



## Appeal Decision

Site visit made on 6 June 2019

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 13 August 2019**

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**Appeal Ref: APP/X0415/Z/19/3224699**

**Land Adjacent to Jewsons, Chesham Road, Hyde End HP16 0RD**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Stuart Wilbraham against the decision of Chiltern District Council.
  - The application Ref CH/2017/1228/AV, dated 15 February 2017, was refused by notice dated 18 January 2019.
  - The advertisement proposed is described as two non-illuminated freestanding advertisement signs.
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### Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

### Application for costs

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

### Preliminary Matters

3. The two advertisements have been erected on site and consent for their display has been sought retrospectively. I have therefore determined the appeal on that basis. I have used the description of the proposal as detailed on the Council's decision notice because this clearly and accurately describes the proposal.

### Main Issue

4. The main issue is the effect of the two advertisements on the amenity of the area.

### Reasons

5. Local residents have raised objections relating to a number of matters. However, my assessment of this appeal is confined to the advertisements applied for and, by virtue of Regulation 3(1) and in accordance with the National Planning Policy Framework paragraph 132, and the issues of amenity and public safety, taking account of cumulative impacts.

6. The two advertisements are located adjacent to the entrance to the site off Chesham Road opposite residential dwellings and next to a builder's merchant, in an otherwise rural area. The appeal site is situated within the designated Green Belt and Chilterns Area of Outstanding Natural Beauty, furthermore the area is designated as an Area of Special Control for Advertisements (ASCA).
7. At my site visit I saw that the two advertisements, while large and situated above the tall metal fence that encloses the site, are set back from the road and as such are not widely visible along Chesham Road.
8. Within the immediate setting of the vehicular access onto the site, the size of the advertisements sit within the context of the signage relating to the adjacent builder's merchant and the related business that can be seen behind the signs.
9. Thus, I find that the advertisements are not injurious to the amenity of the local area. I have taken into account policy CS20 of the Core Strategy for Chiltern District which seeks to protect amenity and so is material in this case. Given I have concluded that the proposal would not harm amenity, the proposal does not conflict with this policy.

### **Conclusion**

10. For the reasons given above I conclude that the display of the advertisements would not be detrimental to the interests of amenity.

*Mark Brooker*

INSPECTOR



## Costs Decision

Site visit made on 6 June 2019

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 13 August 2019**

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### **Costs application in relation to Appeal Ref: APP/X0148/Z/19/3224699 Land adjacent to Jewsons, Chesham Road, Hyde End HP16 0RD**

- The application is made under section 322 of the Town and Country Planning Act 1990, Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007, and section 250(5) of the Local Government Act 1972.
  - The application is made by Mr Stuart Wilbraham for a full award of costs against Chiltern District Council.
  - The appeal was against the refusal of express consent for two non-illuminated freestanding advertisement signs.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the PPG) advises that 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. Examples of unreasonable behaviour of the local planning authority include not determining similar cases in a consistent manner and where the Council has prevented development which should have been permitted.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal.
4. The main thrust of the Applicant's case is that the members of the planning committee incorrectly assessed the impact of the proposal. The Applicant considers that the council made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by an objective analysis and that this has led them to incur unnecessary delay and expense in having to appeal the refusal when planning permission should have been granted.
5. The Council submitted very limited information in support of the Committee's decision. However, in the reason for refusal, a short but clear analysis is presented. It is evident that the Council has had regard to the character of the surrounding area and the specific characteristics of the advertisements themselves.

6. In reaching my decision, it was clear that the merits of the proposal rested on a subjective opinion as to whether or not the proposed development, on balance, would harm the amenity of the area.

**Conclusion**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

*Mark Brooker*

INSPECTOR



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## Appeal Decision

Site visit made on 2 July 2019

by **D. Szymanski, BSc (Hons) MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> July 2019

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**Appeal Ref: APP/X0415/W/18/3216260**

**Land to rear of 59/61 Rickmansworth Road, Amersham, HP6 5JW**

- 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 Leywood Estates Ltd. against the decision of Chiltern District Council.
  - The application Ref: CH/2017/1637/FA dated 25 August 2017, was refused by notice dated 28 June 2018.
  - The development proposed is residential development to create two 1-bed flats and 2 duplex flats with five resident's parking bays, bin and cycle store.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposed development upon the character and appearance of the area; and,
  - The effect of the proposed development upon the living conditions of the occupants of Nos. 79 – 87 Sycamore Road, with reference to outlook and overbearing.

