional form and given nearby built development, would have a negligible adverse effect on the character and appearance of the CAONB in views from the access track.

14. The footpath has a junction with two bridleways at the north corner of the paddock. One bridleway extends to the south-east and one to the north-west both through an area of woodland, Peterley Wood. There are glimpses of the existing mobile home from the bridleways though they are from a considerable distance and vegetation would screen the mobile home in summer months. Furthermore, the mobile home is seen against a backdrop of other buildings at Clemmit Farm and residential properties on Wycombe Road. Nevertheless, given its colour and form the existing mobile home has a minor adverse effect on the character and appearance of the CAONB in views from the bridleways. A replacement mobile home, given its colour and conventional form, would not adversely affect the character and appearance of the CAONB in views from the bridleways.

15. The existing mobile home, as would a replacement mobile home, reduces, and has a visual effect on, the openness of the Green Belt. They thus conflict with national Green Belt policy in the NPPF. The existing mobile home has a significant adverse effect in views from the access track, and a minor adverse effect in views from the bridleways, on the character and appearance of the CAONB. It thus does not conserve the landscape and scenic beauty of the CAONB and conflicts with the NPPF and with LP policy LSQ1. The replacement mobile home would have a negligible effect on the character and appearance of the CAONB in views from the access track. The replacement mobile home would not thus conflict, in this regard, with NPPF policy or with LP policy LSQ1.

The second issue – material considerations

16. Paragraph 79 of the NPPF provides that the development of isolated homes in the countryside should not be permitted unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 83 states that planning policies and decisions should enable, amongst other things, the development and diversification of agricultural and other land-based rural businesses.

17. The Appellants wish to establish a land-based rural business on the land; an equine business based on the training and breeding of native ponies. The development of such a business accords with paragraph 83 of the NPPF and is the material consideration put forward by the Appellants that, they claim, justifies a conclusion that very special circumstances exist in this case.

18. Clemmit Farm comprises about 1.1 hectares of paddock land (the red land) within which the group of buildings that includes the existing mobile home and a manege are located, and about 2.9 hectares of paddock land (the blue land) beyond the junction of the footpath and the bridleways. Ponies can be led the short distance between the two parcels of land. Beyond the blue land, and separated from it by other paddock land, is paddock land extending to about 2.4 hectares that has been rented by the Appellants since 1993 (the green land). The red and blue land benefit from implemented planning permission CH/2012/1798/FA for the change of use of land to commercial breeding and training of horses/ponies.

The Appellant and his family have been involved in the training, breeding and showing of Mountain and Moorland ponies for in excess of twenty years.

19. The Council accepts that "...there would be a functional need for the Appellant to live on site in order to develop the business as proposed but has questioned the financial viability and the need for more land". The Appellant referred to is Mr R Bright, the son of the Appellant, Mr D Bright, and Mrs S Bright. Mr R Bright's expertise in the breeding and training of native ponies is not in doubt. He would work full-time on the land to develop the business and would be assisted in the evenings and at weekends by his parents, his sister and others. The updated business plan relied on by the Appellant indicates that in Year 1 the business would achieve a profit of £20,300 and £8,000 would be paid in wages. The profit would, effectively, be Mr R Bright's earnings and the wages would be paid to those who work at weekends and in the evenings.

20. A temporary permission for a mobile home, to provide accommodation for a full-time worker and as opposed to a permanent dwelling, is granted to provide the opportunity for a business to develop and for projections on viability to be tested. The proposed business is based on the training and breeding of native ponies as a hobby by the Bright family, so many of the elements of the business are not new to them. These elements include the breeding of ponies from their own mares, a contract foaling service, the rearing and training of show ponies, a stallion service, the buying, training and selling of ponies, a contract training service for client's own ponies, and artificial insemination services. The proposed business has, understandably, yet to be initiated given the uncertainty that has prevailed throughout the long history of the planning and enforcement appeals.

21. The Council has queried whether the Appellant has use of sufficient land and has adequate stabling. There is no reason to doubt, given in particular the length of time that the land has been rented, that they would be able to continue to rent the green land or be able to rent substitute land in the area. The Appellant explained at the Hearing that ponies do not need the same quantity of grazing land as horses and that the land is kept in poor condition to prevent harmful over consumption of grass. He also explained that native ponies, given their hardy characteristics, are kept outside for long periods and that doubling up on the use of stables means that the existing nine stables are adequate for the proposed business. Furthermore, British Horse Society recommendations for the size of stables are based on horses more than 15 hands high whereas existing stables on the land are adequate for native ponies that are considerably smaller.

22. The Council has assessed the labour requirement for the business at Year 3 to be 3.7 full time workers. Ms Hawkins, for the Appellant and, as explained at the Hearing, experienced in pony related business activities, explained that such businesses do not operate, for financial reasons, with the level of labour as assessed by the Council. They are businesses that rely, to some extent, on the passion and experience of those employed and this is clearly the case with regard to the Bright family and their proposed business. The Council accepts that "...£20,000 is a reasonable sum for the main worker at Clemmit Farm...", and £8,000 in Year 1 would be adequate to pay for evening and weekend labour.

23. Doubt has been cast, by the Council and others, on the forecasts for earnings from stud fees and pony and semen sales included in the updated business plan. But the figures included are not so exaggerated as to be fanciful and are supported by some evidence and, in any event, these doubts, and others,

must be considered in the context of the principle of granting a temporary permission for a mobile home. The principle is that sufficient time is given for a business to develop and grow and, if necessary, adapt as a commercial enterprise. The balance sheets over the three year period, if planning permission is granted and the business is allowed to develop, will differ from financial projections but, given in particular the undoubted expertise of Mr R Bright and his family, there is a real prospect that the business would be viable.

24. The Appellants have provided sufficient evidence to justify a conclusion that the proposed equine business based on the training and breeding of native ponies has a real prospect of achieving viability if it is allowed to develop over a three year period. The Council accepts, in these circumstances, that there is an essential need for Mr R Bright to live on site in order to develop the business. The business would, during the temporary period and possibly beyond, provide rural employment opportunities and would support other businesses such as feed and other service suppliers. The temporary siting of a mobile home for three years thus accords with paragraph 79 of the NPPF.

#### Other matter

25. Local residents have raised concerns about highway safety at the junction of the access track with Wycombe Road. It was noted at the site visit that visibility for drivers of vehicles exiting the track is sub-standard in both directions, but particularly to the north-west. Furthermore, the equine transport vehicle kept on the land, given its turning circle, must turn across the opposing carriageway when turning left out of the junction thus obstructing oncoming traffic. This vehicle is likely to be kept on the land and used in connection with the permitted use of the land irrespective of the outcome of the appeals. In addition, there is likely to be other continuing vehicular activity on the track in connection with that use. Any additional vehicular movements associated with the stationing of a mobile home for a temporary three year period is likely to be minimal and there would not thus be any significant consequences for highway safety at the junction.

#### The planning balance and very special circumstances

26. Paragraph 83 of the NPPF supports the development of agricultural and other land-based rural businesses. The Council accepts that there is an essential need for Mr R Bright to live on site in order to develop the equine related business and it must therefore be concluded that there is an essential need for the stationing of a mobile home so that he can live on site. It is inevitable that such a mobile home would not preserve the openness of the Green Belt. The mobile home thus conflicts with paragraph 133 of the NPPF. In this case there is conflict between the provisions of paragraphs 83 and 133 of the NPPF.

27. With regard to harm caused by reason of inappropriateness, if this harm was to be considered conclusive in circumstances such as those found in this case then no development associated with such a rural based business would be permitted in the Green Belt. This cannot be the intention of national planning policy. But there is other harm to be considered and in this case it is the harm caused to the character and appearance of the CAONB. The existing mobile home has a significant adverse effect in views from the access track, and a minor adverse effect in views from the bridleways, on the character and appearance of the CAONB. The replacement mobile home would have only a negligible effect on the character and appearance of the CAONB in views from the access track.

28. Taking the aforementioned factors into account, and as a matter of planning judgement, the harm caused by reason of inappropriateness, to the openness of the Green Belt, and to the character and appearance of the CAONB by the existing mobile home, is not clearly outweighed by the material considerations mentioned above. However, the harm caused by reason of inappropriateness, to the openness of the Green Belt, and the negligible harm caused to the character and appearance of the CAONB by the replacement mobile home, is clearly outweighed by material considerations, which include the essential need for Mr R Bright to live on the land to develop the proposed equine related business, which has a real prospect of achieving viability over the temporary three year period.

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise. The replacement mobile home conflicts with LP policy GB2 but the aforementioned material considerations indicate that determination of the appeals can be made other than in accordance with the Development Plan.

30. Paragraph 144 of the NPPF states that "Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations". In this case there are material considerations that clearly outweigh the harm that would be caused by the replacement mobile home, by reason of inappropriateness and to the openness of the Green Belt, such that very special circumstances exist.

#### Conditions

31. Condition 1 of the planning permission granted is required to limit occupation of the mobile home, mainly, to the person employed on the land, and condition 2 is required to restrict the permission to a specified three year period. Condition 3 substitutes the outstanding requirement of the enforcement notice and requires the removal of the container on the land, and condition 4 is necessary to ensure that the existing mobile home is removed from the land within a specified period and is substituted by a specified replacement mobile home.

#### Conclusion

32. The harm caused by the existing mobile home is not clearly outweighed by material considerations but the harm that would be caused by a replacement mobile home is clearly outweighed by those material considerations such that very special circumstances exist in this case. The ground (a) enforcement appeal and the planning appeal thus succeed and planning permission has been granted, subject to conditions, for the stationing of a mobile home at Clemmit Farm, Wycombe Road, Prestwood, Buckinghamshire.

*John Braithwaite*

Inspector



## **APPEARANCES**

### FOR THE APPELLANT:

Mr D Bright	Appellant
Mr T Kernon	Kernon Countryside Consultants Ltd
Ms R Clutton	Barrister
Ms C Hawkins	Appellant's friend

### FOR THE LOCAL PLANNING AUTHORITY:

Mr H Mohammed	Barrister
Ms T Francis	Chiltern District Council
Ms J Scrivener	Bourne Rural Planning Consultancy Ltd

### INTERESTED PERSONS:

Mr J Gladwin	District Councillor for Prestwood and Heath End
Mr V Gibson	Local resident
Mr M Mackie	Local resident
Mr J Fosh	Local resident
Mr N Louch	Local resident
Mr G Wypyski	Local resident
Mr S Cox	Local resident
Mrs Z Cox	Local resident

## **DOCUMENTS**

- 1 Appearances on behalf of the Council.
- 2 Note on behalf of Chiltern District Council.
- 3 Statement of Common Ground.
- 4 Details of existing mobile home.
- 5 Plan of Clemmit Farm.
- 6 Council's letter of notification of the Hearing and list of those notified.







## Appeal Decision

Site visit made on 12 March 2019

**by JP Tudor Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2019

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**Appeal Ref: APP/X0415/W/18/3208992**

**Land adjacent to Giles House and to rear of Larksfield, Doggetts Wood Lane, Little Chalfont, Buckinghamshire HP8 4TH**

- 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 Kevin Andrews (Lois Gastoneaux Homes) against the decision of Chiltern District Council.
  - The application Ref CH/2018/0075/FA, dated 15 January 2018, was refused by notice dated 15 June 2018.
  - The development proposed is detached single dwelling with attached garage and new access.
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### Decision

1. The appeal is allowed and planning permission is granted for detached single dwelling with attached garage and new access at Land adjacent to Giles House and to rear of Larksfield, Doggetts Wood Lane, Little Chalfont, Buckinghamshire HP8 4TH in accordance with the terms of the application, Ref CH/2018/0075/FA, dated 15 January 2018, subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Mr Kevin Andrews (Lois Gastoneaux Homes) against Chiltern District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. Although the property at 'Larksfield' is also referred to as 'Larkes Field' within the appeal documentation, I have used the former description in this decision. That is in accordance with the site address stated on the planning application form.
4. A revised version of the National Planning Policy Framework (the Framework) was published in July 2018, after the Council had determined the application. However, the parties have been able to take account of any relevant changes during the course of the appeal. The Framework was further updated in February 2019. As the changes were minor it has not been necessary to revert to the parties for further comment.
5. Although the Council Officer's Report recommended approval, the Council's Planning Committee took a different view and refused the application, as it is perfectly entitled to do, provided that its decision is on planning grounds.

