

Classification: OFFICIAL

CHILTERN DISTRICT COUNCIL

PLANNING COMMITTEE - 18th July 2019

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Ashley Green

PL/19/0009/FA

Ward: Ashley Green Latimer And Page No: 2
Chenies

Proposal: Change of use to Private Members Club (Use Classes A3, A4, D1 and D2) and provision of enlarged car park

Recommendation: Refuse permission

Thorne Barton Hall, Chesham Road, Ashley Green, Buckinghamshire, HP5 3PQ

REPORT OF THE HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Supplementary Report to Main List of Applications

PL/19/0009/FA

Case Officer: Emma Showan

Date Received: 02.01.2019

Parish: Ashley Green

Decide by Date: 16.07.2019

Ward: Ashley Green Latimer And
Chenies

App Type: Full Application

Proposal: Change of use to Private Members Club (Use Classes A3, A4, D1 and D2) and provision
of enlarged car park

Location: Thorne Barton Hall
Chesham Road
Ashley Green
Buckinghamshire
HP5 3PQ

Applicant: Mr James Pearson

SITE CONSTRAINTS

Article 4 Direction

Adjacent to A and B Road

Adjacent to Unclassified Road

Area of Special Advertisement Control

Adjacent Public Footpaths and Public Right Of Way

BPA Pipelines Buffer

Bovingdon Technical Radar Zone

Within Green Belt other than GB4 GB5

North South Line

Public footpath/bridleway

Gas and Oil Pipe Lines

A and B Roads

CALL IN

Councillor Garth has requested that this application is referred to the Planning Committee, regardless of the Officers' recommendation.

SITE LOCATION

This application relates to a site in the open Green Belt, with a rear boundary bordering the Chilterns Area of Outstanding Natural Beauty (AONB). It is located off Chesham Road, a key arterial route linking the settlements of Chesham and Ashley Green. The site comprises Thorne Barton Hall, a large residential dwelling set within mature grounds with a private tennis court and an outdoor swimming pool. The property is accessed by a sweeping driveway and has been previously extended to a considerable degree to incorporate an attached four-bay garage and first floor side extension.

THE APPLICATION

The application proposes a change of use of the planning unit, comprising the dwelling and surrounding land within the red line shown on the submitted Location Plan, to a private Members' club. Associated operational development is proposed in the form of an enlarged car park and widened driveway.

The proposed club would offer a number of facilities, including: three dining rooms, a kitchen and gymnasium at ground floor level and a bar, two work suites, leisure room, nail bar and treatment room at first floor level. The existing swimming pool and tennis court would be retained. These facilities would fall within Use Classes A3, A4, D1 and D2 and the resultant use of the site would be a mixed use (which would require planning permission for any subsequent material change of use).

It is proposed to create an enlarged parking area to the south of the main building, which would link to an existing (but not used) access off Ashley Green Road. The current access serving the property would be 'closed off' and the other access would be brought back into use to serve the property.

No extensions are proposed to the existing building.

A Design & Access Statement and a Transport Statement have been submitted in support of the application.

The application follows a similar application which was previously due to be reported to the Planning Committee, but was withdrawn by the applicant. This was due to anomalies identified with the red line, which have now been corrected. Also, a comprehensive Transport Statement now accompanies the new application.

RELEVANT PLANNING HISTORY

CH/2001/1776/FA - Two storey side extension; refused permission, appeal allowed.

CH/2000/2009/FA - Part two storey, part single storey side extension, refused permission.

CH/2000/1599/FA - Two storey side extension, refused permission.

CH/1993/0363/FA - Alterations and extension to provide domestic quadruple garage with games room, conditional permission.

PARISH COUNCIL

Ashley Green Parish Council would like to object to the application for change of use of Thorne Barton Hall. We are of the opinion that the business being proposed in the business plan is non-viable and unsustainable. This is due to the scheme being primarily dominated by staff areas and support use. Apart from a bar and several dining/meeting areas, the only true leisure facilities are provided in the existing garage block and store over and not the main building. This in turn is likely to lead to additional new buildings and extensions being proposed within the greenbelt.

Furthermore:-

- 1) We feel that this development provides no benefit to the local community and would be damaging to the local village as it is not intended to be used by the local residents (evident from the number of parking spaces) but may also detract from the current local amenities including the Golden Eagle PH.
- 2) We feel that it will result in a detrimental effect on the local diverse community. The village already has comprehensive leisure and community facilities offered by The Memorial Hall and The Old School Buildings, managed by The Community Association. These facilities are affordable to all and these buildings offer all that this scheme offers, save for outdoor swimming and tennis.
- 3) These existing Community facilities would be put at risk if this development were to be permitted.
- 4) There is concern over the parking facilities being proposed. As the number of support staff is stated as being 50+ there does not seem to be enough parking being proposed to cater for all the customers that those 50 staff would be serving. In addition to this it seems absurd to be building so many parking spaces on the edge of an Area of Outstanding Natural Beauty.
- 5) The area of the buildings is advertised at 9000ft², equating to approximately 820m². The plans indicate that approximately half of this area is devoted to offices, kitchens, stores, toilets and other support areas. The "customer areas" equate therefore to only approximately 400m², and with 50 support staff, this equates to 1 staff member every 8m². The applicants have erred on the number of job opportunities and the functionality of the existing listed building spaces.
- 6) The Location Plan provided in the planning application is non-compliant as it does not provide any details of land boundaries and ownership.
- 7) There has been no mention within the business plan of the opening hours of the facility. This could mean serious disruption to local residents at unsociable hours.
- 8) We have concerns regarding the access to the facility from the highway. The current access is from a national 60mph speed limit road and is also positioned on a bend. Visibility at the current access point on the main road (both entering and exiting) is limited and could lead to sudden braking and potentially serious traffic collisions.