### Procedural Matters

3. When the planning application was first submitted the development proposed was *'new residential development to create four 1-bed flats and one 2-bed flat with six residents parking bays, bin store and cycle store'*. During the consideration of the planning application, the appellant submitted an amended scheme and associated plans, which resulted in an amendment to the description of the development. As this amended description was agreed between the parties, I have used this description in the banner heading above and considered this appeal on the basis of the revised scheme.
4. In the Council's decision notice reason No. 2 makes reference to residential units at Nos. 81 – 87 and a roof terrace at No. 79, without referencing the street name. I have taken this to be (and as later clarified by the Council's Statement of Case) with reference to Nos. 79 – 87 Sycamore Road.

## Reasons

### *Character and appearance*

5. The majority of the site is a former car parking area, closed off for use at the time of the visit. The eastern portion is a private parking area accessed by a service road serving the rear of retail and business premises on Sycamore Road, and the residential premises above. The new building would be bound by a service area, rear gardens of dwellings on Rickmansworth Road, a spur road and the Sycamore Road Car Park. The proposed building would front, but be set back from, the south side of the spur road and pedestrian access leading to the car park and a recently completed mixed use development.
6. Existing buildings along Rickmansworth Road, Sycamore Road and the new mixed-use development opposite the appeal site, all have strong linear building lines, and are generally either in a terraced arrangement, or have narrow gaps separating the properties. The established character of existing buildings is one of having a strong sense of coherency and rhythm along the frontages in this busy commercial area.
7. The location of the appeal site and the siting of the proposed apartment building means that it would appear as an isolated building. Being set back approximately six metres from the flank elevation of No. 77 Sycamore Road and the spur road, the apartment building would not form part of any existing building line. When viewed from its surroundings, it would give the impression of the building being awkwardly and ill-positioned, and poorly related to nearby development. This is contrary to the established building patterns that contribute strongly to the character and appearance of the area, particularly the buildings on Sycamore Road.
8. I note the appellant's suggestion that the Council has not fully considered the impact of the new mixed-use development upon the character of the spur road. In my view the new development does not result in the spur road becoming a main thoroughfare from the presence of the short secondary frontage of that development. It does however, reinforce the linear building lines and close and coherent relationships between buildings, that are characteristic of the area, and thereby exacerbates the isolated appearance of the proposed development.
9. I also note the appellant's view that the development could provide an enhancement to the area compared to the existing site. However, for the reasons set out above, the proposed development would also result in considerable harm such that the adverse effects are not outweighed.
10. For the reasons set out above I conclude that the proposed development would cause harm to the character and appearance of the area. It would be contrary to Policies GC1 and H3 of the Chiltern District Local Plan (1997) (including alterations adopted 29 May 2001, Consolidated September 2007 and November 2011) (the CDLP) and Policy CS20 of the Core Strategy for Chiltern District (2011) (the CSCD). These policies require (amongst other things) that new buildings must maintain and enhance local character by being well sited and laid out so as to integrate with, and complement neighbouring and adjoining buildings, and the local area. The development would also be contrary to paragraph 127 of the National Planning Policy Framework (the Framework),

which expects new development to be sympathetic to local character in the surrounding built environment.

#### *Living conditions – Outlook and Overbearing*

11. The first and second floor dwellings above Nos. 79 – 87 Sycamore Road and the proposed flank elevation would be separated by a narrow service road. The rear facades of the dwellings are not uniform and so would result in the flank elevation being between around six metres from a first-floor roof terrace, and between approximately seven to eleven metres from the facades and various windows of other dwellings. If taken only from the floor level of the existing first floor dwellings, they would still be looking up at around five to six metres of the flank wall up to the proposed ridge. It is therefore considered that by virtue of its height, siting and proximity, the development would appear dominant and overbearing when viewed from the first-floor residential premises and also result in a considerable loss of outlook.
12. The appellant has stated the opinion that the proposed situation would be tantamount to looking onto a single storey dwelling, which they feel would be neither harmful or unusual, especially with available permitted development rights. I disagree with their view as to the harm of the proposed development, and the permitted development rights referred to are not analogous to the current development.
13. For the reasons set out above, I conclude that the proposed apartment building would cause harm to the living conditions of the occupants of Nos. 79 – 87 Sycamore Road with reference to outlook and overbearing. Therefore, the proposed development would be contrary to Policy GC3 of the CDLP which requires development protects the amenities enjoyed by the occupants of existing adjoining and neighbouring properties. The development would also be contrary to paragraph 127 of the Framework which requires development should result in a high standard of amenity.

#### **Other Matters**

14. The appellant has pointed out their efforts to address previous concerns expressed by the Council, and compliance with various aspects of development plan policies, particularly in relation to design. Whilst I note the appellant's efforts in revising the scheme to that being considered in this appeal, this does not counterbalance or negate the harm that would result from the development as set out above.
15. I have noted that a number of third-party representations have been submitted to the planning application and to this appeal raising a variety of matters. Whilst I have given consideration to various matters raised, such as the living conditions of residents of Rickmansworth Road, parking provision, and highway safety, due to the clear harm found in respect of the main issues above, I have not considered these matters further.