## Main Issues

6. The main issues are the effect of the proposed development on:
- the character and appearance of the area; and,
  - the living conditions of occupiers of the neighbouring dwelling, Giles House, with particular regard to noise and disturbance.

## Reasons

### *Character and appearance*

7. The appeal site comprises a roughly rectangular plot, which fronts onto Doggetts Wood Lane, a private road, and is flanked by dwellings known as Giles House and Wynchwood. The site once formed parts of the gardens of Giles House and Larkfield, properties to the north west. It is within a leafy, residential area characterised by large, detached houses on generous plots, which is defined on the 'Proposals Map' of the Chiltern District Local Plan (LP)<sup>1</sup> as an 'Established Residential Area of Special Character' (ERASC).
8. The principle of residential development has already been accepted by the Council, which has previously granted permission for a dwelling on the site. Permissions for a dwelling under planning references CH/2016/0549/FA and CH/2016/0734/FA are referred to in the Council Officer's Report. The parties advise that the appeal proposal represents a modified scheme. Although the plot is smaller than many others, there are some modest plots in the area. In any case, that aspect, in itself, would not harm the character of the area and the principle of development on the plot has already been established.
9. It is understood that the width of the proposed dwelling has increased by about 3.6 metres and the depth by 5.2 metres over the previously approved scheme. However, whilst the façade would be wider, those increases in part result from single storey elements, such as the link to the garage and a rear extension, both of which would be subservient to the main two storey house. The total floorspace would also increase by 38.46%, according to the Council Officer's Report. However, much of that is attributable to an increase in the size of the basement.
10. Whilst the house would be sizeable there is no increase in the ridge height over the previous application. Although the houses along the road are on large plots, the distances between side elevations and flank boundaries are relatively limited in many cases. In that context, the proposed set-ins from the side boundaries would be reasonable. The house would be on a similar building line to existing properties, albeit set slightly further back from the road than Wynchwood. Therefore, the increases in footprint and floorspace would not translate into a noticeably more prominent structure than a number of other substantial dwellings along Doggetts Wood Lane.
11. Unlike the previously approved scheme, the proposed dwelling would be imbued with a Georgian design aesthetic. Its hipped roof would include two modest flat-roofed dormer windows and a parapet. The façade would exhibit symmetrical fenestration and other characteristic Georgian features such as a porticoed entrance. The Council submits that the Georgian design and

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<sup>1</sup> Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 & November 2011

- features, such as the front dormers and parapet, would be uncharacteristic of the area.
12. However, as I saw on my site visit, Doggetts Wood Lane features houses in a variety of styles, including mock-Tudor black and white timber and a more modernist offering with white render, black fenestration and grey roof tiles. There are hipped and pitched roofs and large Georgian-inspired houses at 'Shortwood' and 'Brockhampton', not far from the appeal site. A number of those examples are also cited in the Council Officer's Report. Features include dormer windows, albeit arched, and grand, portico entrances with pediments above. Therefore, a Georgian design, albeit with a parapet and other detailing, would not appear out of character, set amongst the various styles of houses along the lane, which already include some examples of Georgian-style architecture.
  13. 'Wynchwood', adjacent to the appeal site, also features dormer windows within a steep pitched roof slope, which reaches down to just above the ground floor windows, whilst Giles House on the other flank has a porticoed entrance. Those two houses are themselves of contrasting form and design with pitched and hipped roofs, respectively, and different fenestration. Therefore, there is little homogeneity of design, even in the immediate street scene, to disrupt.
  14. The Council also expresses concern about the effect of the projecting front linked garage. However, I understand that the previously approved scheme featured a double garage to the front, albeit on the south east boundary rather than the north east boundary and that the new proposed garage would be about 0.5 metres lower. The single storey link would be screened by the built form of the garage and vegetation, looking from the road. Consequently, it would not particularly draw the eye.
  15. Moreover, although the various detached houses along the lane are large, their setback combined with extensive and pleasant greenery, including grass verges, hedges and trees, reduces their prominence in the street scene. The same would apply to the proposed dwelling. Accordingly, whilst I have taken account of the sensitive location within the ERASC, the various size and design aspects cited by the Council would not individually or collectively cause harm.
  16. Overall therefore, considering the scheme as a whole, I conclude that the proposed development would not harm the character and appearance of the area. It follows that it would comply with policies GC1 and H4 of the LP and policy CS20 of the Core Strategy for Chiltern District (CS)<sup>2</sup>, which seek to ensure that development is designed to a high standard which respects its surroundings and the special character of ERASCs, with regard to various factors including plot size, orientation, scale, form, design and appearance.

*Living conditions of neighbouring occupiers of Giles House*

17. There would be an external rear staircase to the side of the house serving an entertainments room and a cinema within the basement. There would also be two windows serving the entertainments room. The Council submits that the proximity of these elements to Giles House would be likely to cause noise and disturbance to occupiers of that adjacent dwelling.

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<sup>2</sup> Adopted November 2011

18. However, the relevant flank elevation would be a reasonable distance from the shared boundary and the adjacent house. Moreover, the doorway and windows would be below ground level and existing fences and proposed shrubbery would help to mitigate any noise. There is also an alternative internal staircase to the basement. In any event, as the proposal is for a residential house, albeit a sizeable one, it is not clear why sound emanating from it should be beyond what might reasonably be expected in a residential area with family-sized dwellings.
19. Therefore, I conclude that those elements of the proposal would not be likely to have any significant adverse effect on the living conditions of occupiers of Giles House, with regard to noise or disturbance. Consequently, the proposed development would not conflict with policy GC3 of the LP, which seeks to protect the living conditions of occupiers of neighbouring properties from significant impairment.

### **Other Matters**

20. In addition to the matters dealt with above, occupiers of 'Emberwood' have expressed concern about, amongst other things, effects on their privacy, with regard to overlooking from the proposed dormer windows and in relation to the position of the respective driveways. Whilst 'Emberwood' is opposite the appeal site on the other side of the lane, I am satisfied that the separation distance between the dwellings and their relative positions would not lead to significant overlooking or indeed have an overbearing effect.
21. The proposed driveway has been moved towards the northwest boundary and would not be directly opposite either of the accesses to 'Emberwood'. Drivers exiting the new property would be more likely to be looking along the lane to check for pedestrians and oncoming vehicles than across the other side of the road towards 'Emberwood'. In any case, hedges and the separation distance would prevent any significant effects on privacy. For similar reasons and given the levels of likely traffic from the new house, the effects of car headlights shining towards 'Emberwood' during the early evening, when curtains or blinds might still be open, would not cause significant harm or invade privacy.
22. It has also been suggested the size of the footprint of the new house would leave inadequate garden space. However, although the plot is not as long as some others, it seems to me that the level of rear garden space would be sufficient. I also note that the Council has not expressed concern about that aspect. Whilst LP policy H12(i)(a) says that proposed houses should have similar garden depths to others in the vicinity where the average garden lengths are significantly more than 15 metres, H12 (i)(c) allows for reduced garden depths where the amount of space is considered to be adequate, which I find to be the case here.
23. Other neighbouring or nearby occupiers have referred to a range of matters relating to privacy, sunlight, noise, views, potential structural impacts and concerns relating to party walls, light pollution and other effects on living conditions. Some matters raised would result from any development of the plot for housing or relate to private civil issues which are not planning considerations. The Council has not found planning harm in those other respects. Although I have also carefully considered the various representations and objections and appreciate that my decision will disappoint a number of local residents, I take a similar view to the Council in those respects.

24. Whilst a section of hedge would be lost to create the access, trees and hedges could be safeguarded during construction and for a reasonable period afterwards by means of a suitable condition. It is also understood that the Council's Tree Officer found the proposal to be acceptable.
25. A committee representative of the Harewood Downs Residents Association believes that large detached houses built on the estate over the past 10-15 years have eroded the 'special character' of the area. Conflict with various aspects of LP policy H4 is alleged, in respect of those applications and the appeal proposal. I do not have details of the reasons that may have led the Council to grant those previous permissions, but it would have been duty bound and legally required to have assessed those proposals against relevant development plan policies.
26. The Council Officer's Report, in relation to the appeal proposal, also assessed it against relevant policies, including LP policy H4 and found that it complied, although the Council's Planning Committee took a different view. In any event, all applications and appeals must be judged on their individual merits, against relevant local and national policy, which is the approach that I have taken in determining this appeal. It has been suggested that allowing the appeal would set a precedent for other development proposals in the area. As I have not found that this particular proposal would cause harm, it should not lead to harmful development elsewhere on the estate. Other proposals would equally be considered on their own merits and against relevant policies.

### **Conditions**

27. The Council has suggested conditions which I have considered, making amendments, if necessary, to ensure clarity and compliance with the tests contained in the Framework<sup>3</sup> and the Planning Practice Guidance (PPG). The appellant has confirmed that the suggested conditions, including those that are pre-commencement, are acceptable. A condition setting a time limit for commencement of the development is required by statute. A condition requiring it to be carried out in accordance with the approved plans is necessary for certainty.
28. It is appropriate for there to be a condition relating to the approval of external materials to safeguard the character and appearance of the ERASC. Conditions relating to trees and hedges are necessary to protect those to be retained during construction and, as far as possible, in the future to maintain the character of the area. A condition relating to soil excavation and traffic movements is appropriate to safeguard the character of the area and the living conditions of neighbouring occupiers.
29. A condition concerning the access, parking and turning areas and their surfacing is necessary to ensure appropriate off-road parking and to minimise surface water run-off. A condition restricting permitted development rights relating to extensions and alterations is necessary and appropriate in this case, to safeguard the character of and appearance of the area, designated as an ERASC, and to protect the living conditions of adjacent occupiers. A condition requiring first floor side windows to be obscure glazed and lower parts non-opening is also appropriate to protect the living conditions of neighbouring occupiers.

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<sup>3</sup> Paragraph 55

30. It is essential that the requirements of conditions 3, 4 and 6 are agreed prior to works commencing to ensure an acceptable form of development in respect of character and appearance, tree and hedge protection and the living conditions of neighbouring occupiers.

### **Conclusion**

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

*JP Tudor*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos L1140/01; L1140/02; L1140/21 Rev.B; L1140/22 Rev.B; L1140/31 Rev.B and L1140/32 Rev.B.
- 3) Before any construction work commences, named types, or samples of the facing materials and roofing materials to be used for the external construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until a Tree Protection Plan has been submitted to and approved in writing by the local planning authority. This plan shall clearly show the trees and hedges to be retained and those to be removed, along with the positions of tree protection fencing. Before any other site works commence on the development hereby permitted this tree protection fencing shall be erected around all the trees and hedges to be retained in accordance with both this plan and British Standard 5837:2012. The fencing shall then be retained in these positions until the development is completed. During this period no construction work shall take place, no materials whatsoever shall be stored, no fires shall be started, no excavation shall take place and there shall be no change in ground levels within these enclosed areas.
- 5) No tree or hedge shown to be retained on the plans hereby approved shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation hereby approved without the prior approval in writing of the local planning authority. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree shall be planted of such size and species as shall be agreed in writing by the local planning authority. Furthermore, the existing soil levels within the root protection areas of the retained trees shall not be altered.
- 6) Prior to the commencement of development, full details of the method of disposal of the excavated soil, including any distribution of soil within the site or its removal from the site, resulting from the development hereby approved shall be submitted to and approved in writing by the local planning authority. Any distribution of soil within the site or its removal from the site shall take place prior to any building works hereby permitted commencing above ground level. The submitted details shall also include details of the likely number of



traffic movements associated with the removal of any soil from the site. The development shall then be implemented in accordance with the approved details.