REPRESENTATIONS

31 letters of objection received, plus one neutral letter received from the Chilterns Conservation Board. The main subjects raised are as follows (please note this is a general list, and the full responses can be viewed on the Council's website):

- Inappropriate development
- Increased noise and disturbance
- Increase traffic volume
- The new access will create more problems and result in dangerous traffic movements
- Detrimental impact on neighbouring properties
- Contrary nature of proposals in terms of CDC policy
- Intensification of use
- Impact on wildlife
- Light pollution
- Not a sustainable location
- Impact on other pubs in the locality
- Intrusion into the countryside
- Loss of tranquillity
- Concern regarding hours of operation
- Impact on quality of life
- Impact on wildlife/ecology
- Excessive traffic
- Dangerous access arrangements
- Parking shortfall
- No safe walk from Ashley Green to site

- Concern regarding refuse collections
- Concern over disabled parking spaces
- Unsustainable

Further to the above, there have been several letters received from a planning agency employed on behalf of local residents, objecting to the application. This has been accompanied by a Counsel's Opinion and Further Opinion, also raising concerns. It is not proposed to summarise those here, as they are available to view in full on the Council's website, and the salient points are discussed in the Evaluation section of this report. There have been various letters and enclosures received from both parties, and collective letters received from a group of local residents, all disagreeing with the other's stance.

CONSULTATIONS

Buckinghamshire County Council - Highways Authority:

I note that this site has previously been the subject of planning application PL/18/2761/FA, which also proposed the change of use from dwelling to a private members club. The Highway Authority had no objection to the previous proposals in a response dated the 5th November 2018. This current application differs from the previous application in that additional information in the form of a Transport Statement has been submitted by the applicant.

The application site is situated to the south of Ashley Green village centre and is outside the built-up area. The site is accessed via an existing lay-by directly from the A416 Chesham Road, which, in this location, is subject to the National Speed Limit of 60mph. The application seeks planning permission for the change of use of the existing dwelling into a private members club, in addition to the creation of an enlarged car park.

Trip Generation

The site currently comprises of an eight-bedroom dwelling. Having interrogated the TRICS® (Trip Rate Information Computer System) database, I would consider that a dwelling of this size, and in this location to have the potential to generate in the region of 15 vehicular movements (two-way) per day.

Within the Transport Statement (TS), the applicant has undertaken their own TRICS® assessment in order to provide a figure on the likely trip generation of the private members club. The data provided by the applicant shows that the proposals are likely to generate in the region of 330 (two-way) vehicular movements per day, with 9 two-way movements and 32 two-way movements anticipated in the AM and PM peak hours respectively. This data is based on a worst-case scenario on the site, without considering the likelihood of linked trips (between the gym/bar/restaurant uses) to the site. Having undertaken my own TRICS® assessment, I find the data provided within the Transport Assessment to be comparable to my own findings when using the TRIC's database.

Proposed access

The proposed access arrangement comprises of an in/out access, via the southern boundary of the site. This access is shared and would also provide access to Little Acre Barn and the Hollies.

When considering visibility splays from the proposed access point, as part of the previous application on site, Manual for Streets guidance was used to inform the visibility requirements, resulting in a requirement for visibility splays of 2.4m x 151m in both directions onto Chesham Road. As part of the current application, DMRB (Design Manual for Roads and Bridges) guidance has been taken into consideration for the visibility splays, which is a more stringent approach, as a 60mph road would require visibility splays of 2.4m x 215m in both directions.

The applicant has also undertaken a speed survey within the vicinity of the site, which has demonstrated 85th percentile speeds of 48mph southbound and 49mph northbound. Applying the DMRB guidance to the recorded speed, the requirement would equate to a distance of 136m to the left upon exit and a distance of 140m to the right upon exit. These visibility splays are achievable in both directions onto Chesham Road from the access point, however would require a significant level of vegetation clearance in both directions. It has been demonstrated that this can be achieved within highway land. I note that it had been previously assessed that a greater visibility splay of 151m could be achieved; this is a visibility splay is closer in line with the full DMRB standards which the Highway Authority are supportive of. The Highway Authority recommends the maximum achievable visibility is secured in this instance.

In terms of access width, the submitted drawing show the access would measure 5.5m for the entire length of the access road, aside from a pinch-point of the access within the site narrowing to 3.7m, in order for the retention of a tree and to reduce vehicle speeds. This width allows for fire tender to pass and for two cars to pass simultaneously as per Manual for Streets guidance. If a vehicle/s were to park on this road, (whilst this is not being proposed) an oncoming vehicle should still be able to pass.

I acknowledge the position of the applicant's Transport Assessment (RGP), The Motion transport report, and the contributor letters from members of the local public which raise concerns in relation to the risk of rear end shunts in association with vehicles turning right into the access. In review all of this information submitted as part of this application the Highway Authority supports the inclusion of a right hand turn facility at the access point. A right hand turn lane would protect right-hand turners associated with the new development and other users of the highway. The Highway Authority is minded to recommend that a right hand turn facility should be secured by condition.