#### **Planning Balance**

16. The proposed development would result in the provision of four dwellings in what can be considered a sustainable location and therefore would have some environmental benefits. There would be a small temporary economic benefit from construction and once built a small sustained benefit to the local economy. There would be some benefits from supporting strong, vibrant and

healthy communities through supplying a small number of dwellings. However, in this instance the adverse impacts to the character and appearance of the area, and to the living conditions of neighbouring dwellings, would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework as a whole.

### **Conclusions**

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Dan Szymanski*

INSPECTOR





## Appeal Decision

Site visit made on 21 May 2019

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

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

**Decision date: 13 August 2019**

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**Appeal Ref: APP/X0415/W/19/3222534**

**Oaklands Farm, Beamond End Lane, Beamond End HP7 0QT**

- 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 Channer against the decision of Chiltern District Council.
  - The application Ref CH/2017/1650/FA, dated 29 August 2017, was refused by notice dated 16 January 2019.
  - The development is a log cabin for agricultural use - farm office and restroom.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The log cabin in question is already in existence, having been installed for residential use by an agricultural worker following planning permission, reference CH/2011/1194/FA (the original permission). This was however a conditional temporary permission, with removal of the log cabin required by 30 June 2012. This condition was breached, and the Council subsequently initiated enforcement action. Other schemes have since been advanced in relation to the log cabin, including one dismissed at appeal in 2016. The use has itself already commenced.
3. The log cabin is described as a 'mobile home' within the conditions attached to the original permission. A mobile home falls within the definition of a 'caravan' set out in the Caravan Sites and Control of Development Act 1960 (as amended). However, as I have no information regarding its current degree of affixation to the ground, and given that both parties have considered the log cabin as though a building, I have also considered it as such for the purposes of this appeal.
4. I have removed 'retention of' from the description of development in the banner heading above, as this does not constitute an act of development. I have therefore considered the appeal on the basis that a permanent grant of planning permission is being retrospectively sought for the existing log cabin, including a change in its use from a residential to an agricultural use. I have thus made my decision on the basis of the log cabin as it exists. This also appears to have been the basis upon which the Council considered the planning application.

## **Main Issues**

5. The main issues are:

- whether the development is inappropriate development in the Green Belt; and
- if the development is inappropriate, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

## **Reasons**

*Whether the development is inappropriate*

6. The site lies within the Metropolitan Green Belt. The development has entailed use of the existing log cabin as office and mess space, with an element of storage, without any obvious required alteration to the domestic layout, services or fixtures it contains.
7. The appellant has principally promoted the scheme in relation to the exception set out in paragraph 145(a) of the National Planning Policy Framework (the Framework), which is applicable to 'buildings for agriculture'. Paragraph 145 however relates to the construction of new buildings, whereas the log cabin is already in existence, and its existence indeed long predates its current use. As such the exception set out in paragraph 145(a) of the Framework does not apply.
8. The appellant has also presented the scheme as a 'reuse' of an existing building. Though not specifically referenced within the submissions, this is an exception set out in paragraph 146(d) of the Framework, applicable to buildings of permanent and substantial construction, provided that the development in question preserves the openness of the Green Belt, and does not conflict with the purposes of including land within it.
9. Notwithstanding the fact that the exception set out in paragraph 146(d) more logically relates to disused buildings than it does to changes of use, given that the log cabin is substantially built from timber, and was originally provided to serve a temporary use, its construction appears to be neither permanent nor substantial.
10. With regard to openness, the log cabin consists of solid built fabric, which, as a matter of fact, erodes the openness of the Green Belt. Despite having a limited adverse visual effect given enclosure by hedging, loss of openness is contrary to the fundamental aim of Green Belt designation set out in Paragraph 133 of the Framework. Consequently, the development does not preserve the openness of the Green Belt, and conflicts with the purpose of including land within it. As such the exception set out in paragraph 146(d) is not applicable.
11. I conclude therefore that the appeal scheme represents inappropriate development, which is by definition harmful to the Green Belt. The proposal, as such, conflicts with the Framework, saved Policy GB2 of the Chiltern District Local Plan Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011 (the Local Plan) which seeks to prevent inappropriate development in the Green Belt. Saved

Policy GB27 of the Local Plan was also cited by the Council. However, given that the log cabin is not a new agricultural building, and the development would not involve the extension or alteration of an existing agricultural building, saved Policy GB27 is not applicable.