- 7) Prior to the initial occupation of the dwelling hereby permitted, the scheme for access, parking, manoeuvring and garaging shall be laid out in accordance with the plans hereby approved and that area shall not thereafter be used for any other purpose. The hard surface for this area shall either be made of porous materials, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. The parking and turning area shall not thereafter be used for any other purpose.
- 8) Notwithstanding the provisions of Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no development falling within Classes A to B of Part 1, Schedule 2 to the said Order shall be erected, constructed, or placed within the curtilage of the dwellinghouse unless planning permission is first granted by the local planning authority.
- 9) Before the first occupation of the dwelling hereby permitted the windows at first floor level in the side flank elevations shall be fitted with obscured glazing and any part of the window that is less than 1.7 metres above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

END OF SCHEDULE



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## Costs Decision

Site visit made on 12 March 2019

**by JP Tudor Solicitor (non-practising)**

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

**Decision date: 30 April 2019**

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### **Costs application in relation to Appeal Ref: APP/X0415/W/18/3208992 Land adjacent to Giles House and to rear of Larksfield, Doggetts Wood Lane, Little Chalfont, Buckinghamshire HP8 4TH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Kevin Andrews (Lois Gastoneaux Homes) for a full award of costs against Chiltern District Council.
  - The appeal was against the refusal of planning permission for detached single dwelling with attached garage and new access.
- 

### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.<sup>1</sup>
3. The PPG gives some examples of the types of behaviour that may give rise to a substantive award of costs against a local planning authority.<sup>2</sup> The applicant refers to three of them, submitting that the Council has: prevented development which should clearly have been permitted, having regard to the development plan, national policy and other material considerations; made vague generalised assertions about the proposal's impact that are unsupported by any objective analysis; and failed to produce evidence to substantiate each reason for refusal on appeal.
4. The Council's first reason for refusal concerned effects on the character and appearance of the area. The applicant holds that the appeal scheme was based on a previously approved scheme with modest enlargements and that it still accorded with the development plan. The Officer's Report recommending approval, overturned by the Council's Planning Committee, is cited in support of that view. It is also suggested that conflict with policy was not explained.
5. However, the wording of the first reason for refusal in the decision notice was precise. It referred to the site location within an Established Residential Area of Special Character (ERASC) and then specified elements of the design that the Council believed would adversely affect the character of the street scene.

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<sup>1</sup> Paragraph: 030 Reference ID: 16-030-20140306

<sup>2</sup> Paragraph: 049 Reference ID: 16-049-20140306



- Relevant policies, which seek to ensure high standards of design that respect their surroundings and protect the ERASC, were also cited in the decision notice, with their content detailed in the Council's appeal statement.
6. Whilst there was a previously approved scheme, the appeal scheme was noticeably different, with its Georgian design and associated features. It was also larger. Therefore, I agree with the Council that it was necessary to fully assess the new scheme. Whilst the Officer's Report recommended approval, it is not uncommon for elected members on Council planning committees to reach a different view on some occasions. No inference should necessarily be drawn from that, provided that it is supported by an adequate level of analysis.
  7. Therefore, although I ultimately reached a different conclusion to the Council on that issue in the main appeal. I do not agree with the applicant that the Council only offered generalised assertions about impacts or that the basis on which the Council judged conflict with policy was not apparent. It also seems to me that the proposal raised issues that were open to legitimate debate and required the exercise of a planning judgement.
  8. The Council's second reason for refusal concerned alleged likely effects on the living conditions of occupiers of a neighbouring dwelling through noise and disturbance. The applicant says that there was no analysis against policy or evidence of likely impact. However, the reason for refusal is specific in referring to the proximity to a neighbouring dwelling of an external rear staircase and the entrance and openings (windows) for an entertainments room and cinema. It also refers to a relevant development plan policy intended to protect the living conditions of neighbouring occupiers.
  9. The applicant also makes the point that although the relevant occupiers objected to the proposed development, it was not on the basis of potential noise and disturbance. However, current occupiers may object on particular grounds or not object at all for a variety of reasons. I agree with the Council that it has a responsibility to assess the development as it sees it, irrespective of whether specific representations have been made by occupiers.
  10. Whilst the Council could have provided a more detailed explanation of its concerns about the disturbance issue within its appeal statement, it has expanded on the matter in its response to this application.
  11. In terms of policy, the applicant argues that the policy cited, GC3 of the Chiltern District Local Plan, refers to planning permission being refused '*where amenities are impaired to a significant degree*'. Whilst the applicant takes a different view from the Council on that aspect, that test is referred to in the review of relevant local and national policies and guidance within section 2 of the Council's appeal statement. Whether it is contravened is a matter of planning judgement. Once again, I disagreed with the Council on that matter in the main appeal decision. However, whilst there could have been greater detail in the Council's original analysis, on balance, I do not consider that it has behaved unreasonably in maintaining that an entertainments room and cinema could arguably be potential sources of noise and disturbance.
  12. Overall, it seems to me that there were matters of substance which were the subject of reasonable debate between the parties in the appeal and that it was not the case that the proposal should 'clearly' have been permitted. Therefore, I do not agree that the Council made vague, generalised assertions or failed to

provide relevant evidence or explain its view of why the proposal conflicted with policy. Consequently, whilst more detail could have been provided in some areas, the Council's actions do not amount to unreasonable behaviour.

**Conclusion**

13. I therefore find, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, no award of costs is made.

*JP Tudor*

INSPECTOR



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## Appeal Decision

Site visit made on 23 April 2019

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

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

**Decision date: 20 May 2019**

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**Appeal Ref: APP/X0415/W/19/3220783**

**Austens, 11 The Greenway, Chalfont St Peter, Gerrards Cross,  
Buckinghamshire SL9 8LX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Sarah Broom against the decision of Chiltern District Council.
  - The application Ref CH/2018/0299/FA, dated 9 February 2018, was refused by notice dated 26 October 2018.
  - The development proposed is a 4m x 4m timber log cabin structure in the rear garden. Construction of a cabin on a concrete foundation.
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### Decision

1. The appeal is allowed and planning permission is granted for a 4m x 4m timber log cabin structure in the rear garden and construction of a cabin on a concrete foundation at Austens, 11 The Greenway, Chalfont St Peter, Gerrards Cross, Buckinghamshire SL9 8LX in accordance with the terms of the application, Ref CH/2018/0299/FA, dated 9 February 2018, and plans numbered 2017/00304/AB/PCD Drawing 1 – Site Location Plan, 2017/00304/AB/PCD Drawing 2 – Elevations and Floor Plans and 2017/00304/AB/PCD Drawing 3.

### Procedural Matter

2. At the time of my site visit the development had already taken place. From my observations the development appeared consistent with the submitted plans. I shall consider the appeal accordingly.

### Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of Nos 15 and 17 The Greenway with particular regard to outlook, light, privacy and noise and disturbance.

### Reasons

4. The cabin is a square outbuilding finished in timber, with a curved roof which is approximately 2.5 metres high at its apex. It has glazed doors and windows to the front elevation and windows in the side. The rear garden of 11 The Greenway (No 11) is roughly L-shaped and shares a boundary with several properties. The cabin is sited at the corner of the 'L' so that the front section of the cabin extends into the main garden. It is positioned approximately 1.5 metres from, but adjacent to, the rear boundary of 15 The Greenway (No 15) and the rear gardens of properties fronting The Queensway. To the rear of the

- cabin, there is an existing garden shed and storage associated with the appeal property.
5. The boundary between No 11 and No 15 is a solid fence with an open trellis top. The cabin extends above this fence by approximately 1 metre and is visible from the rear windows, garden and patio at the far end of the garden to No 15 adjacent to the boundary with No 11.
  6. I observed during my site visit that there is some existing vegetation including a mature tree which together with the boundary fence provides some screening of the cabin from No 15. Moreover, I noticed that there are a number of trees in adjacent gardens to the rear and a large coniferous shrub to the side of the cabin, which together create a woody backdrop and quite an enclosed area behind the rear boundary fence of No 15. While I accept that the cabin does change the outlook from No 15, in the context of the surrounding trees, it does not significantly add to the sense of enclosure. This, in combination with the wooden finish to the cabin and screening provided by the fence and boundary vegetation, reduces the visual impact of the cabin. Consequently, I do not find that the cabin is overly intrusive or overbearing in relation to this property.
  7. The patio at the end of the garden to No 15 has been positioned to enable the occupiers of this property to enjoy the late afternoon/early evening sunshine. The cabin, being positioned to the east of this patio and located amongst taller vegetation, does not reduce the amount of sunlight or cause any unacceptable overshadowing of this patio area.
  8. There are two windows in the side elevation facing towards No 15. These are at ground floor level, and due to their position close to a high fence, the view from these windows is restricted to above the fence and through existing vegetation on this boundary. Due to this restricted view, any harm through overlooking and loss of privacy is not significant.
  9. From the adjoining gardens of Nos 15 and 17, it may be possible to hear conversations and telephone calls from within the cabin. While the gardens to Nos 15 and 17 are smaller than surrounding properties, the pattern of development is such that all the gardens in the immediate area are in reasonably close proximity to each other, as typical of a suburban situation. This inevitably results in noise and disturbance arising from people simply using their gardens. I also note that there is an existing patio within the garden of No 11 directly adjacent to the patio at No 15 which must lead to disturbance and some loss of privacy to each other, significantly greater than the use of the cabin does. I have had regard to the personal circumstances of the neighbour at No 15 in respect of noise levels. However, while I accept the use of the cabin may give rise to some additional disturbance and, even having regard to the specific personal circumstances of the nearby residents, I do not consider this would be materially greater to the existing noise and disturbance experienced as a result of people using their gardens as one would expect in a residential area and exercising due consideration for their neighbours.
  10. The appellant has indicated that they have offered to install a solid 2 metre high fence and plant a mature, evergreen hedge along the full rear garden boundary to fully screen views of the cabin. However, as I have found no harm, it is not necessary for me to impose conditions requiring such.

11. I conclude that the log cabin does not harm the living conditions of neighbours at Nos 15 and 17 with particular regard to outlook, light, privacy or noise and disturbance. It therefore accords with Policies H13 and GC3 of the Chiltern District Local Plan which together seek to protect the living conditions of neighbours from the harmful impact of development. For the same reasons it also accords with the design and amenity aims of the Council's Residential Extensions and Householder Development Supplementary Planning Document (2013).

### **Other Matters**

12. The appeal site is located within the Firs Estate Conservation Area. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The cabin is of a design and style with a timber finish that reflects its role as an outbuilding to the house. Its position within the rear garden, largely screened by hedging and fencing, means it is not widely visible within the conservation area. I am therefore satisfied that the cabin preserves the character and appearance of the conservation area.
13. There is no substantive evidence before me to suggest the building is used other than incidental to enjoyment of the dwelling. It has also been suggested that since the cabin does not fall within permitted development, it is therefore unacceptable. The matter before me is to consider the planning merits of the built structure.
14. Reference has been made to a potential covenant on the land. This is a private matter which falls outside of the scope of planning issues before me in this appeal.
15. A neighbouring occupier has also questioned the validity of the appeal before me in respect of its timeliness. The appeal was accepted by the Inspectorate as valid. I have therefore determined the appeal accordingly

### **Conclusion**

16. For the reasons set out above, the appeal is allowed.

*Rachael Pipkin*

Inspector



# Appeal Decision

Site visit made on 22 February 2019

**by Rebecca McAndrew BA Hons, MSc, PG Dip Urban Design, MRTPI**

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

**Decision date: 11 June 2019**

**Appeal Ref: APP/X0415/W/18/3217021  
2 Wardes Close, Prestwood, HP16 0SA**

- 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 B Preston against the decision of Chiltern District Council.
  - The application Ref CH/2018/0471/FA, dated 13 March 2018 was refused by notice dated 25 May 2018.
  - The development proposed is the erection of attached two storey dwelling with associated parking provision and amenity space.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues for consideration are;
  - The effect on the visual appearance and character of the area;
  - Whether the proposed living conditions would be acceptable, in terms of the level of private garden space proposed for the new property; and
  - The effect on the living conditions of existing residents in terms of sense of over enclosure.

## Reasons

### *Visual appearance and character*

3. Policies GC1 and H3 of the Chiltern District Local Plan and Policy CS20 of the Core Strategy for Chiltern District require development to respect the existing character of the area. Policy H3 requires new dwellings to respect the general density, siting and scale of existing buildings in the area.
4. The proposed dwelling would be attached to the side elevation of the existing house, creating a terrace of three properties and in-filling the side garden. Whilst the area includes a mixture of house types, terraced properties are generally separated from the highway by landscaped buffers. Additionally, open grassed areas are common to corner plots and make a positive contribution to the visual appearance and character of the area. The siting of the proposed dwelling in the side garden of the existing property would leave minimal space between the new dwelling and the highway, creating a particular pinch point between the front corner of the property and the footway. Whilst the front elevation of the proposed dwelling would be set back behind the existing

building line of the adjoining properties and the rear elevation would continue along the same building line as those properties, this does little to reduce the overall prominence of the dwelling within the street scene. On this basis, the proposed development would not integrate well into the general development pattern of the area and would be unduly dominant within the street scene. Consequently, the proposal would adversely impact upon the visual appearance of the appeal site and the character of the area.