Sustainability

The nearest footpath to the site is located on the eastern side of the A416 immediately fronting the site. This footpath provides a link into Chesham town centre. Furthermore there are bus stops located on the A416 which provides links into Berkhamstead and Chesham approximately every hour. Whilst there are some alternative options available these are partial.

Parking

In terms of parking provision, I note that 87 parking spaces are proposed on-site. This includes 83 standard and 4 disabled bays. Whilst I trust that the Local Planning Authority will consider the adequacy of the parking provision proposed, I can confirm that the spaces proposed are of adequate dimensions and would allow for vehicles to park within the site, turn, and leave the site in a forward gear. Swept-path analyses have been submitted, which show a 10.3m refuse vehicle entering the site, turning and leaving in a forward gear, which is the largest vehicle anticipated to enter the site. I note that no provision has been proposed for the parking and charging of electric vehicles, it should be noted that the Highway Authority would support measures to provide these facilities.

Mindful of the above, I have no objection to the proposals, subject to conditions.

County Strategic Access Officer (Rights of Way):

I have no objection, but would wish to clarify the driveway width improvements previously secured by Highways Development Management.

District Building Control - Fire Fighting Access:

No objections.

District Access for the Disabled Officer:

I have no objections to this application provided that:

1. Sufficient spaces dedicated to parking for the disabled are permanently marked out in the car park, close to the building.
2. Reasonable provision is made for the access and use of the facilities within the building by persons of impaired mobility.
3. Where possible and appropriate, reasonable provision is made within the building for use of the facilities by persons of impaired vision and hearing.

District Tree and Landscape Officer:

The application is similar to the previous withdrawn application but now has a slightly smaller site with part of the car park proposed under PL/18/2761/FA now being outside the red edge.

Thorne Barton Hall is a large property with extensive landscaped grounds. The proposal does not appear to involve any changes to the access but the plans show a new car park to the south of the hall. The proposal uses the access to the south of the site as the main entry point. This would enter the main site through two fence panels using an existing hard surface. It should not involve any tree loss. The change in the car parking layout means that a very large old sycamore tree shown for removal within the proposed car park under PL/18/2761/FA is now outside the application site. However there is now more parking in the area to the south-east of the hall and this would require the additional loss of part of a line of rhododendrons that form one side of an old formal walkway to the front of the hall.

The change in the layout also includes an intensification of the parking under the canopy of a very large oak tree close to the hall. This parking is shown far closer than ideal to the tree but if no-dig construction is used this would help reduce the risk of root damage. .

The section of the car park extending to the east is largely within an open grassed area but there is a small pine plantation at the eastern end. This group of about twenty-five Scots pines, which are about 15m in height, is shown to be removed with the oak behind retained. The parking spaces are fairly close to a line of sycamore and ash trees along the southern boundary and again no-dig construction would be appropriate.

The section to the south of the hall would require the loss of four birches and a hornbeam. Three of the birches are planted in a triangular shape and are good maturing trees that form an attractive group. The other two trees in this vicinity are of lesser importance.

I would like to see the group of three birches retained with the car park adapted to allow their retention. However a Tree Preservation Order would only be appropriate where trees are important in public views and there is very limited public visibility of these trees.

In conclusion I am concerned about the loss of the group of three birches and I would like to see these retained within the proposal. I am also concerned about proximity of the parking spaces to the old oak tree and the unfortunate loss of part of the formal walkway. Nonetheless I would not object to the application provided there is adequate protection for the retained trees and the car park uses no-dig construction within the root protection areas of the retained trees.

District Ecological Advisor:

I have reviewed the Ecological Assessment produced by Quantock Ecology (October 2018) and am satisfied that the potential presence of protected species and habitats has been given due regard.

It is anticipated that no works will be undertaken which will have any impact upon bats and no trees with potential to support roosting bats will be lost. Should it be necessary to impact trees T1 or T2 further assessment in respect of bats will be required.

It is noted that the ecological assessment still doesn't provide details of the desk study requested from the local environmental records centre. The final report shall therefore be provided to the local authority ecologist. A review of freely available online resources is not sufficient.

Details of ecological enhancements are required to ensure a net gain in biodiversity is achieved, along with a lighting scheme to protect light-sensitive wildlife.

District Environmental Health Officer:

The change of use proposes to redevelop the current private residence to a private members club with multiple facilities which will inevitably increase the footfall of people visiting the premises as it currently stands.

The nearby private dwelling named The Hollies will need to be suitably protected from any adverse noise impact from the number of vehicles using the proposed access road and extended car parking area. The Noise Assessment produced by LA Acoustics LTD indicates that the new owner of the hall has agreed to accepting the noise impact from the use of the new access road to Thorne Barton Hall, however from an Environmental Protection view point, I do not consider this property as being less sensitive due to the owner of the hall also being the occupant. I believe that adequate mitigation should be provided for any future occupants especially in cases whereby the hall is used for events and thus there is the likelihood for increased traffic levels.

The noise assessment highlights the need for sound attenuation through the materials used to adequately soundproof the gymnasium and the leisure room. I note that the Noise Monitoring which took place in the Leisure Room outlined within the Noise Assessment that although there is a 38db sound reduction from the façade of the leisure room the internal/external sound level from the rear window indicates that noise similar to the level of a disco (Pink noise) would be heard at around 10.6 dB above the level when sound source similar to that of a disco was turned off, during the times of higher footfall when the room may be used to host such functions.

