



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

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.

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.

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

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)¹ 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

¹ 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)², 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.

² 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 Framework³ 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.

³ 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



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

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.¹
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.² 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.

¹ Paragraph: 030 Reference ID: 16-030-20140306

² 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



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

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.
-

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.
-

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 MIEEnvSci MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2019

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 17th or 18th 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 consent¹ 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 Appraisal² 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

¹ Planning reference CH/2015/1304/OA

² 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 Plan³ 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

³ 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-E⁴. 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

⁴ 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 9th 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



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

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.
-

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)¹ and policy CS20 of the Core Strategy for Chiltern District (CS)², 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

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

² 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.³ 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'⁴ 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

³ Paragraph: 010 Reference ID: 21a-010-20140306

⁴ 16 January 20196



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

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.
-

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 Plan¹ (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.

¹ 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

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)¹ or policy CS20 of the Core Strategy for Chiltern District (CS)², 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

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

² 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 Framework³ 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.⁴ 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

³ Paragraph 55

⁴ 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



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

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.
-

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 Plan¹ (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

¹ 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 Strategy² 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

² 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

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.
-

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 LP¹ 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 legislation² 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.

¹ Chiltern District Local Plan 1997 including Adopted Alterations 2001, consolidated 2007 & 2011

² 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



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

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

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.
-

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 appeal¹ and a subsequent application for the remaining tree was dismissed². 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

¹ Council Ref CH/2014/1486/TP

² 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