*Other considerations*

12. The appellant indicates that if the appeal was allowed 2 portacabins which previously provided some of the functions now supported by the cabin, would be removed. This could be secured by a suitably worded condition. Though the portacabins are more visible features within the farm site than the cabin, they are however considerably smaller in combined size. As such the loss of openness resulting from presence of the log cabin would not be balanced by the removal of the cabins.
13. The appellant states that an increase in existing office space is required and sets out the statutory requirement to provide welfare facilities for staff. The log cabin clearly provides improved facilities relative to the 2 portacabins. Need is however disputed between the parties, and in this regard the log cabin clearly does not represent a solution specifically tailored to the appellant's stated needs given that it was originally provided to serve a residential use. I therefore attach limited weight to these considerations.
14. The appellant indicates that health and safety will be improved as a result of the relocation of staff and office facilities out of the farm yard. However, access to the log cabin nonetheless remains through the yard. As such the benefit is unclear. I therefore attach limited weight to this consideration.
15. The appellant has indicated that a similar building could be erected as permitted development. However, whilst I have been provided with limited information, I note that the appellant also indicates this would be subject to prior approval. I have therefore considered the appeal scheme on its own merits.
16. The appellant has drawn attention to 2 appeal decisions involving farm offices. However, based on these decisions, neither relates to sites within the Green Belt. As such the circumstances differ. The fact that appeals involving farm offices have been allowed elsewhere on sites outside the Green Belt does not therefore lend any weight in favour of the current appeal scheme.
17. The site is located within the Chilterns Area of Outstanding Natural Beauty (the AONB). I have therefore had regard to the statutory purposes of the AONB's designation, most particularly to conserve and enhance the natural beauty of the area. In that regard paragraph 172 of the Framework, states that great weight should be given to conserving and enhancing landscape and scenic beauty within ANOBs. On account of the limited visibility of the log cabin outside the site however, I am satisfied that it causes no harm to the AONB.

**Planning Balance and Conclusion**

18. The development is inappropriate within the Green Belt. Paragraph 144 of the Framework establishes that substantial weight should be given to any harm to the Green Belt.
19. The other considerations referred to by the appellant are insufficient to outweigh the harm to the Green Belt. Harm caused by the development is not

therefore clearly outweighed by other considerations, meaning that the very special circumstances necessary to justify the development do not exist. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Benjamin Webb*

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: 26<sup>th</sup> July 2019**

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### **Appeal Ref: APP/B0230/W/18/3217008**

### **Old Beams, Three Households, Chalfont St Giles, HP8 4LJ**

- 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 Spencer against the decision of Chiltern District Council.
  - The application Ref CH/2017/2320/FA, dated 20 December 2017 was refused by notice dated 25 May 2018.
  - The development proposed is the demolition of existing single storey garage and provision of a new single storey dwelling with basement accommodation, landscaping and associated works.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues in this appeal are:
  - The effect of the proposed development on the character and appearance of the area and the effect on the setting of the adjacent listed buildings;
  - The effect of the proposed development on the living conditions of the occupiers of the neighbouring residential property known as Ferndown, with particular regard to outlook; and
  - Whether the proposed development would provide suitable living conditions for the future occupiers of the new dwelling and the occupiers of the existing dwelling at Old Beams, with particular regard to the levels of proposed private garden space.

### **Reasons**

#### *Character and appearance and the setting of the listed buildings*

3. The appeal site is located in an area which is semi-rural in character and includes two existing Grade II listed residential properties which are set in their own landscaped grounds.
4. The scheme would introduce a new dwelling into the rear part of the garden space beyond the rear elevation of listed Old Beams and also the adjacent property, Ferndown. This would be very close to the listed property, in-filling the existing landscaped buffer between these neighbouring dwellings, leaving

minimal space between the existing and proposed houses. Whilst the proposed dwelling would be set back within the plot and would be lower in height than adjacent properties, it would be wider and therefore visually dominant. I note the appellant's comments that, as the proposed dwelling would be set back, the space between Old Beams and Ferndown would be retained and discernible from the public realm. I also acknowledge this grouping of buildings could represent a rural courtyard arrangement. However, as described, the proposal would erode the green openness and space between the buildings, which are integral to the character of the site. Overall, the proposal would have a cramped appearance which would be detrimental to the visual appearance and character of both the appeal site and the area. This would also fail to preserve the setting of the listed building.