There are a number of proposed external fixed plant requirements to support the change of use of the Hall and once they have been confirmed during the design stage they should be installed and maintained to the guidance set out within BS4142:2014 and in accordance with LA Acoustics LTD Noise Assessment, to protect the nearby private dwellings. The noise assessment has proposed a number of plant/equipment but we shall require a definitive response from the applicant as to what they shall be installing.

I am in agreement that the delivery times should be made during the daytime hours to ensure that nearby occupants are not disturbed by any deliveries or collections when the background sound level is seemingly lower during the night time hours.

The noise assessment does not appear to have taken into account the use of the current outdoor swimming pool, or the surrounding grounds. Therefore, as the private dwelling named Thorne Barton Cottage's garden adjoins the grounds of Thorne Barton Hall and has limited natural acoustic screening; the properties shall be overlooking one and other and may experience a loss of privacy, as they currently stand.

I am also in agreement that the use of any speakers or mics in association with the use of the gymnasium should be assessed once chosen due to being in close proximity to noise sensitive receptors.

Conclusion:

The Noise Assessment prepared by LF Acoustics LTD indicates that the local residential properties near to the proposed development included in this application may not be suitably protected from noise from the various sound sources mentioned in their report and therefore recommendations have been made for the submission of a Noise Management Plan to ensure that the noise from the development would be controlled to ensure that any adverse noise impacts are minimised to an acceptable standard; I would therefore, like to object to this application unless the suggested conditions are attached to cover the following:

- Noise from Plant/Equipment restricted
- Details of Air Ventilation System to be approved
- Sound Insulation of Building to be approved
- Deliveries by commercial vehicles restricted to 09:00 hours and 17:00 hours Monday to Friday/Saturday and at no time on Sundays or bank or other public holidays
- Scheme of Noise Control to be approved
- Hours of Operation - Operations from which noise is audible at the site boundary/nearest residential boundary shall only be carried out between 07:00 and 19:00 hours Monday to Friday/ Saturday and at no time on Sundays, bank and other public holidays.
- No External Lighting unless approved by the LPA.

County SUDs Officer:

The proposed development is not increasing the impermeable area of the site and therefore the Lead Local Flood Authority has no objection to the proposed change of use.

POLICIES AND OTHER MATERIAL CONSIDERATIONS

Core Strategy for Chiltern District - Adopted November 2011: Policies CS4, CS20, CS22, CS25, CS26 and CS29.

The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011. Saved Policies: GC1, GC3, GC4, GB2, GB29, LSQ1, H9, TR2, TR3, TR11, TR16 and CSF1.

National Planning Policy Framework, 2019.

Sustainable Construction and Renewable Energy SPD - 25 February 2015.

EVALUATION

Principle of development

1. This application concerns a site within the open Green Belt where most development is inappropriate and there is a general presumption against such development. Paragraphs 145 and 146 of the National Planning Policy Framework (NPPF) set out the various types of development that are not inappropriate. Paragraph 143 of the NPPF emphasises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

2. Paragraph 146 of the NPPF includes several types of development that are not inappropriate in the Green Belt, including:

d) the re-use of buildings provided that the buildings are of permanent and substantial construction.

This application seeks comfort from the above provision and the applicant's supporting documents state that the proposal is for the re-use of an existing residential dwelling as a private members' club. It does not seek to erect any new buildings or extend the existing dwelling. Therefore, provided the new use preserves the openness of the Green Belt and the building is of permanent and substantial construction, a change of use could be acceptable in principle.

3. The Officer's report for the previously withdrawn application highlighted the above and concluded that, in principle, the change of use was acceptable. On reflection, this provision applies to a building and does not necessarily apply to the surrounding change of use of land. However, point (e) of Paragraph 146 allows for material changes in the use of land, as not being inappropriate development. Also, since the previous application, a Counsel's Opinion has been received, which queries this approach. The Opinion emphasises Paragraph 146 of the NPPF, quoted in part above, but highlights that this paragraph also states that in order to not be inappropriate development, a proposal must not only fall within one of the listed exceptions, but must also "preserve [the Green Belt's] openness and ... not conflict with the purposes of including land within it." This applies equally to points (d) and (e) of Paragraph 146. Paragraph 134 of the NPPF sets out the five purposes of the Green Belt, one of which is to "safeguard the countryside from encroachment". Therefore, the proposal must meet the criteria of preserving the openness of the Green Belt as well as not conflicting with the purposes of the Green Belt, including resulting in encroachment. If it does not meet these criteria, it is inappropriate development and conflicts with the provision to re-use buildings in the Green Belt, set out in Paragraph 146(d).

4. Policy GB29 of the Chiltern Local Plan also takes a similar approach and is therefore broadly in line with the more recent NPPF. This Policy states that the re-use of existing buildings in the Green Belt for commercial, industrial, recreational or other uses (except residential uses) will be permitted, subject to various criteria. The relevant criteria include that it does not conflict with Policy H9 (concerning the loss of residential buildings and land), and that it is not inappropriate development. This latter point is explained further in the policy, stating this means the building must be permanent and substantial, no major new building work is needed, and that the proposed use of the building would not have a materially greater impact than the existing use on the openness of the Green Belt and the purposes of including land in it. This latter point closely mirrors Paragraph 146 of the NPPF. In this respect, Policy GB29 clarifies that (i) there should be no evidence of the proposed use outside the building which would conflict with the openness of the Green Belt or damage rural character and visual amenity; (ii) in development involving construction of a vehicle parking area, the design, materials and landscaping will be required to have no significant adverse visual impact in the open countryside; and (iii) the proposed use should not generate traffic to a degree which would harm the open rural character of the locality or adversely affect the safety of highway users in the vicinity of the application site.