5. Whilst the design of the proposed dwelling reflects the adjoining houses, this does not outweigh my concerns regarding the prominence of the property within the street scene and the associated harm.
6. The proposal is therefore contrary to Policies GC1 and H3 of the Chiltern District Local Plan and Policy CS20 of the Core Strategy for Chiltern District which require development to respect the existing character of the area.

### *Living Conditions*

7. Local Plan Policy GC3 requires a good standard of living conditions. Policy H12 requires rear gardens to have a depth 15 metres, but where the general development pattern in an area falls below this standard, the proposed gardens should be of a similar length to existing properties. The rear gardens of existing properties in the area around the appeal site are substantially smaller than this 15 metre standard and therefore the general development pattern of garden lengths in the area is pertinent; the average length of rear gardens in the area is around 8-10 metres in depth. The depth of the rear garden of the proposed dwelling would be restricted by the detached garage to the rear and would therefore be around 5.8 metres in depth, falling significantly below both the standard and the existing local pattern of development. The proximity of the side elevation of the garage to the rear elevation of the proposed dwelling would be an awkward arrangement which would limit the future residents' enjoyment of that space.
8. I note the appellant's comments that the private rear gardens of Nos. 8 and 12 Wardes Close are of a similar area in size to the proposed dwelling; notwithstanding, the depths of those rear gardens reflect the general pattern in the locality and therefore this does not alter my view that the level and quality of private garden space that would be provided for the proposed dwelling falls below what would be reasonably expected for a property of this size. Consequently, the form of the private rear garden proposed would harm unacceptably the living conditions of future residents, contrary to Policies GC3 and H12.
9. The local authority are concerned that the proposed dwelling would be dominant within the street scene, creating a sense of enclosure which would significantly harm the living conditions of existing residents on the opposite side of Wren Road. A good level of space would be retained between the front elevations of those properties and the side elevation of the proposed dwelling. Also, the side elevation of the proposed dwelling would be set back behind the building line of the adjacent property (No.14 Wren Road). In view of this, the living conditions of the existing residents on Wren Road would not be significantly harmed, in terms of a sense of overbearing. The proposal would therefore meet the Policy GC3 requirement for development to safeguard the living conditions of existing residents.

### **Other Matters**

10. I have considered two other developments on Fairacres highlighted by the appellant. This area includes residential frontage on one side of the highway, with the other side of the highway being bordered by a hedgerow and trees. This is a different character and development pattern to the appeal site, which results in those dwellings being less prominent within the street scene than the appeal proposal would be. As a consequence of this difference in circumstances, and also taking into account that each proposal must be considered on its own merit, I attach limited weight to these developments in making my decision.
11. I note that the National Planning Policy Framework (2017) promotes the effective use of land to boost the supply of housing. However, the benefit of one dwelling would not outweigh the identified harm to the visual appearance and character of the area and to the living conditions of future residents.

### **Conclusion**

12. The proposal would conflict with the development plan when taken as a whole. There are no material considerations, including the absence of harm to the living conditions of existing residents, that would outweigh this conflict. Accordingly, for the reasons set out, I dismiss the appeal.

**Rebecca McAndrew**

INSPECTOR





## Appeal Decision

Site visit made on 2 April 2019

by **Rachael A Bust BSc (Hons) MA MSc LLM MInstLM MCMI MEnvSci MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 April 2019**

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**Appeal Ref: APP/X0415/W/18/3217807**

**Land adjacent to 'Idaho Cottage', 36 Wycombe Road, Prestwood, Buckinghamshire HP16 0PJ**

- 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 David Breckenridge against the decision of Chiltern District Council.
  - The application Ref CH/2018/0714/FA, dated 18 April 2018, was refused by notice dated 2 November 2018.
  - The development proposed was originally described as "the erection of detached one/two storey dwelling with integral garage."
- 

### Decision

1. The appeal is allowed and planning permission is granted for a detached one/two storey dwelling with integral garage on land adjacent to Idaho Cottage, 36 Wycombe Road, Prestwood, Buckinghamshire HP16 0PJ in accordance with the terms of the application, ref CH/2018/0714/FA, dated 18 April 2018, subject to the conditions contained in the attached Schedule.

### Preliminary and Procedural Matters

2. Since the appeal was submitted an updated revised National Planning Policy Framework (the Framework), was published on 19 February 2019. However, the amendments have not had a direct bearing on the issues within this case, it was not therefore necessary to consult the main parties on this issue.

### Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the site and surrounding area.

### Reasons

4. The appeal site is located within the built-up area of Prestwood. As such proposals for new residential development would be acceptable in principle subject to compliance with the policies of the development plan. The settlement of Prestwood, including the appeal site, is set within the Chilterns Area of Outstanding Natural Beauty (AONB). Great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The scale and extent of development within AONBs should be limited. Saved Policy LSQ1

of the Chiltern District Local Plan (LP), adopted 1997 incorporates the general duty to conserve and enhance which is consistent with paragraph 172 of the Framework.

5. The site is also located within one of the defined Established Residential Areas of Special Character (ERASC). From the Great Missenden and Prestwood Inset Map there are several areas within Prestwood which have the ERASC designation. In such areas Saved Policy H4 of the LP, including alterations adopted 2001 sets out a number of very detailed criteria aimed at maintaining the special character.
6. From my observations at the time of my visit, the ERASC within which the appeal site is located, is an attractive and verdant area with mature trees and vegetation creating a sense of woodland within which the houses are set which makes a positive contribution to the character of the area. The presence of the vegetation gives each dwelling in this part of the ERASC a sense of privacy and seclusion. The proposed siting of the appeal dwelling respects the character of the ERASC and as a consequence of the existing vegetation would have a neutral impact on the landscape and the scenic beauty of the AONB.
7. The existing pattern of built development is low density with the detached dwellings being sited within medium to large plots. The proposed new dwelling would be sited in an approximately linear shaped plot which although it is a different shape to that of 'Idaho Cottage' and 'Idaho Farm' I do not find that in itself would be at a significant variance with others in the surrounding area. I noted that there are two natural axes of development within this ERASC. The proposed detached dwelling itself would be sited broadly in line with 'Idaho Cottage' and 'Idaho Farm' and as such follow the general secondary axis running parallel with Wycombe Road. Furthermore, the attached garage of the proposed dwelling would sit forwards and as such be similar to the position of the existing detached garage for 'Idaho Cottage'. Consequently, I find that the proposed siting would not therefore be out of character with the pattern of existing development.
8. The surrounding dwellings predominantly face Wycombe Road, although 2 modern dwellings on Idaho Park do not follow this orientation. I note that the appellant has submitted a series of examples of other recent approvals within other settlements within Chiltern District Council area to illustrate non-road frontage dwellings which have been acceptable with the ERASC designation. These are useful; however, each case must be determined on its own merit and that is what I have done. Nevertheless, I do not consider having only a narrow driveway road frontage to be out of character with the ERASC.
9. Within this ERASC there are a variety of architectural styles and designs of dwellings such that a single uniform appearance is not apparent. The proposed dwelling has a simple rural design and the indicated materials would be appropriate in this location and there would be no visual competition with 'Idaho Cottage'. As such I find the design to be acceptable for this location.
10. The Council considers 'Idaho Cottage' to be a 'Building of Local Interest', although they have provided no substantive evidence to support their view which would explain its significance and furthermore, no indication of any action to confirm this as a non-designated heritage asset through any mechanism. From my own observations 'Idaho Cottage' is a large and attractive detached dwelling with elements of the design and materials which

could suggest origins of the 17<sup>th</sup> or 18<sup>th</sup> century. It makes a positive contribution to the character of the locality.

11. The Council has not provided me with any established criteria that they may have used to identify their Buildings of Local Interest. In the absence of any such criteria before me, and indication that such criteria have been subject to public consultation, I cannot be satisfied that the approach taken to identifying non-designated heritage assets reflects the current advice set out in Planning Practice Guidance. Consequently, this limits the weight that I can attribute to the suggestion that the adjacent property can be considered as a non-designated heritage asset. In any event, I do not find that the proposed dwelling would have direct impact on 'Idaho Cottage' and its intended siting together with existing and proposed landscaping would not introduce such harm that would justify withholding permission on this basis. I note that the consultation response from the Historic Buildings Officer to the application subject to this appeal raises no concerns.
12. As a consequence of the existing mature vegetation the public views of 'Idaho Cottage' are somewhat limited from Wycombe Road. Furthermore, longer range views through the appeal site to the Green Belt beyond are constrained by a combination of vegetation and other structures. I have had regard to the outline consent<sup>1</sup> for the detached dwelling and separate garage which is sited to the front of 'Idaho Cottage'. Whilst I am aware of the original version of this scheme which included 2 dwellings, one sited on the present appeal site, and the extracts from the officer report as quoted by an interested party, it is necessary for me to determine the scheme that is before me and that is what I have done.
13. Having regard to all matters raised, including those by interested parties relating to the main issue in this appeal, I find that the appeal proposal would be acceptable having regard to the character and appearance of the site and surrounding area.
14. Accordingly, the appeal proposal accords with Policies GC1 and H4 of the LP, including alterations adopted 2001. These policies seek, amongst other things, to ensure that new development is compatible with its surrounding context. Furthermore, I find that the proposal would have a neutral impact on the AONB and as such it would conserve the AONB's natural beauty in accordance with Saved Policy LSQ1 of the LP and paragraph 172 of the Framework.

#### *Other matters*

15. Interested parties have raised concerns in addition to those relating to the main issue, including protected and priority species, trees, highway safety, precedent for future development, other sites are available in the village, noise and disturbance for adjoining occupiers and impact of construction activities. The Council has considered these matters and it is noted that none were contained within the reason for refusal.
16. The submitted Preliminary Ecological Appraisal<sup>2</sup> Extended Phase 1 Habitats and Protected Species Scoping Survey confirmed that the nearby ponds do host Great Crested Newts (GCN). The proposed development would involve works

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<sup>1</sup> Planning reference CH/2015/1304/OA

<sup>2</sup> Preliminary Ecological Appraisal (Comprising an Extended Phase 1 Habitat & Protected Species Scoping Survey, and, eDNA Testing For Great Crested Newt), GS Ecology Ltd, Report reference ECO2174, dated 21 June 2018

that have the potential to disturb the GCN. The survey report sets out summary mitigation measures which are reasonable. I note that the Council's Environmental Quality Team Manager did not raise any specific concerns subject to the imposition of a condition. As such subject to the acquisition of the licence, if required, from Natural England and implementation of the agreed mitigation and compensation measures as part of the licence, there should be no adverse impact on the GCN in this location. I have no reason to doubt that such a licence, if necessary, would not be forthcoming from Natural England. Furthermore, the amenity grassland and garden planting were found to be unsuitable habitats for other protected species and no substantive evidence has been presented to me to indicate the contrary.

17. An Arboricultural and Planning Integration Report and a Tree Protection Plan<sup>3</sup> was submitted with the application. The District Tree Officer raised no specific objections. Mitigation and protection for the trees and hedges can be secured through planning conditions and as such I am satisfied that no unacceptable harm would arise to the trees and hedgerows.
18. The proposed dwelling would be served by intensifying the existing access onto Wycombe Road. An increase in width for the access to achieve current standards for visibility splays would enable safe access and egress from Wycombe Road and would not lead to any highway safety concerns. I note that this was also the view of the Highways Authority. As such this matter can be dealt with through an appropriate planning condition.
19. Having regard to the medium to large plots within which existing dwellings are sited and my observations at the time of my visit there may be other opportunities within this part of Prestwood for similar proposals to come forward. However, each application and appeal must be determined on its own merits and as such the Council would be able to assess any future proposals on their own merits based on the policies and any material considerations relevant at the time. As such allowing this appeal would not indicate any precedent for future development elsewhere.
20. There is no substantive evidence that the additional dwelling would lead to an unacceptable level of noise and disturbance to adjoining occupiers. Whilst there would be disturbance arising from construction activities this would be of a temporary nature and is not unusual in this regard.
21. A reference has been made to the emerging plan and affordability criteria. I have not been provided with any further details of the progress of this plan. In any event this emerging plan does not yet have the statutory status of the development plan and on the basis of the evidence before me it can only be afforded little weight in this appeal.