5. The proposal would erode the green openness of the existing site. A good proportion of the landscaped garden would be lost to the proposed dwelling. Additionally, the proposed building would obscure current views from within the appeal site and the public realm to the front of the site into the countryside to the rear. The proposed car parking spaces and vehicle manoeuvring area to the front of the properties would also result in the removal of areas of landscaping and would be a visual intrusion to the rural open setting of the listed building. Cumulatively, this would unacceptably harm the setting of the listed building and the semi-rural green character of the appeal site.
6. The proposed property would be set back behind the general building line of properties in this eastern part of Three Households. Whilst it is acknowledged that the building line is more varied to the west, the appeal site relates more to the properties to the east. As a consequence, the proposal would be at odds with the existing development pattern in the vicinity and would therefore exacerbate the detrimental impact the proposal would have upon the character of the area.
7. The appellant advises that the views into the green belt were recently formed when a line of trees was felled and I accept that this tree line could be replanted. However, given that the appellant considered it necessary to fell the trees, there is limited probability of them being replanted. In any event, whilst new trees could eventually obscure direct views into the Green Belt, they would represent a landscape feature which would compliment the semi-rural character of the area. Therefore, I attach limited weight to these matters in my consideration of the proposed scheme.
8. The appellant highlights that the dwelling would be set well back from the front boundary of the property and that an existing boundary fence and hedge boundary treatment would screen views into the site from the highway. He also notes the dwelling has been designed to reduce any visual impact in the street scene by including the lowest parts of the proposed dwelling at the front of the property. However, these features would offer limited mitigation and inevitably the expanse of built structure and cramped nature of the development would be perceived when viewed from the highway. Therefore, these factors do not alter my concerns regarding the overall visual impact of the proposal.
9. For the above reasons, I conclude that the development would fail to preserve the character and appearance of the green open setting of the listed buildings. This harm would be 'less than substantial' in the context of paragraphs 133 -

134 of the National Planning Policy Framework ('the Framework'). However, the limited benefits associated with the provision of a new dwelling do not outweigh the harm in this case.

10. The development would therefore be contrary to Saved Local Plan Policies LB1, LB2 GC1 and H3, Core Strategy Policy CS20, paragraphs 50, 134, 193 and 196 of the NPPF and the 1990 Act and guidance in the Framework relating to designated heritage assets.

*Living Conditions of neighbouring occupiers*

11. The proposed dwelling would be located adjacent to the boundary with the neighbouring property. The proposed dwelling would extend a significant distance beyond the rear elevation of the neighbours' property. Whilst the height of the property is limited to single storey height in this location, having regard to its scale, proximity to the boundary and relationship with the property, it would create a sense of enclosure and have an overbearing impact upon the outlook of the neighbouring property. Consequently, the proposed development would cause harm to the living conditions of the neighbouring property and would be contrary to Local Plan Saved Policy GC3 which seeks to protect the living conditions of existing residents.

*Living conditions of the future occupiers and the occupiers of Old Beams*

12. A small courtyard within the central area of the proposed U shaped dwelling would provide the sole private garden space for the proposed dwelling. The level of space proposed is inadequate for a property of this size, particularly given its limited value as it is enclosed on three sides and is therefore unlikely to experience significant levels of sunlight. The appellant considers an internal area of the proposed dwelling with large windows would provide 'a winter garden because it is south facing onto the open countryside'. Whilst this might form an attractive design feature, it cannot be considered to be private garden space and therefore I attach limited weight to it in my considerations. The proposal is therefore contrary to Local Plan Saved Policies H12 which requires dwellings to have an appropriate level of private garden space and GC3 which seeks to protect the living conditions of future residents.
13. The proposed garden for the existing dwelling, Old Beams, is smaller than would normally be expected for a property of this scale, particularly having regard to the size of other rear gardens in the area. Saved Policy H12 requires rear gardens to be a minimum of 15 metres deep, except in a number of defined circumstances, including where the rear boundary backs onto countryside. Given that this area looks out onto countryside it would not feel cramped and it is therefore considered to be an acceptable arrangement.
14. Whilst I have found the level of private garden space which would be provided for Old Beams to be acceptable this does not alter the harm to the living conditions which I have found in respect of the inadequate level of private garden which would be provided for the proposed dwelling. Consequently, taken as a whole, the proposal would conflict with the requirements of Saved Policies H12 and GC3.

**Other Matters**

15. Whilst it is recognised that the proposed dwelling would assist with the local housing supply, the provision of one dwelling would not make a significant

contribution to this target. Therefore, this matter does not outweigh my concerns regarding the adverse impact of the proposal in considering this appeal.

16. The proposed sustainable design and construction of the dwelling is noted but I afford this little weight in the face of my overall concerns regarding the proposal.