5. In order to assess these matters it is necessary to examine the proposal in more detail. The members' club would occupy the building and there are no extensions proposed. In sole respect of the change of use of the building, this would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. However, the associated works include a new car park and widened driveway. The Counsel's Opinion expresses the view that the widening of the driveway and create car parking would be engineering operations and highlights that these are not permitted under NPPF paragraph 146(d). However, Paragraph 146(b) does allow for engineering operations as not being inappropriate in the Green Belt, subject to the same proviso that applies to all of Paragraph 146, namely that it must also "preserve [the Green Belt's] openness and ... not conflict with the purposes of including land within it." The widened driveway is minimal in scale and this would have little impact on the openness of the Green Belt.

6. The car park is however fairly sizeable, containing 84 spaces. The previous officers' report concluded that this laying of hardstanding to form a car park would preserve the openness of the Green Belt, as it would

be at ground level, and openness is a concept relating to buildings or structures above ground level. The aspect that has not been addressed so far, and indeed one that is highlighted by the Counsel's Opinion, is the impact of parked cars on the openness of the Green Belt. Several appeal decisions have come to light since the previous report was written, in which Inspectors have considered parked cars to have an impact on openness. Case law has also clarified that openness has both a spatial and a visual dimension. Clearly the concept of "preserving" openness does not mean that any reduction of openness is objectionable; instead there is an assessment to be made in each case as regards the nature of the impact. If it was just a small number of parked cars proposed, then this could be argued to preserve openness. But, clearly, if the car park was fully occupied, 84 parked cars is a considerable number. It is therefore considered that this number of parked vehicles would have an impact on the openness of the Green Belt, and indeed would fail to preserve it. The Counsel's Opinion also states that this impact would be increased for outside events such as weddings. However, the applicant has confirmed no such events would take place and they indeed did not form part of the recent licence application, so this is not an issue to take into account.

7. The Counsel's Opinion also refers to an appeal decision where an Inspector considered traffic movements to affect openness, but only to the degree that they exacerbated the harm from parked cars. For the current application, the existing dwelling would generate around 15 vehicle movements per day, whereas the new Transport Report now supplied shows that the proposed use would generate around 330 vehicle movements per day. This would therefore exacerbate the harm arising from the impact on the openness of the Green Belt from the parked cars.

8. In addition to the above, a large car park would inevitably result in encroachment in the Green Belt, both in terms of the surface itself and the parked cars. In the previous, withdrawn, report, Officers concluded that this was an acceptable impact. However, with the more detailed highways assessment now supplied, along with other appeal decisions and Counsel's Opinion, it is clear that this degree of encroachment would conflict with one of the purposes of the Green Belt.

9. Having regard to all of the above, the car park with parked cars would inevitably have an impact on the openness of the Green Belt and would result in encroachment. The starting point to assess an application is the Development Plan, which includes the Local Plan. As the parked cars would clearly be evidence of the proposed use outside the building which would conflict with the openness of the Green Belt, the proposal is contrary to Policy GB29. In terms of other material considerations, for the same reason the proposal would fail to comply with Paragraph 146 of the NPPF. The proposal would therefore constitute inappropriate development, and substantial weight must be given to this harm to the Green Belt.

Community facility and loss of dwelling

10. Also of relevance is Local Plan Policy H9 which concerns the loss of existing dwellings and land in residential use throughout the District. The Policy states that planning permission will not be granted for any development which would result in the net loss of an existing dwelling and/or the change of use of land to a non-residential use unless one of several exceptions criteria is complied with. The relevant one of these criteria is that the proposed development would provide a community facility or service. In this respect, the proposed development concerns a change of use to a private members' club, therefore it is necessary to examine whether it would be a community facility or service. Policy H9 also requires the criteria in clause (i) of Policy CSF1 to be complied with. This report will return to this latter point later.

11. Firstly, it should be clarified that there is only one lawful dwelling on the site. Representations from neighbours highlight the sales particulars, which describe a self-contained flat within the property. However an annexe or ancillary flat for staff, carers etc does not necessarily equate to an independent dwelling, in planning terms. There is no planning history to suggest two dwellings on the site and the proposed change of use would therefore only result in the loss of one dwelling.

12. It is necessary to ascertain whether the proposed use of the site as a private members' club would constitute a community facility. Paragraph 92 of the NPPF includes local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship and other local services as community facilities. Meanwhile, Chapter 12 of the Chiltern District Local Plan states that community services and facilities are available to the public at large and encompass a wide variety of land uses. For the purposes of the Local Plan, community services and facilities include education, health, water, sewerage, electricity, gas and telephone services, and cultural, entertainment and indoor leisure activities. It goes on to say as part of Paragraph 12.7 that facilities include public halls, churches and church halls, social clubs, community and adult education centres, and libraries, spread throughout the District.