### **Conditions**

22. The Council has suggested 14 conditions. I have considered these matters in relation to the Framework and the PPG, amending where necessary in the interests of precision and avoidance of duplication. All conditions I have imposed are considered to be reasonable and necessary to make the approved development acceptable. I have received confirmation from the appellant that

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<sup>3</sup> GHA Trees Arboricultural Consultancy, Arboricultural and Planning Integration Report, dated 9 April 2018  
Ref: GHA/DS/13360:18 and Tree Protection Plan, dated April 2018

they are agreeable to those matters which are covered by pre-commencement conditions.

23. The standard conditions setting out the time limit for implementation and the approved plans are necessary to provide certainty. It is also necessary for some matters and details to be agreed either prior to the commencement of development or at various stages of activity because they influence the way the proposed dwelling and site is developed. These matters include establishing the existing ground and proposed finished floor levels; modification and implementation of the access; details of the biodiversity enhancement measures and notwithstanding the indicative landscaping scheme, details of the hard and soft landscaping scheme, all of these matters are in the interests of biodiversity, character and appearance, living conditions of neighbouring occupiers and highway safety. It is not appropriate for a planning condition to require an applicant to obtain another form of consent and as such I have not included the reference to obtaining a licence from Natural England. This is a matter already controlled by other legislation.
24. The samples of the proposed external materials can be agreed following commencement of development but before construction commences above slab level to ensure they are appropriate for the character and appearance of the locality. The provision of the parking space within the site should be provided prior to the first occupation of the approved dwelling. Finally, some conditions are included to ensure compliance with the submitted details including the protection for the trees and protected species.
25. The Council has suggested the withdrawal of nationally prescribed permitted development rights for Classes A-E<sup>4</sup>. Permitted development rights should only be withdrawn in exceptional circumstances. I have not been provided with any reasoning to support the suggestion. Consequently, having regard to the size of the dwelling and plot, I do not find it reasonable to restrict all suggested permitted development rights. I do however, find it necessary to restrict the ability for any additional window openings on the flank elevations, beyond those approved in the interest of the living conditions of adjoining occupiers.

## **Conclusion**

26. I accept that my decision will be disappointing for many interested parties, and taken together, the number of objections demonstrate a considerable level of local feeling. However, from what I have seen and read, nothing leads me to conclude that these and other concerns, either individually or cumulatively, would demonstrate significant harm to justify dismissing the appeal.
27. Therefore, for the reasons given, having carefully considered all matters raised, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached Schedule.

*Rachael A Bust*

INSPECTOR

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<sup>4</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1 (development within the curtilage of a dwellinghouse)

### **Schedule of Conditions (12 in total)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing BWR-757-PL 05 – Location Plan and Plans as Existing
  - Drawing BWR-757-PL 11 Rev C–Site Plan and Floor Plans as Proposed
  - Drawing BWR-757-PL 12 Rev C–Elevations as Proposed
- 3) No development shall take place until detailed plans, including a cross section as appropriate, showing the existing ground levels and proposed slab and finished floor levels of the dwelling and integral garage hereby permitted shall be submitted to and approved in writing by the local planning authority. Such levels shall be shown in relation to a fixed datum point normally located outside of the site. Thereafter the development shall be constructed in accordance with the approved levels in relation to the fixed datum point.
- 4) Prior to the occupation of the approved dwelling the modified access should be widened to 4.8 metres wide in accordance with the submitted plans and the minimum visibility splays of 43 metres x 2.4 metres back from the edge of the carriageway from both sides of the existing access onto Wycombe Road shall be provided and the visibility splays shall be kept clear from any obstruction between 0.6 metres and 2.0 metres above ground level.
- 5) Details of the proposed pond and built-in biodiversity enhancement measures including at least 2x bird nesting and 1x bat roosting devices shall be submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated into the scheme and be fully constructed prior to the occupation of the new dwelling and retained as such thereafter.
- 6) The approved development shall be undertaken in accordance with the recommendations provided within the Preliminary Ecological Appraisal produced by GS Ecology Ltd, dated 21 June 2018, Ref ECO2174.
- 7) The approved dwelling shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - i. boundary treatments;
  - ii. vehicle parking layouts;
  - iii. other vehicle and pedestrian access and circulation areas;
  - iv. hard surfacing materials;
  - v. minor artefacts and structures e.g. refuse or other storage units;
  - vi. an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be maintained in accordance with an approved scheme of maintenance. Any



existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

- 8) The development hereby approved shall be implemented in accordance with the tree and hedge protection measures as set out in the Arboricultural Planning and Integration Report dated 9<sup>th</sup> April 2018, Ref GHA/DS/13360:18 and the Tree Protection Plan dated April 2018 by GHA Trees Arboricultural Consultancy. This shall include the use of tree protection fencing and ground protection measures.
- 9) No Category B tree shown on the Tree Protection Plan dated April 2018 by GHA Trees Arboricultural Consultancy shall be removed, uprooted, destroyed or pruned for a period of five years from the date of implementation of the development hereby approved without the prior approval in writing of the local planning authority. If any retained tree or hedge is removed, uprooted or destroyed, or dies during that period, another tree or hedge shall be planted of a similar size and species as agreed with the local planning authority. Existing soil levels within the root protection areas of the retained trees and hedges shall not be altered.
- 10) Before any building operations above slab level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved.
- 11) The dwelling shall not be occupied until the space has been laid out within the site in accordance with drawing no. BWR-757-PL Rev C for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows, other than those expressly authorised by this permission, shall be constructed on the flank elevations of the approved dwelling.

### **End of Schedule**



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## Appeal Decision

Site visit made on 13 March 2019

**by JP Tudor Solicitor (non-practising)**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2019

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**Appeal Ref: APP/X0415/W/18/3211463**

**Land adjacent to 20 Pennington Road, Chalfont St Peter, Buckinghamshire SL9 9PJ**

- 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 Miss M Warner against the decision of Chiltern District Council.
  - The application Ref CH/2018/0726/FA, received on 27 April 2018, was refused by notice dated 17 August 2018.
  - The development proposed is detached dwelling with attached garage, vehicular access and associated hardstanding.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have taken the description of development used in the banner heading above from the Council's decision notice, as indicated in the appeal form. The site address is also taken from the decision notice as it more accurately describes the position of the site in relation to 20 Pennington Road than the address on the planning application form.
3. The National Planning Policy Framework (the Framework), revised in July 2018, was updated in February 2019. However, as the alterations were minor it has not been necessary to revert to the parties for further comment.

### Main Issue

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

### Reasons

5. The appeal site comprises a parcel of land to the side of 20 Pennington Road, one of a pair of two storey semi-detached dwellings. Most of the houses along Pennington Road are two storey, semi-detached houses with pitched, tiled roofs and red-brick elevations. Although there are some short terraces, semi-detached bungalows and a block of flats or maisonettes at Glebe House, overall there is a high degree of uniformity in the appearance, design and facing materials of the houses within this residential estate.
6. Whilst there is some variation, generally, the two storey houses are set on fairly spacious plots with long rear gardens or side gardens and bungalows are on smaller plots. Most dwellings are also set back from the road with



reasonable distances between the various built forms. It seems to me that the layout of the estate has been carefully considered to create a spacious character, with plot sizes generally commensurate to the scale of dwellings.

7. The detached form of the proposed two storey dwelling would be an unfamiliar house type within the road, set amongst mainly semi-detached houses and bungalows along with some short terraces. Compared with most other two storey dwellings, the new house would be sited on a relatively small, shallow plot and stand very close to the bungalow to the rear, diminishing the sense of space and openness which characterises the area.
8. It would also be close to the road, slightly in front of the building line of the adjacent dwelling at No 20, as the land gradually rises westwards up the hill. In addition, the integral garage would be an atypical design feature in the immediate area. Therefore, the proposed dwelling would be in a prominent position and the combination of its detached two storey form on a relatively small plot, would make it appear incongruous in the street scene and in the context of the pattern of development in the area. The use of facing materials and some similar design features to other houses would not sufficiently mitigate that essentially discordant visual impression.
9. The appellant suggests that other properties have similar plot sizes. However, of the examples given, most appear to relate to modest bungalows, where a smaller plot size might be expected, whilst another refers to the block of flats at Glebe House, which is not a relevant comparison to a single plot for a dwelling. Whilst the appellant also refers to a wider mix of properties within a 10-minute walk of the appeal site, the proposal would be seen in the more immediate context of the existing estate. Therefore, the pattern of development in areas further away is not as relevant.
10. Accordingly, I conclude that the proposed development would significantly harm the character and appearance of the area. It follows that it would conflict with policies GC1 and H3 of the Chiltern Local Plan (LP)<sup>1</sup> and policy CS20 of the Core Strategy for Chiltern District (CS)<sup>2</sup>, which together seek to ensure that development is designed to a high standard which reflects and respects the character of the surrounding area. Although the LP and CS pre-date the original National Planning Policy Framework (2012) and subsequent versions, the relevant LP and CS policies are broadly consistent with it. The proposal also conflicts with similar policies within the Framework, including those within paragraphs 124, 127.c) and 130.

### **Other Matters**

11. Whilst there is no requirement for affordable housing to be provided in relation to a proposal of this scale, the appellant submits that the house would be affordable and refers to a legal agreement and possible sale to a family member at a reduced price. However, there is no completed legal agreement or mechanism before me to secure the property as 'affordable'.
12. Although the appellant suggests that the legal agreement could be the subject of a planning condition, the Planning Practice Guidance indicates that ensuring that any planning obligation or other agreement is entered into prior to

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<sup>1</sup> Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 & November 2011

<sup>2</sup> Adopted November 2011

granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It also says that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. It is limited to exceptional circumstances for more complex and strategically important development.<sup>3</sup> The proposal would not fall into that category. Therefore, it would not be appropriate to impose such a condition. Consequently, in the absence of any completed legal agreement to secure the house as 'affordable' now and in the future, that aspiration attracts very little weight.

13. It is submitted that the house would potentially be occupied by a member of the appellant's family. However, the planning system is generally focused on the wider public interest rather than private benefits unless exceptional personal need can be fully evidenced. On the basis of the limited details provided, such exceptional need has not been demonstrated.
14. The appellant also suggests, almost in passing, that the house could be sited more to the north-west of the plot to increase openness. However, the 'Procedural Guide – Planning Appeals – England'<sup>4</sup> advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). Moreover, that if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1). Therefore, my role is to consider the proposal before me, as it stands.

### **Planning Balance and Conclusion**

15. The proposal would provide an additional dwelling which the appellant advises would be eco-friendly. There would be some economic benefits during the construction period, through the creation of short-term employment and the purchase of building materials. Future residents would also contribute to the local economy and potentially participate in the local community. However, given that the proposal would provide just one two-bedroom house, the benefits would be limited.
16. Even if there is a shortfall in the Council's 5-year housing land supply, the adverse impacts of granting permission, in terms of its negative effects on the character and appearance of the area, would significantly and demonstrably outweigh the limited benefits, when assessed against policies in the Framework taken as a whole.
17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*JP Tudor*

INSPECTOR

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<sup>3</sup> Paragraph: 010 Reference ID: 21a-010-20140306

<sup>4</sup> 16 January 20196



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## Appeal Decision

Site visit made on 23 April 2019

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

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

**Decision date: 16 May 2019**

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### **Appeal Ref: APP/X0415/W/18/3213868**

### **Littleholme, Austenwood Lane, Chalfont St Peter SL9 9DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Ms D Gupta against Chiltern District Council.
  - The application Ref PL/18/2057/FA, is dated 30 May 2018.
  - The development proposed is 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.
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### **Decision**

1. The appeal is dismissed and planning permission is refused.

### **Procedural Matters and Main Issues**

2. The Council resolved that had it been in a position to determine the appeal it would have refused planning permission for reasons relating to the effect on (1) the living conditions of nearby residents; (2) the character and appearance of the area and (3) highway safety. On this basis, I consider the main issues to be the effect of the proposed development on:
  - the living conditions of the occupants of neighbouring properties with particular regard to privacy and outlook;
  - the character and appearance of the area; and
  - highway safety.