**Conclusion**

17. For the reasons given, I conclude that the appeal should be dismissed.

*Rebecca McAndrew*

INSPECTOR





## Appeal Decision

Site visit made on 4 June 2019

**by I Bowen BA(Hons) BTP(Dist) MRTPI**

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

**Decision date: 06 August 2019**

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**Appeal Ref: APP/X0415/W/19/3220949**

**Rear of 14-16 Kings Lane, South Heath HP16 0QY**

- 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 Mr Dominic Killenger against Chiltern District Council.
  - The application Ref PL/18/2197/FA, is dated 8 June 2018.
  - The development proposed is redevelopment of land to rear of 14-16 Kings Lane, construction of three dwellings with associated access, parking & landscaping.
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### Decision

1. The appeal is dismissed.

### Application for costs

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

### Preliminary Matters

3. The Council failed to make a decision on the planning application within the requisite period for determination and did not submit a statement of case in respect of the appeal.
4. However, the Council's response to the appellant's application for a cost award confirms that its concerns relate to the effects on the living conditions of neighbouring occupiers with respect to overlooking and loss of privacy. In addition, the Highway Authority (HA) submitted a statement expanding on its objections, with which the Council concurs.
5. My attention has also been drawn to reasons for refusal which were issued in relation to an apparently similar scheme on the site<sup>1</sup> which additionally raised concerns in relation to ecology. However, the County Ecologist has indicated that such matters could, in this case, be satisfactorily addressed through a suitable planning condition. I see no reason to disagree.
6. I have had regard to the above matters, together with all representations made by interested parties, in framing the main issues in this case. These are set out below.

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<sup>1</sup> CH/2017/1505/FA

## **Main Issues**

The main issues are:

- the effect of the proposal on the living condition of occupiers of 28 and 29 Sibleys Rise with particular regard to garden privacy; and
- whether the proposal would provide suitable and safe access for vehicles and pedestrians.

## **Reasons**

### *Living Conditions*

7. The proposed development comprises three two-storey dwellings within the large rear gardens of 14 and 16 Kings Lane. Two of the houses would be semi-detached with the third detached. They would be located broadly on the site of an existing large, detached outbuilding set in a sizeable area of hardstanding.
8. The dwellings would be orientated at right angles across the existing plots, with their main elevations aligned on a north west/south east axis. The north west elevations would be sited fairly close to the boundary with the rear gardens of 28 and 29 Sibley Rise which are set at a somewhat lower level beyond a brick wall.
9. The submitted plans indicate there would be rear-facing bedroom windows at first floor in each of the three dwellings and occupiers of these rooms would have uninterrupted view across these private spaces. Consequently, there would be a harmful loss of privacy to the garden areas of Nos 28 and 29. The appellant contends that the harm could be mitigated through the imposition of a planning condition requiring the first floor rear windows to be fitted with obscured glazing up to a height of 1.7m.
10. Whilst this would ensure no loss of privacy would arise, the proposed windows would be the sole source of outlook for occupiers of those rooms. The imposition of such a condition would therefore give rise to an oppressive environment for future occupiers of the dwellings and would not provide suitable living conditions for bedrooms.
11. Accordingly, I conclude on this main issue that the proposed development would give rise to an unacceptable loss of garden privacy for occupiers of No 28 and 29. Alternatively, the scheme, if conditioned as described above, would not provide satisfactory living conditions for occupiers of the proposed north-west facing bedrooms at first floor. This would conflict with Policy GC3 of the Saved Chiltern District Local Plan (1997, including alterations adopted 29 May 2001, consolidated September 2007 & November 2011) (the CLP). That Policy requires good standards of amenity for future occupiers and to protect the amenities of those of existing adjoining and neighbouring properties. For the same reasons, the proposal would also not accord with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for existing and future users of development.

### *Highway access*

12. The appeal site would be accessed off Sibleys Rise, a cul-de-sac which loops around to terminate at a block of five garages. The street is flanked for the majority of its length on both sides by footpaths and incorporates a turning

- circle and occasional side roads providing opportunities for cars to pass and/or turn.
13. Whilst there is some dispute over the width of the highway, it appeared to me that sufficient width is available to allow two cars to pass along the majority of its length. However, it is narrow with frequent on-street parking and a sharp bend in the road on approaching the appeal site, which provide constraints on free-flowing traffic.
  14. The main parties concur that the development would be likely to generate between 12 – 18 additional vehicular trips per day. Whilst this would add to inconvenience experienced by existing road users on the main section of Sibleys Rise, I do not regard this level of increase in traffic volumes as being so harmful to the free operation of the highway network as to require permission to be withheld. Furthermore, I have seen no substantive evidence that the additional traffic flows would give rise to an increased risk to the safety of pedestrians, cyclists or other road users.
  15. However, in the vicinity of the proposed access to the dwellings and associated car parking area, near 22A Sibleys Rise, the street has only one footway located on its north western edge upon which, according to the HA's evidence, informal car parking takes place. Furthermore, the pavement terminates at this point and pedestrian access to the dwellings would be via a shared surface curving around towards the proposed parking area.
  16. Again, whilst there is disagreement over the existing dimensions, the main parties concur that the width of the highway at this point falls below the HA's minimum requirement of 4.8m, which would allow vehicles and pedestrians to safely co-exist.
  17. In this regard, the appellant submits that the existing garage block would be demolished and replaced thus enabling the required width to be achieved. However, the garages fall outside of the appeal site and no clear mechanism has been submitted which would enable me to be confident that such a measure would be undertaken in the event of planning permission being granted.
  18. Whilst the distance between the existing footpath outside No 22A and the appeal properties is not particularly extensive, it would nonetheless be the sole means of accessing the dwellings on foot. Given the limited width of the road at this point, such an arrangement would not, in my judgement, be conducive to safe and comfortable pedestrian access.
  19. As regards access for refuse vehicles, I accept that smaller units can reasonably be expected to be deployed by the waste collection authority where necessary. Nevertheless, the submitted 'swept path' diagrams<sup>2</sup> indicate that the retention of the garage block would mean space, even for smaller vehicles, would be somewhat constrained and require multiple manoeuvres in order to turn. Moreover, this assumes that the area remains free of other vehicles being parked immediately outside the garages. I am not aware of any restriction currently preventing such parking, or any firm proposals to introduce any such restrictions. Consequently, I attach little weight to the claimed benefits of the scheme allowing such vehicles, together with other large vehicles such as fire