13. The Counsel's Opinion received during the course of the application, on behalf of the objectors, identifies the Winkers Nightclub appeal in Chalfont St Peter as pertinent to this proposal. The Opinion highlights the Appeal Inspector's approach to that site. It was considered that Winkers did not comply with the spirit of a local community facility as described in Policies GB23 and GB24. This was because it primarily did not serve the residents of Chalfont St Peter, with surveys showing 78% of patrons came from further afield. The Appeal Inspector also noted a nightclub use was not synonymous with the examples of community uses given in the Local Plan, but, importantly, concluded that issue was "not determinative" in relation to whether it was a community facility. In a High Court case, also relating to Winkers Nightclub, the Court determined that when considering if a use is a community use, there is a need to consider whether the benefits to the local community are sufficient for it to be classed as a community facility. The Counsel's Opinion states that because of the nature of a private members' club, it does not benefit the local community. However, this is a somewhat narrow approach and makes assumptions regarding the nature of the intended use.

14. Firstly, in relation to the comparison with Winkers Nightclub, the proposed use of Thorne Barton Hall is much more varied, including not only a bar, but meeting rooms, a restaurant, library, sports facilities, etc. Purely in terms of the uses proposed it is not as "narrow" as a nightclub, and indeed there can be no doubt that the type of uses proposed would fall within those normally regarded as community facilities. They would largely be entertainment and indoor leisure activities, which are expressly listed as community facilities in the Local Plan. It is the term "private members' club" that is potentially causing most angst among objectors. A privately owned facility itself obviously need not be excluded from being a community facility. That would clearly be nonsensical, as nearly all pubs, restaurants, gyms, etc are privately owned. What is important, and established through case law (Winkers case, above) is that, in order to be a community facility, a proposal should, (i) serve a community, and, (ii) should also provide functions and uses for that community.

15. The Counsel's Opinion and some of the objector letters place too much reliance on a circulated document which is alleged to be the admissions policy for the club. This has been confirmed by the applicant to neither be an official document, nor an intended approach for the club. So it would be unlawful to place reliance on this document. The club would clearly have a membership policy, but there is a degree of selectiveness of other types of community uses. For instance, a prestigious golf club with bar and other community uses would normally have a membership policy, but that does not take it out of the realms of being a community related use. Likewise, any privately owned community facility, such as a private medical facility, can decide who they want to admit. So that point alone has little weight in assessing whether it is a community facility. The proposed uses are clearly community related uses and provide social spaces for people to meet and undertake various leisure activities, essentially as a form of social club, of which there would be no doubt would be a community facility. Paragraph 91 of the NPPF states that planning decisions should aim to, "promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other", thus emphasising social space of any kind is a positive factor. The key question is whether it would serve an identified community, whether that is solely local or also

drawn from further afield (in much the same way as a destination restaurant serves a wider community). Policy CS29 of the Core Strategy states that the Council's strategy to ensure inclusiveness within its local communities includes the provision of community facilities in areas of the District where there is an identified need.

16. As stated above, Policy H9 requires the criteria in clause (i) of Policy CSF1 to be complied with. These state that it must be shown that the loss of the dwelling cannot be avoided because there are no other buildings in the area that could be used for the proposed community facility; and that it can be demonstrated that the facility is either not currently available in the area or demand is in excess of the existing level of supply.

17. The supporting Design & Access Statement confirms that it is budgeted that the Hall will launch with around 200 members, although the building capacity is currently estimated at around 600 people, supporting the fact that the Club would serve a sizeable number of people, albeit not all at the same time. The Design and Access Statement clarifies that, *"Thorne Barton Hall will be a small, bespoke club that provides members from all backgrounds exclusive access to their own private space and an ability to utilise the numerous services on offer therein. Members are anticipated to be drawn from the local community: Ashley Green and its surrounding towns and villages, and will be from all backgrounds. It will be a sanctuary, where social and business networking can occur in a relaxed but sophisticated setting between members & their guests. The Hall will undoubtedly accommodate some of the numerous local population who now frequently work-from-home."* The previous Officer's report suggested that the provided numbers suggest that there is a community that the facility would serve. However, given the further analysis of appeal decisions and case law that has been undertaken, it is now considered that not enough information has been given to show what community the proposal would serve and to satisfy the relevant points of Policy CSF1. Although the local community has been referred to by the applicant, it has not been explained what interest there is, whether local people will be guaranteed to be able to use the facilities etc. Accordingly, based on this assessment, it is considered that the loss of the residential dwelling has not been shown to be acceptable in this instance. Importantly, the nature of the proposed community which the facility would serve has not been clarified in enough detail, and it has also not been shown that there are no other buildings in the area that could be used for the proposed community facility, and that the facility is not available already in the local area. Objections are therefore raised regarding Policies H9 and CSF1.

Character & appearance of area, including the AONB

18. The proposed change of use of the building would largely rely on internal alterations and no extensions or changes to the facing materials are proposed as part of this application that would change the external appearance of the property. The external impact arises from the car park extension proposed and widened driveway. The site is fairly well screened and any views of the site are from some distance, given the topography and location of public footpaths. It is noted that the Chilterns Conservation Board do not object to the application. Although the site is not within the Chilterns AONB, Policy CS22 does emphasise the importance of protecting the setting of the AONB. The legal duty on local authorities set out in section 85 of the Countryside and Rights of Way Act 2000 to have regard to the purpose of conserving and enhancing the natural beauty of an AONB does not just apply within the AONB; the only consideration is whether land in the AONB is affected, not where the effect originates.