### **Reasons**

#### *Living conditions*

3. The proposed two storey side and rear extension would bring the building much closer to the south eastern boundary of the site which is shared with residential properties of Elmwood and Primrose Bank. It would increase the height of the existing building and include four large front facing and six rear facing first floor windows, and one in each of the side elevations. Currently there are just two dormers in the existing roof, one front and one rear facing, at this level. Within the rear roofslope of the proposed raised roof, there would be two rooflights.
4. The boundary, where it adjoins Elmwood, is well screened by vegetation and a mature hedge but not where it runs along Primrose Bank and the proposed

development would be clearly visible above the existing hedge. The outlook for these neighbours would be harmed by the size and bulk of the two storey extension which would appear overbearing and visually intrusive due to its proximity around 10 metres from their house. In addition, the rear facing windows at first floor level, at that distance, while serving bedrooms and a dressing room, would result in overlooking of this property with a material loss of privacy for this neighbour.

5. The north-western boundary of the appeal site runs along the rear gardens of properties fronting Austenwood Close as well as part of the rear garden of Orleton, a house fronting Austenwood Lane. The outlook for these neighbours which is relatively open due to the low height of the existing building would become less open as a result of the proposed first floor extension and raised roof and the overall size of the extensions. However, the rear elevations of the Austenwood Close properties are at least 30 metres from the proposed first floor extension. While I appreciate that views from these properties may become less attractive for these neighbours, their outlook would not be unduly harmed given this separation distance. Moreover, I observed during my site visit that there is a reasonable amount of planting and hedges along this boundary which would screen the visual impact of the proposed development on these neighbours. The proposed first floor windows, due to their distance from these neighbours, would not result in unacceptable levels of overlooking.
6. The proposed extension at first floor level and associated windows to the front elevation would be at least 40 metres from the rear elevation and any rear facing windows of Pelham House, the closest house to the front of the appeal property. This would be an acceptable separation distance to avoid overlooking. Furthermore, there is significant vegetation including evergreen shrubs and conifers that extends several metres high and would provide screening at first floor level to prevent any overlooking of adjacent properties from the front elevation windows of the proposed development. The living conditions of these neighbours would not therefore be unduly harmed by the proposed development.
7. The proposed first floor windows in the side elevations would serve bathrooms. While these would face towards neighbouring properties, they are largely screened by vegetation and, in any case, any overlooking from these windows could be appropriately controlled through the use of obscured glazing. These windows are therefore unlikely to give rise to any loss of privacy to neighbours.
8. I therefore conclude that the proposed development would be harmful to the living conditions of occupiers of Primrose Bank with particular regard to privacy and outlook. It therefore conflicts with Policy GC3, H13 and H14 of the Chiltern District Local Plan<sup>1</sup> (CDLP) which together seek to ensure development does not harm the amenities of neighbours. It also conflicts with the National Planning Policy Framework's (the Framework) objectives of achieving well-designed places and the Council's Residential Extensions and Householder Development Supplementary Planning Document (2013) (the SPD) insofar as they relate to protecting the living conditions of existing occupiers.

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

*Character and appearance*

9. The surrounding area is residential characterised by houses in a mix of sizes, styles and designs including substantial detached houses fronting Austenwood Lane and smaller two storey and single storey houses fronting Austenwood Close.
10. The appeal property is a large, detached chalet bungalow within a sizeable, wide garden. It has previously been extended to the rear and occupies a relatively large and elongated footprint within the central part of the plot. A detached outbuilding is located to the south east of the main house. The site is accessed via a long drive off Austenwood Lane between Pelham House and Elmwood which opens out into a wide parking area in front of the house.
11. The proposed development, due to its position set back from the Austenwood Lane, would have a very limited impact on the character and appearance of the wider area being visible only via the driveway entrance. It would however be visible from some of the properties surrounding the site where there is limited screening.
12. The design of the proposed extensions would result in a house with a symmetrical main front elevation and subservient two storey side addition, set back at first floor level. To the rear, the building would have a slightly unusual form due to the length of the existing single storey rear extension, but this would be subservient to the main part of the house and not widely visible. This is therefore acceptable in terms of character and appearance.
13. The proposed extensions would result in a house substantially larger than the existing bungalow both in terms of its height and its footprint which due to the size and position of the side extension would extend almost the entire width of the garden. However, the proposed height of the building would not be out of keeping with other houses within the immediate vicinity which are also two storey with additional accommodation in the roofspace. Similarly, substantial properties occupying almost the entire full width of the plot in which they are sited are not uncommon characteristics for larger houses fronting Austenwood Close, including Pelham House directly to the front of Littleholme.
14. Within the plot, the extended house would reduce the space around the building but a large area of garden would be retained to the rear as well as the front driveway. This would not be unlike the space around other similar sized properties within the area. While the existing openness of the site would be reduced by the increased size and height of the building, the extended building would not appear out of scale within the plot given the size of the plot and the local context.
15. For these reasons, the proposal would not harm the character and appearance of the area. In this regard it therefore accords with Policies GC1, H13, insofar as it relates to character and appearance, and H15 of the CDLP which together seek to ensure development is of a high standard of design and that it does not harm the character and appearance of the locality. It also accords with the Framework's objectives of achieving well-designed places and the SPD insofar as they relate to character and appearance.

### *Highway safety*

16. The Highways Authority has objected to the scheme due to the existing access track being intensified at a point where visibility is substandard and would lead to danger and inconvenience to people using the access and highways in general.
17. The existing access is between Pelham House and Elmwood. It is located on a bend in the road which has a speed restriction of 30mph. The road is reasonably busy. Visibility for vehicles exiting the property is restricted in both directions. A tree, fence and hedging in the garden of Pelham House restricts views of cars, bicycles and pedestrians approaching from the north, while to the south, the boundary wall to Elmwood, although not particularly high, in combination with the road to the right being on a slight crest, reduces views in that direction.
18. The extended house would provide a minimum of seven bedrooms. I observed on site that the existing house has four rooms currently used as bedrooms including one in the roofspace with restricted head height plus a number of smaller rooms in the rear extension, currently serving as home offices. From the plans these rooms would remain unchanged.
19. The proposed development, which would significantly enlarge the property and increase the number of bedrooms, would result in an intensification of the site. From my site visit, I observed that there were five cars parked on the drive, indicating that this access is already heavily used in terms of a residential use. I saw that there was space on the driveway to accommodate more cars than this.
20. I acknowledge the comments with regard to the good accessibility of the local services, facilities and employment nearby through sustainable transport modes. However, on the basis of the evidence before me I am unconvinced that transport is sufficiently frequent or that the appeal site is so accessible that there would be no significant increase in vehicle movements. As such given the substantial increase in living accommodation proposed I find that there would be a material increase in the number of vehicle movements to and from the appeal site.
21. I therefore conclude that the proposed development would significantly intensify the use of an access which has restricted visibility consequently increasing the risk of collisions between users of the highway. Thus the proposal would harm highway safety and therefore conflicts with Policy TR2 of the CDLP which seeks to ensure proposed development provides satisfactory access on to the highway network. It would also conflict with the Framework's objectives of ensuring development does not have an unacceptable impact on highway safety.

### **Other Matters**

22. I acknowledge the appellant's family has lived at the property for over three decades and the proposed development is to accommodate the needs of their growing family. It is also to enable them to provide elderly care for the older members of the family and would provide accommodation accessible in a wheelchair and space for a live in carer. However, these benefits do not outweigh the harm that I have identified.

**Conclusion**

23. For the reasons set out above, I dismiss the appeal and planning permission is refused.

*Rachael Pipkin*

Inspector





## Appeal Decision

Site visit made on 12 March 2019

**by JP Tudor Solicitor (non-practising)**

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

**Decision date: 03 May 2019**

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**Appeal Ref: APP/X0415/W/18/3214973**

**Land south of Woodley Hill, Chesham, Buckinghamshire HP5 1SL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr S Tofts (Lexden Holdings Ltd) against the decision of Chiltern District Council.
  - The application Ref PL/18/2681/OA, dated 13 July 2018, was refused by notice dated 18 September 2018.
  - The development proposed is outline application for the erection of a dwelling with off road parking.
- 

### Decision

1. The appeal is allowed and planning permission is granted for outline application for the erection of a dwelling with off road parking at Land south of Woodley Hill, Chesham, Buckinghamshire HP5 1SL in accordance with the terms of the application, Ref PL/18/2681/OA, dated 13 July 2018, subject to the attached schedule of conditions.

### Preliminary Matters

2. The proposal is in outline only with all detailed matters reserved for future consideration. Plans showing possible layout, floorplans and elevations have been submitted, which are described as 'illustrative' or 'indicative'. Given that layout, scale, appearance, landscaping and access are reserved matters, I have treated the plans solely as an indication of how the site might be developed.
3. The description of development in the banner heading and decision above is taken from the Council's decision notice and the appeal form, as it more simply and accurately describes the proposal than that contained in the application form.
4. An updated version of the National Planning Policy Framework (the Framework) was published in February 2019. However, as the alterations are minor it has not been necessary to revert to the parties for further comment.
5. It is agreed between the parties that the Council cannot demonstrate a 5-year housing land supply (HLS). Therefore, as the proposal is for the provision of housing, paragraph 11.d) and footnote 7 of the Framework indicate that the policies in the development plan which are most important for determining the application are out-of-date, and that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole. I have considered the appeal on that basis.



## **Main issues**

6. The main issues are the effect of the proposed development on:
- the character and appearance of the area; and,
  - the living conditions of existing neighbouring residents and future occupiers of the site, with particular regard to privacy and outlook.

## **Reasons**

### *Character and appearance*

7. The appeal site comprises a roughly triangular grassed area on the southern side of a road, known as Woodley Hill, near its junction with Bois Moor Road. To the rear at the top of a bank is a railway line whilst three single storey garage blocks lie just to the north-west of the site.
8. It is submitted by the Council that Woodley Hill is characterised by terraced dwellings of similar appearance, scale and form. The gable end of a late nineteenth century terrace faces the appeal site. Opposite that terrace on Bois Moor Road are Arts and Crafts style semi-detached houses with hipped roofs. Along Woodley Hill there are short terraces, albeit of different designs and eras, but there are also detached and semi-detached houses. Overall, the housing is of a variety of styles, types and ages with little overarching homogeneity. Therefore, I do not agree with the Council that a detached dwelling would necessarily appear discordant, especially given that scale and appearance are reserved for future consideration.
9. Although the site is irregular in shape, whereas most nearby plots are roughly rectangular, it does not appear to be markedly smaller than some other plots. The indicative plans show a dwelling facing the road and set back about 1.5 metres from it. Whilst layout is a reserved matter, that potential orientation reflects other road-facing dwellings along Woodley Hill. The set-back would be less than many of the more modern housing but some other buildings and flats are also sited near the road. In any case, the existing garages would provide some visual separation between the proposed house and the next dwellings on that side of the road. Therefore, I do not see that the plot shape or size and likely setback would result in incongruity in the street scene or that a dwelling sited upon it would necessarily be imposing, taking into account that scale, appearance and landscaping are all for future consideration.
10. The Council says that the open nature of the appeal site contributes positively to the area. However, it is not designated green space and whilst some local residents say that children have used it as a play area, it is also said to be used as an informal parking area for several vehicles, which given its proximity to existing garages may not be surprising. Indeed, a number of residents have objected to the loss of the area for parking. During my site visit, at about 1630 hours on a Tuesday, two cars were parked on the site. As the land is in private ownership and not subject to designation there is no formal protection for such uses. Given the modest size of the grassed area, its proximity to utilitarian blocks of garages and informal use for vehicle parking, I consider that it makes a very limited contribution to openness or the character of the area.