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<sup>2</sup> Set out in the Access Statement prepared by Lanmor Consulting, September 2018

appliances, to arrive and depart in forward gear in contrast to the pre-existing situation.

20. In conclusion on this main issue, therefore, whilst the increased level of traffic associated with the development would not have an unacceptable effect on the safe and free operation of the estate road, it would not provide safe and convenient pedestrian access. As such it would conflict with CLP Policies TR2 and TR3 and Core Strategy for Chiltern District (November 2011) Policies CS4, CS25 and CS26.
21. Together, those policies require provision of safe access and standards of road safety for all users including the provision of safe, convenient and attractive access on foot and making suitable connections with existing footways. For the same reasons, the scheme would not accord with the policies of the Framework which seek to ensure that safe and suitable access can be achieved for all users, giving priority first to pedestrians. The Framework also states that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians and vehicles.

### **Other Matters**

22. The site lies in the designated Green Belt to which the Framework makes clear the Government attached great importance. Accordingly, whilst the Council has not raised any objections in relation to this matter, I requested copies of relevant Development Plan Policies during the course of the appeal.
23. Of particular relevance are Policies GB5 and GB23 which, together, permit infilling developments within settlements in the Green Belt provided the development consists of a small parcel of land in established use which is totally or substantially enclosed by existing buildings and not just their curtilages.
24. The policies also require the design of the proposed development to be compatible with the existing character of the settlement around the development and where appropriate, of a type and size to suit local housing needs.
25. Whilst those Policies have been in operation for a considerable period of time and were adopted in a different planning policy context, they are nevertheless broadly consistent with Paragraph 145 e) of the Framework which establishes that limited infilling in villages is, by definition, not inappropriate development in the Green Belt.
26. I have seen no evidence to suggest that the type of housing proposed would not meet local needs. Furthermore, given the site is not prominent in townscape, would replace an existing substantial outbuilding and is located in fairly close proximity to existing dwellings where there is variation in the pattern of development, I do not find that the proposal would be harmful to the character and appearance of the area.
27. Accordingly, I find the proposal would not be inappropriate development in the Green Belt and would accord with local and national planning policies in this regard.

28. Turning to other elements of the scheme, the proposed development would provide additional housing within a settlement where there is accessibility to day-to-day services and facilities. The scheme would also support employment during the construction phase and would provide some additional ongoing support for services and local businesses. These factors weigh in favour of the proposal. However, given the small scale of the development, they are not sufficient to outweigh the harm I have found.
29. I have had regard to a number of other issues raised by interested parties. However, as I am dismissing the appeal in relation to the main issues above, they are not determinative to my decision.

**Conclusion**

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

*Ian Bowen*

INSPECTOR



## Costs Decision

Site visit made on 4 June 2019

**by I Bowen BA(Hons) BTP(Dist) MRTPI**

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

**Decision date: 06 August 2019**

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### **Costs application in relation to Appeal Ref: APP/X0415/W/19/3220949 Rear of 14-16 Kings Lane, South Heath HP16 0QY**

- 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 Dominic Killenger for a full award of costs against Chiltern District Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for redevelopment of land to rear of 14-16 Kings Lane, construction of three dwellings with associated access, parking & landscaping.
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### **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 an appeal, costs may only be awarded against a party who has behaved unreasonably and directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application essentially relies on two grounds; firstly that the Council failed to determine the planning application in a timely manner and secondly that there was a considerable delay in the Highway Authority's (HA) comments being published on the Council's website and shared with the applicant.
4. This resulted in a technical Access Statement having been prepared and submitted without the appellant having had prior knowledge of the HA's comments. It is also contended that despite the Access Report having apparently been submitted to the Council prior to the receipt of the HA's comments in September 2018, the HA did not take that document into account.
5. The applicant has not indicated whether the application is for a full, or partial, award of costs. However, as it is being contended that the appeal was unnecessary, I have treated it as an application for a full award.
6. The Council does not contest that, apparently as a result of staff turnover and resource pressures, delays occurred in the processing of the planning application. Whilst an Extension of Time was agreed, this was nonetheless breached without explanation and, according to the Council, a few weeks elapsed before the appeal was submitted.