19. The Chilterns Conservation Board is concerned that the proposed change of use to a Private Members' Club will generate additional traffic through the AONB, and that the Club is likely to seek to erect further structures and facilities for members in the future, which would be visible and audible from the AONB, like marquees, sports facilities and external lighting. They ask that if approved, permitted development rights are withdrawn and a condition is applied requiring approval of any external lighting for the car park, buildings or gardens. To address these in turn, no permitted development rights apply for mixed uses, so no such

condition is necessary. Any further marquees or external structures can all be subject to restrictive conditions, requiring their prior approval. Increased traffic through the AONB could be a legitimate concern, but in this case none of the approach roads to the site lie within the AONB. In terms of the impact on the AONB landscape, the land falls away further towards the west, into Chesham Vale, and the site lies towards the top of a convex slope. Due to this position and the shape of the slope, it would not be visible in longer range views from the west, from those parts of the AONB. There are no public footpaths through the AONB from which the proposal would be prominent. There is a footpath which leads for a short distance up the southern drive to the property, before turning SW over fields. The perception of this initial stretch of footpath is already largely derived from walking up a driveway towards a large property and this would largely not change. The County Rights of Way Officer raises no objections. Subject to landscaping around the car park, it is not considered that any harmful impact on the setting of the AONB or character of the area would arise from the proposal. This is, however, a neutral point and does not outweigh or mitigate any of the harm to the Green Belt identified above.

Residential amenity

20. The application does not propose any extensions to the existing building or the insertion of new windows or openings in the north side elevation, nearest to the neighbouring properties. It is also noted that this boundary currently comprises a brick wall of 1.6 metres in part before extending to 3.7 metres to the side/rear of the property and this is flanked by a hedge which is 4 metres in height. It is proposed to retain this boundary and therefore, given that no new openings or walls are proposed, the proposal is not considered to be any more intrusive or overbearing than at present.

21. It is accepted that the proposed use would likely generate more noise, odour and light pollution than the existing use of the property as a residential dwelling. In this respect, the Applicant has submitted a Noise Assessment undertaken by a specialist acoustic consultancy and an Odour Impact Assessment, again undertaken by a specialist consultancy. The noise level assessment concludes that with appropriate mitigation and operation controls, the noise levels attributable to the operation of the hall would be acceptable to ensure any adverse noise impacts were minimised. Meanwhile, the odour impact assessment concludes that provided the kitchen extract system and duct work are installed as recommended, then the odour effect of the proposed kitchen on surrounding properties would be acceptable.

22. Both of these reports have been assessed by the Council's Environmental Health Officer who has confirmed that both the Odour Risk Assessment and Noise Assessment are acceptable and provided that the development is subject to a list of strict conditions requiring that all plant, machinery and structural modification for acoustic control be installed in accordance with the submitted LF Acoustics report and that a copy of the Noise Management Plan is approved by the Local Planning Authority prior to the occupation of the premises, then no objections are raised.

23. In relation to the concerns raised regarding an increase in light pollution, no additional windows are proposed as part of this application and a condition requiring that no external lighting is erected around the building or the site, without approval in writing from the LPA, is considered sufficient to control the use of external lighting and its potentially detrimental impact on the amenities of neighbouring properties.

24. To address concerns about noise and the potential hours of use of the club, a condition limiting the external playing of amplified or live music is considered necessary and a condition limiting the use of the gardens and outside areas of the building for functions between the hours of 0:00 and 07:00 hours would also be considered necessary to safeguard the amenities and quiet enjoyment of nearby residential properties. The Applicant would also need to apply for the relevant alcohol and entertainment licences from the District Council, which would also contain safeguards regarding neighbouring properties.

25. Finally, if planning permission was to be granted, should any future concerns regarding excessive noise or nuisance become apparent, these can and should be addressed under separate Environmental Health legislation.

Parking/highways implications

26. The application originally proposed to utilise the existing main access to the property which served both Thorne Barton Hall and the nearest neighbouring properties, however, following concerns in regards to the use of this access by neighbouring properties, the Applicant has agreed to use an existing access to the south of the site to bring this into use as the primary entrance and exit to the site. This access route would be located away from the nearest neighbouring properties and would have its own exit onto Chesham Road. The existing main access would remain as is, and would continue to serve the nearest neighbouring properties but would be separated off from the Club by a locked gate, with the intention being that this access to the Club remains solely for emergency use. In terms of the suitability of the proposed access, the County Highways Officer has assessed the access and confirmed that the required level of visibility can be achieved with clearance of vegetation and no objection is raised on their part. However, the Highway Authority acknowledges the applicant's Transport Assessment, the Motion transport report (from objectors), and the contributor letters from members of the local public which raise concerns in relation to the risk of rear end shunts in association with vehicles turning right into the access. In reviewing all of this new and updated information submitted as part of this new application, the Highway Authority now supports the inclusion of a right hand turn facility at the access point. A right hand turn lane would protect right-hand turners associated with the new development and other users of the highway. The Highway Authority is minded to recommend that a right hand turn facility should be secured by condition. This is outside the application site and would need to be a Grampian style condition and/or legal agreement as considered appropriate.