11. The above factors lead me to conclude, bearing in mind that the proposal is in outline only, that it would not have a significant adverse effect on the character and appearance of the area. Therefore, the proposal does not conflict with policies GC1 or H3 of the Chiltern District Local Plan (LP)<sup>1</sup> or policy CS20 of the Core Strategy for Chiltern District (CS)<sup>2</sup>, which together seek to ensure high standards of design which reflect and respect the character of the surrounding area. It would also comply with similar policies within the Framework.

### *Living Conditions*

12. The Council Officer's Report expresses concern about possible overlooking of the rear gardens of the terrace, which are side-on to the appeal site. The Council's Appeal Statement also suggests that the proximity of the new dwelling to those neighbouring occupiers would be dominant and overbearing.
13. However, those gardens are situated on the other side of the road from the proposed dwelling, which would provide a reasonable separation distance between them. Furthermore, the gardens are already overlooked from the first floor rear windows of neighbouring houses along the terrace. Therefore, combined with the fact that layout, scale and appearance are reserved matters, which would include aspects such as the location and type of windows, I see no reason why development on the site should lead to significant additional overlooking. Similarly, given the separation distance and relative orientations, it is not likely that a dwelling on the site would have an overbearing or confining effect on neighbouring residents opposite.
14. The Council's decision notice suggests that the new dwelling, as shown on the indicative plans, would be overlooked from the gable end windows of the adjacent terrace. There are three windows on that elevation and the two at ground floor level are obscure glazed. The first floor window is also a reasonable distance away and, based on the indicative plans, would face towards the side garden of the new property. As such, possible overlooking would not be beyond what might be expected in a residential area. Moreover, such factors could be taken into account in any final scheme submitted at the reserved matters stage.
15. Concerns were also expressed by the Council about a sense of enclosure for occupiers when using the rear amenity space. However, the indicative plans show the main garden area to the side of the property rather than to the rear. Whilst there appears to be limited space to the rear on the illustrative layout, the Council Officer's Report acknowledged the outline nature of the proposal and noted variation in the level of outdoor space at other dwellings in the area, concluding that the provision could be comparable. As there are trees to the rear of the site leading up towards the railway, I see no reason why an acceptable outlook from the rear of the dwelling or outdoor spaces could not be achieved.
16. Therefore, again taking account of the outline nature of the proposal, I conclude that the development would not harm the living conditions of neighbouring residents or future occupiers of the site, with particular regard to privacy or outlook. Accordingly, the proposal would comply with LP policy GC3

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<sup>1</sup> Adopted 1 September 1997 (including alterations adopted 29 May 2001), Consolidated September 2007 & November 2011

<sup>2</sup> Adopted November 2011

which seeks to protect the amenity or living conditions of occupiers of existing neighbouring properties and future occupiers of a development from being impaired to a significant degree. It would also be in accordance with similar protection referred to in Framework paragraph 127.f).

17. LP Policy H14 cited in the Council's decision notice concerns effects on living conditions in relation to 'extensions'. Therefore, it is not directly relevant to a proposal for a dwelling.

### **Other Matters**

18. In addition to the issues dealt with above, local residents have expressed a range of other concerns. The loss of the site for parking has been referred to. Whilst I appreciate that there may be parking issues in the area, as the site is private land and the appellant advises that the parking on it is unauthorised, that aspect has limited relevance to this proposal. Equally, as the land is private, there is no evidence of a right to use it as a children's play area, which in any case would not appear readily compatible with its alleged use as a parking area for a number of vehicles. The highway authority has not objected and has advised that the level of vehicle journeys likely to be generated can be accommodated within the local highway network, with other detailed considerations to be considered at the reserved matters stage.
19. Issues have also been raised about land ownership of proposed parking areas adjacent to the garage blocks, along with questions about rights of way and access to garages and parking spaces. These are ultimately private civil matters to be resolved between the appellant and other relevant parties or landowners. Some residents have referred to the scale and appearance of the dwelling, boundary treatments such as walls, landscaping and access. However, as the proposal is in outline with all matters reserved, those specific details would be determined under future planning applications at the reserved matters stage. The plans submitted are indicative only and intended to illustrate that the site could accommodate a dwelling and show a possible layout and design.
20. Concerns about construction traffic have been raised, but most development entails some disturbance. In this case, the proposal is for one house so disruption should be relatively limited and for a temporary period. Effects on ecology, in relation to frogs, have been raised but the Council's Ecology Officer is satisfied that the proposal itself is unlikely to lead to significant impacts on biodiversity. The removal of a tree has been referred to by several residents but there is no indication that the tree was protected and, as it has already been removed, it is not directly relevant to the current proposal before me. Therefore, I see no clear reason to take a different view from the Council on those matters. A condition could also be included to ensure some biodiversity protection and enhancement measures.
21. Whilst I have fully considered the various issues raised, along with others including alleged effects on drainage, noise and loss of views, they are either not relevant planning considerations or not of sufficient weight to lead me to alter my decision.

## Conditions

22. The Council has suggested conditions which I have considered, making amendments and minor corrections, if necessary, to ensure clarity and compliance with the tests contained in the Framework<sup>3</sup> and the Planning Practice Guidance (PPG). Conditions regarding reserved matters and time limits are required by statute. A condition relating to parking and manoeuvring space is necessary for highway safety.
23. A condition relating to biodiversity to mitigate any adverse effects and provide enhancements is appropriate and supported by paragraph 175.d) of the Framework. I have amended the condition so that details are required prior to above ground works as there is no clear justification for such details to be provided before commencing development. Conditions relating to land contamination are necessary to assess and minimise any risks to future occupiers or neighbouring land. I have amended the Council's suggested conditions for clarity and precision, but the overall content is similar.
24. It is important that details concerning contamination, required by conditions 6 and 7, are agreed prior to commencement to ensure that an appropriate assessment, investigatory and, if necessary, remediation scheme is in place before works on site begin to minimise risks to occupiers or neighbouring land.

## Conclusions

25. The Government's objective is to significantly boost the supply of homes.<sup>4</sup> The proposed development would contribute to the supply of housing, which is of particular relevance given that the Council is unable to demonstrate a 5-year HLS. Although the extent of the shortfall is unclear, the Council has not specifically disputed the 2.5 or 3-year HLS figures suggested by the appellant. There would also be some economic benefits during construction, in the form of short-term employment and the purchase of building materials.
26. Future occupiers would contribute to the local economy and be likely to use local services and facilities, helping viability. They would also potentially participate in the community, which also contributes to the social objective of sustainable development. Whilst all contributions have some value, as the proposal would provide just one dwelling the benefits would be relatively limited. Nevertheless, paragraph 68 of the Framework indicates that small and medium sized sites can make an important contribution in delivering homes and that the development of windfall sites should be supported, especially within existing settlements.
27. In accordance with paragraph 11.d) i. and footnote 7 of the Framework, there are no Framework policies which protect areas or assets of particular importance relevant to this proposal. Some Framework policies, as already detailed, offer support for the proposal whilst I have not identified material harm in respect of other Framework policies, such as those dealing with character and appearance and living conditions.
28. Therefore, as I have found no material adverse impacts associated with granting permission, it follows that they cannot significantly and demonstrably outweigh the benefits, even if such benefits are relatively limited, when

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<sup>3</sup> Paragraph 55

<sup>4</sup> Paragraph 59 of the Framework

assessed against policies in the Framework taken as a whole. Accordingly, the proposal attracts the presumption in favour of sustainable development referred to in paragraph 11 of the Framework, which weighs in its favour.

29. Given that the relevant development plan policies are broadly consistent with the Framework, they still attract weight. However, as I have not found material conflict with them, the proposal also complies with the development plan.
30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*JP Tudor*

INSPECTOR

#### SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the occupation of the development, space shall be laid out within the site for parking and manoeuvring, in accordance with details to be submitted to and approved in writing by the local planning authority. This area shall be permanently maintained for that purpose.
- 5) No above ground works shall commence until details of built-in biodiversity enhancement measures including at least 2 x bird nesting and 1 x bat roosting devices have been submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the approved dwellings and retained as such thereafter. In addition, details of boundary treatments must be submitted, which provide access for wildlife across the site.
- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;

- ii) the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

END OF SCHEDULE





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## Appeal Decision

Site visit made on 4 June 2019

**By H Lock BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2019

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**Appeal Ref: APP/X0415/D/19/3219681**

**129 Stanley Hill, Amersham, Buckinghamshire, HP7 9HQ**

- 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 Edwards against the decision of Chiltern District Council.
  - The application Ref. PL/18/3191/FA, dated 23 August 2018, was refused by notice dated 30 October 2018.
  - The development proposed is construction of new garage.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the site and the street scene.

### Reasons

3. The appeal property is located in a street scene which is mixed in terms of the design of dwellings, but a notable characteristic is that the properties on the western side of the road are generally set back from the roadside, with long front gardens which provide space for the parking and on-site turning of vehicles, as well as landscaped setting. As noted by the Council, where garages exist, the prevailing pattern is that they are set back alongside the dwellings.
4. In common with other properties in the vicinity, the dwelling sits above the level of the adjacent road and footpath, and the front garden rises steeply up towards the house. Although there is hedge planting along the front boundary, this provides modest screening to the property due to the rising ground levels behind. There are clear views of the existing front garden across the open access into the site.
5. The proposed garage would be set back some distance from the footway, but it would nevertheless be out of keeping in the street scene due to the absence of garaging in front gardens in the locality, and contrary to the siting of other buildings as required by Policy GC1 (c) of the Chiltern District Local Plan<sup>1</sup> (LP). This is supported by advice in the Council's 'Residential Extensions and Householder Development' Supplementary Planning Document 2013 (SPD), which indicates that in areas characterised by open frontages which are clear of

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<sup>1</sup> Adopted 1997 (Including alterations adopted 2001), consolidated 2007 & 2011

- built form, it is unlikely to be acceptable to site a garage forward of a dwelling as this would disrupt the existing pattern of development. As a result of its forward siting and the topography, the proposal would appear unduly prominent and a disruptive feature in the street scene.
6. The flat-roofed design of the proposal and its siting, cut into the site, both seek to minimise its visual impact. However, a significant part of the building would be visible from the public realm due to the relative ground levels, and when viewed across the open driveway the part-inset building would appear contrived. The existing hedging on this and neighbouring sites would not fully screen the development, and in any case the appellant would have no control over planting outside of the appeal site.
  7. Moreover, the flat-roofed design would be at odds with the more traditional design of the dwelling, and would not reflect its form as required by LP Policy GC1 (g). The proposed design and siting would detract from the character and appearance of the site and the wider street scene, and would be contrary to LP Policy H15 (iv), which opposes flat roofs if prominent in the street scene.
  8. The appellant advises that the existing car parking arrangements do not allow for turning of vehicles on site thus resulting in vehicles reversing over the footpath and onto the busy highway. However, there is ample space within the site frontage to create an improved turning area without the need for a garage. Although I note that the intention is to leave the existing access and crossover to Stanley Hill unaffected, creating the garage and gaining level access into it would involve significant alterations to the site levels, and thereby affecting the character and appearance of the site and wider street scene.
  9. I note the appellant's view that the existing dwelling and immediate neighbours have their frontages dominated by the parking of vehicles, but these are at least transitory, and have far less visual impact than a permanent building. The use of materials to match the host dwelling would not mitigate the visual intrusion of the proposal.
  10. I share the appellant's view that the proposal would not adversely affect the outlook from neighbouring properties, but this factor would not outweigh the wider visual impact of the proposal.
  11. The appellant advises that due to the proximity of the site boundary to the rear of the publicly maintained footpath, Permitted Development rights would exist to erect a 2 metre high wall and gates in place of the existing hedge. Whether or not the appellant's interpretation is correct, given the height of the existing hedge on the front boundary I am not convinced that such a structure would fully screen the proposal.
  12. Whilst I understand the Council's concerns about the issue of precedent, I have determined this proposal on its site-specific merits, but with appropriate regard to its context.
  13. I therefore conclude that the proposal would detract from the character and appearance of the appeal site and the wider street scene in conflict with the overarching design aims of Core Strategy<sup>2</sup> Policy CS20, which seeks high standard of design which reflects and respects the character of the surrounding area and those features which contribute to local distinctiveness. It would also

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<sup>2</sup> Local Development Framework Core Strategy for Chiltern District, 2011



conflict with LP Policies GC1, and H13, in that the character and appearance of the street scene in the vicinity would be adversely affected; and with LP Policy H15, with LP Policy H20, which supports the provision of ancillary residential buildings subject to compliance with the principles set out in Policies H13 to H17, and with the SPD.