27. In terms of the parking arrangements for the proposed use, given the Club's mixed uses, a number of different parking standards are applicable. The site is not in a particularly sustainable location and bus services are sporadic. Therefore it is considered that the parking standards should either be met, or a thorough justification given of how the club would operate, to show that it would not be operating at capacity all the time. Local Plan Policy TR16 states that for the restaurant and bar elements, the standard expected would be 1 car parking space per 4 square metres of public floor space, plus facilities within the site for the loading, unloading and manoeuvring of goods. For the leisure and meeting room elements, the standard is 1 car parking space per 5 square metres of floor area. For miscellaneous uses, including sports facilities, the Local Plan states that vehicle parking standards for any use of a building or land uses not specified in the standards will be assessed by the Council when the planning application is submitted in accordance with the likely demand for car parking capacity. Therefore, in terms of the parking spaces to be provided for guests and staff, based on the standards in Policy TR16, the standard for the restaurant/bar facilities would be around 44 spaces and the standard for the leisure and meeting room elements would be 57 spaces, totalling 101 parking spaces. This figure also assumes all the facilities will be in use, to full capacity, at all times, which is highly unlikely. The Design and Access Statement clarifies that, *the different types of memberships will mean usage at notably different times: gym members generally mid-week during the day and early evening; social members at night utilising the bar and restaurant; mid-week members during working hours; family members at weekends.* Several parking spaces have been allocated close to the building to accommodate disabled parking and an area for storing bicycles and motor bikes has also been provided near the entrance drive which is of benefit to future guests/employees of the Club.

28. This application proposes to provide 84 spaces which equates to 83% of the overall standard, and only equates to a shortfall of 17 spaces. The existing area of hardstanding to the front of the building will be retained and this would provide adequate space for the loading, unloading and manoeuvring of goods and turning space for larger vehicles, in addition to some supplementary parking. It is therefore considered that the number of spaces to be provided is acceptable. It is noted that there is space within the site to

accommodate the additional spaces, however this would result in an extension of the car park to the side/rear of the property and into an attractive, open lawned area. Weighing up the option of providing 101 spaces against the detrimental impact of resulting in further encroachment into the Green Belt, it is considered that the provision of 84 spaces would be acceptable and it would be sufficient to meet the needs of the Club. No objections are therefore raised in regards to parking. This solely relates to the numbers provided and does not override or outweigh the harm arising to the Green Belt, described earlier in this report.

Waste collection

29. Thorne Barton Hall as a residential dwelling already benefits from existing waste collection routes and so no objections are raised in this respect. A condition requiring further details to be submitted regarding the location and design of any bin stores would ensure that the waste and recycling facilities are appropriately accommodated and sited.

Ecology

30. The Applicant has submitted an ecological report which has been considered by the Ecology Officer to determine the impact of the application on protected species. It is concluded that no works will be undertaken which will have any impact upon bats and no trees with potential to support roosting bats will be lost. No objection is raised, subject to the inclusion of conditions to protect species of conservation concern.

Trees and landscaping

31. The proposal would require the loss of four birches, a hornbeam and two sycamores in order to facilitate the creation of the parking area. Although the loss of these trees is regrettable, it is considered that the parking area would be located within the most appropriate part of the site and as these trees are not protected by a Tree Preservation Order, their removal is considered acceptable. The District Tree Officer has recommended that adequate protection is provided for the retained trees and that no-dig construction is used in the formation of the car park. These recommendations can be secured by way of condition.

Drainage

32. Buckinghamshire County as the Lead Local Flood Authority has assessed the proposal and has no objection to the proposed change of use, in terms of run-off, drainage and flooding.

33. Having regard to all of the above, the application is recommended for refusal.

Working with the applicant

34. In accordance with Chapter 4 of the National Planning Policy Framework, the Council works with applicants in a positive and proactive way, trying to focus on seeking solutions to any issues arising from the development proposal.

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

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

In this case, Chiltern District Council has considered the details as submitted but in light of more research being undertaken and new information being provided, it was considered to fail Green Belt policy. Given this is a fairly fundamental point, it was not considered that any changes or amendments could have been sought that would have overcome the issues identified.

Human Rights

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

RECOMMENDATION: Refuse permission

For the following reasons:-

1 Within the Green Belt, most new development is considered to be inappropriate and there is a general presumption against such development. Development which is not inappropriate is set out in Local Plan Policy GB2 and the National Planning Policy Framework. The proposal includes a large car park for 84 vehicles which would result in a considerable loss of openness within this part of the Green Belt. Furthermore, the introduction of this development would conflict with one of the purposes of the Green Belt, which is to assist in safeguarding the countryside from encroachment. As such the proposal would constitute inappropriate development which, by definition, is harmful to the Green Belt. No very special circumstances exist that are sufficient to outweigh the harm caused to the Green Belt by the reason of inappropriateness and other harm identified. As such, the proposal is contrary to Policies GB2 and GB29 of the Chiltern District Local Plan - 1997 (including alterations Adopted 29 May 2001) Consolidated September 2007 & November 2011, and Government guidance set out in the National Planning Policy Framework (2018).

2 Policy H9 of the Chiltern District Local Plan states that planning permission will not be granted for any development which would result in the net loss of an existing dwelling and/or the change of use of land to a non-residential use unless one of several exceptions criteria is complied with. The relevant one of these criteria is that the proposed development would provide a community facility or service and Policy CSF1 requires that it must be shown that the loss of the dwelling cannot be avoided because there are no other buildings in the area that could be used for the proposed community facility; and that it can be demonstrated that the facility is either not currently available in the area or demand is in excess of the existing level of supply. In this case, the proposal would result in the loss of a dwelling and it has not been shown that the proposed use would serve an identifiable community or satisfy the relevant points of Policy CSF1. As such, the development is contrary to policies H9 and CSF1 of the Chiltern District Local Plan (Adopted September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011, policy CS29 of the Core Strategy for Chiltern District (Adopted November 2011) and the National Planning Policy Framework (2019).

The End