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

*H Lock*

INSPECTOR



## Appeal Decision

Site visit made on 4 June 2019

**By H Lock BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2019

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**Appeal Ref: APP/X0415/D/18/3219431**

**5 Grange Fields, Chalfont St. Peter, GERRARDS CROSS, Buckinghamshire, SL9 9AG**

- 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 Vishal Bika against the decision of Chiltern District Council.
  - The application Ref. PL/18/3264/FA, dated 31 August 2018, was refused by notice dated 25 October 2018.
  - The development proposed is the erection of a first floor rear extension providing an additional bedroom and en-suite bathroom.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form a different wording has been entered, but as the parties have not provided written confirmation that a revised description of development has been agreed I have used the one given in the original application.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of 6 Grange Fields (No.6), with particular reference to outlook and access to light.

### Reasons

4. The appeal property is a detached dwelling in a short cul-de-sac of similarly designed dwellings. A characteristic feature of the layout of the development is that the north-western flank wall of each dwelling is built up to the shared boundary with the neighbouring property.
5. The appeal property has a single-storey flat-roofed rear extension, and although it is dimensioned as having a depth of 3825mm on the submitted plans it would appear to be deeper than this on the ground. Due to the skewed alignment of the shared boundary with No.6, in part the rear extension is set slightly in from that boundary.

6. The submitted plans indicate 45-degree lines taken from the centre point of the closest rear-facing windows of the neighbouring properties. However, the appellant's calculations appear to be based on the position of a window in the original part of No.6, set some distance from the boundary. This does not take account of the windows to a single-storey rear/side extension at No.6 which is sited less than 1 metre away from the shared boundary with the appeal property. This extension is used as a habitable room.
7. The proposed extension would be located close to the shared boundary and ground floor habitable room windows of No.6. Given the proposed siting, height and depth of the addition, this would be unacceptably intrusive and oppressive in the outlook from No.6 and its garden area directly behind the house. It would conflict with the aims of LP<sup>1</sup> Policy H14, which requires extensions to be designed so that their size and siting in relation to adjoining properties does not result in an overbearing appearance for neighbours. I do not consider that the size of the garden of No.6 would mitigate the resulting sense of enclosure, as suggested by the appellant.
8. In addition, given the orientation, the proposal would cause light loss to No.6, contrary to LP Policy H14, which seeks to ensure that the size and siting of extensions will not result in a significant loss of daylight to the garden or principal windows of habitable rooms of neighbouring properties; and with LP Policy GC2, which requires the design and layout of extensions to protect adjoining buildings from significant loss of sunlight and daylight.
9. The appellant advises that the proposal would not have any significantly greater impact than that which could be constructed as Permitted Development. However, an extension that would accord with the legislation<sup>2</sup> would be materially less in depth and eaves height than proposed in this case. As such, any 'fallback' position would have much less impact on the occupants of the neighbouring property than the proposal.
10. I acknowledge that there is a reasonable gap between the proposed extension and the two-storey part of No.6 but the greater impact would be perceived at ground floor level. Furthermore, I accept that no terracing would arise, but the modest gap between the proposed extension and the skewed boundary would not resolve the adverse impact identified above. I agree with the appellant that the proposal has been designed to take account of the character of the existing building, and that it would not be detrimental to the street scene. However, these are not factors to override the impact on neighbouring residents.
11. I therefore conclude that the proposal would result in loss of light and would diminish the outlook for occupants of No. 6 to a degree that their living conditions would be harmed. This would conflict with LP Policies H14 and GC2, and LP Policy GC3, which seeks to protect the amenities enjoyed by occupants of existing adjoining properties; and with LP Policy H13, which supports extensions to dwellings subject to there being no significant detriment to the amenities of neighbours; and with guidance in the Residential Extensions and Householder Development Supplementary Planning Document 2013.
12. For the above reasons, I conclude that this appeal should be dismissed.

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<sup>1</sup> Chiltern District Local Plan 1997 including Adopted Alterations 2001, consolidated 2007 & 2011

<sup>2</sup> By virtue of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

*H Lock* INSPECTOR



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## Appeal Decision

Site visit made on 10 May 2019

**by Paul T Hocking BA MSc MRTPI**

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

**Decision date: 21 May 2019**

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### **Appeal Ref: APP/X0415/W/19/3221534 9 and 11 Vale Rise, Chesham HP5 2BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Rackman and Hay against the decision of Chiltern District Council.
  - The application Ref PL/18/3425/FA, dated 17 September 2018, was refused by notice dated 9 November 2018.
  - The development proposed is part two storey, part single storey rear extension.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposal on the living conditions of occupiers of No 13 Vale Rise.

### **Reasons**

3. The site consists of a pair of semi-detached two storey houses both of which feature existing single storey rear extensions. The proposal relates to the demolition of the conservatory at No 9 Vale Rise and the erection of a 4m deep two-storey rear extension. At No 11, a 3m deep first-floor rear extension would be erected over part of the existing ground floor extension.
4. The dwellings at No 11 and No 13 are both sited in close proximity of their respective shared boundary. No 13 contains a kitchen with two adjoining windows and an obscurely glazed door on the elevation that faces this boundary. Currently it retains a good outlook from these windows with a sense of space as, given the higher ground level of this property, the kitchen faces over the single-storey rear extension at No 11.
5. In contrast, the proposed first-floor addition to No 11 would have an overbearing appearance as it would be sited directly in front of the kitchen windows at No 13. Given its close proximity and relationship with No 11, it would appear dominant and visually intrusive and would result in a sense of enclosure as well as a significant loss of outlook. In my view, the effect of the proposal, given its height, would be significantly greater than that of merely a single-storey extension, even if the two properties were on the same land level.
6. The kitchen at No 13 does not afford space for dining. However, irrespective of whether it is defined as a habitable room, it is an important functional space in

respect of the day-to-day occupation of the property. Occupiers may therefore spend a considerable amount of their time in this room. It is not that the proposed first-floor extension would be merely visible from this room, as is a common occurrence, but rather that, having visited the property as part of my site visit, the proposal would have a substantial and unacceptable impact to the detriment of the occupiers living conditions at No 13, for the reasons I have identified.

7. The appellants contend that a two-storey rear extension of the same depth could be constructed without the need for specific planning permission. However, they note that the existing ground floor extension would need to first be demolished and that the proposal would have to be set-in further from the boundary with No 13. Furthermore, such an extension would also have to be set-in from the side boundary with No 9, rendering it considerably narrower than the proposal. The lawfulness of such an extension is however not for me to determine in the context of a Section 78 planning appeal and I note the appellants have not substantiated their fall-back position by means of a Certificate of Lawful Development pursuant to Section 191 of the Town and Country Planning Act 1990. There is also little evidence before me that such an extension, if lawful in planning terms, would then be constructed. I have consequently afforded this fall-back position only limited weight.
8. I therefore conclude the proposal would be harmful to the living conditions of occupiers of No 13 and would fail to accord with Policies GC3, H13 and H14 of the Chiltern District Council Local Plan (the CDLP), adopted September 1997 (including alterations adopted May 2001), Consolidated September 2007 & November 2011. These policies, amongst other things, seek to ensure that development protects the amenities enjoyed by neighbouring properties and so extensions should not have an overbearing appearance or be of significant detriment. For the same reasons, the proposal would conflict with the aims of the Chiltern District Council Residential Extensions and Householder Development Supplementary Planning Document, September 2013, and the achieving well-designed places aims of the National Planning Policy Framework. I have however not identified a conflict with Policy GC2 of the CDLP as this solely relates to preventing a significant loss of sunlight or daylight and for which I have little evidence before me.

### **Other Matters**

9. I appreciate this is a revised scheme as the appellants have sought to overcome previous reasons for refusal and the Council does not raise concerns in respect of its design. The site is also not within the Green Belt, a Conservation Area or a designated area of special character. No listed buildings are nearby. No harm therefore arises in these respects. However, these are not sufficient matters to outweigh the harm I have identified in respect of the main issue.

### **Conclusion**

10. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Paul T Hocking*

INSPECTOR



## Appeal Decision

Site visit made on 9 May 2019

**by Paul T Hocking BA MSc MRTPI**

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

**Decision date: 22 May 2019**

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### **Appeal Ref: APP/X0415/D/19/3222125**

### **10 Charter Drive, Amersham HP6 6UX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Baker against the decision of Chiltern District Council.
  - The application Ref PL/18/3698/FA, dated 5 October 2018, was refused by notice dated 3 December 2018.
  - The development proposed is a two storey rear extension and single storey front extension.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposal on trees the subject of a Tree Preservation Order.

### **Reasons**

3. The site accommodates a modern two-storey detached dwelling with a forward sited garage located at the end of a short residential lane, Charter Drive. The approach to the site has a mixed character with a range of residential and commercial buildings nearby. The proposal relates to the erection of a two-storey rear extension as well as a single-storey front extension.
4. The rear garden of the site originally contained two horse chestnut trees that were the subject of a Tree Preservation Order (TPO). An application for the removal of one of these trees was allowed at appeal<sup>1</sup> and a subsequent application for the remaining tree was dismissed<sup>2</sup>. There is therefore evidence that there has been pressure to fell this remaining protected tree at the site in the past, despite its current distance from the dwelling.
5. The rear garden of No 10 tapers in shape. The remaining horse chestnut tree is a large mature specimen growing on the boundary. It is one of an avenue of trees that were originally planted around 100 years ago and which are an important landscape feature. Further trees are therefore to the rear of the site. I could see from my site visit that the tree at the site is visible from Raans Road and so contributes to the public visual amenity of the area.
6. Whilst the appellants are not seeking the removal of the tree and are aware of the dismissed planning appeal in this respect, the construction of the rear

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<sup>1</sup> Council Ref CH/2014/1486/TP

<sup>2</sup> Council Ref CH/2016/1591/TP

extension would considerably reduce the size of the garden. Whilst I have little evidence to indicate the remaining size of the rear garden would be insufficient to meet the day-to-day needs of occupiers of a family house, this reduction would significantly increase the relative effect of the remaining horse chestnut trees over this space. Given in particular the size and location of the tree at the site, this would in my view dominate both the remaining rear garden and rear elevation of the proposed extension. It could therefore lead to concerns about safety, light and tree debris from future occupiers.

7. This would in my view place the tree at the site at an unacceptably greater threat of loss as there would be a material change in circumstances since the dismissed appeal. There could also be pressures to reduce the dominance of the trees to the rear of the site given the resultant garden size. This would be a permanent threat that could transcend the current occupation of the site, and so even if the appellants intend to retain the tree, there is no such certainty with future occupiers.
8. This is not a case of merely pre-empting a situation as there would be an actual and unacceptable consequence arising from the relationship with the proposed rear extension and horse chestnut tree, as I have identified. The National Planning Policy Framework (the Framework) seeks to achieve well-designed places by ensuring that proposals add to the overall quality of the area over the lifetime of the development. The pressures arising from the proposal, on the evidence before me, could lead to the future loss of a protected tree and so would fail to achieve this. The proposed rear extension would in my view therefore create justification for the removal of the tree, despite it being already protected.
9. I therefore conclude the proposal would be harmful to trees the subject of a Tree Preservation Order and would fail to accord with saved Policy TW3 of the Chiltern District Council Local Plan, adopted September 1997 (including alterations adopted May 2001), Consolidated September 2007 & November 2011. This policy, amongst other things, seeks to resist the loss of trees covered by a TPO. Trees of good quality, or landscape significance, or amenity value, will be expected to be retained in good condition even where this will restrict, or prevent, development. For the same reasons the proposal is also contrary to the achieving well-designed placed aims of the Framework.

### **Other Matters**

10. I appreciate that the appellants children are getting older and that more space is now required in the house. No objections have been raised in respect of the visual impact of the proposed extensions, the impact on neighbouring residents or to the matter of parking provision. The works required to physically construct the proposed development could also be undertaken without harming protected trees. However, these are either neutral factors in my assessment or not sufficient to outweigh the harm I have identified in respect of the main issue.

### **Conclusion**

11. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Paul T Hocking* INSPECTOR