7. Furthermore, the Council does not dispute that a delay occurred in making the Highway Authority comments available to the appellant.
8. Having regard to the advice of the PPG, the Council's failure to determine the application in a timely manner and to draw attention to the HA's response amounts to unreasonable behaviour.
9. It is not clear from the submitted evidence the extent to which the HA took into account the appellant's Access Statement or even whether it had been provided with a copy by the Council at that stage.
10. Nevertheless, it is clear that, had the Council made a decision on the application, it would have refused permission. Furthermore, whilst I fully appreciate the applicant's frustration over the Council's unreasonable behaviour, I concluded in my decision letter that the appeal should fail in part on highway grounds. As such, even though the Council did not deal with the application in a timely manner, the appeal was in any event necessary.
11. Whilst the applicant is concerned that the Council's failure to publish the HA's comments left little opportunity to address the highway concerns, I note the appeal appears to have been lodged after the highway comments became known. There was, therefore, opportunity for the applicant to respond to the HA's comments prior to the making of the appeal if necessary. In this regard, I note that no further technical highway evidence was in any event prepared by the applicant at the appeal stage.
12. As a result, I find that whilst the Council acted unreasonably, this did not result in the applicant incurring any wasted or unnecessary expense.

### **Conclusion**

13. For the above reasons, I conclude that whilst unreasonable behaviour on the part of the Council has been demonstrated, this did not result in unnecessary expense during the appeal process. Accordingly, an award of costs is not justified.

*Ian Bowen*

INSPECTOR



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## Appeal Decision

Site visit made on 4 June 2019

by **I Bowen BA(Hons) BTP(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

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**Appeal Ref: APP/X0415/W/19/3220978**

**Plots 15 and 16, Woodchester, Woodchester Park, Knotty Green HP9 2TU**

- 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 Zafiro Homes against the decision of Chiltern District Council.
  - The application Ref PL/18/2774/FA, dated 20 July 2018, was refused by notice dated 8 October 2018.
  - The development proposed is erection of three detached dwellings with double garages (in lieu of two approved dwellings).
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. During the course of the appeal, the appellant submitted an executed Unilateral Undertaking (UU) which would secure developer contributions towards affordable housing. I consider this matter later in my decision.

### Main Issues

3. The main issues are the effect of the proposal on:
  - the living conditions of neighbouring occupiers with particular regard to privacy and outlook; and
  - the character and appearance of the area, including whether adequate private rear amenity space would be provided.

### Reasons

#### *Living conditions*

4. The appeal site is vacant parcel of land which had previously formed part of the curtilage of Woodchester, a bungalow, which sat in extensive grounds prior to its demolition. The site benefits from an unimplemented extant planning permission for two dwellings<sup>1</sup> (the original permission) which formed part of wider development taking place in the area. More recently, during the course of the appeal, planning permission has been granted for three dwellings<sup>2</sup> on the appeal site (the recent permission).

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<sup>1</sup> CH/2018/0122/FA

<sup>2</sup> PL/18/4331/FA



5. The proposed development lies immediately to the south west of two substantial dwellings known as Hawthorn House and Tinkersfield (the neighbouring properties). Those houses are set back some way from the appeal site beyond their rear garden areas.
6. The topography of the area is such that the appeal site is elevated somewhat above the ground levels of the neighbouring properties. Existing planting filters views to a degree between those properties and the appeal site although the evidence indicates that tree removal has recently taken place, allowing an appreciable degree of inter-visibility between the properties. At the request of the occupiers, I viewed the appeal site from the house and gardens of the neighbouring properties on my site visit.
7. The proposed dwellings would be two storeys and have comparable ridge heights to those consented under the original permission. The rear elevations of the appeal dwellings would face directly towards the neighbouring properties across their rear gardens. In contrast to both the original and recent permissions, however, the appeal scheme would incorporate roof dormer windows to the rear elevations, effectively creating an additional half-storey.
8. According to the submitted evidence, the separation distance between the nearest proposed windows (in Plot 2) and those of Hawthorn House would be around 38m. Whilst this represents a slightly reduced distance from both the original and recent extant schemes, I consider this degree of separation would be sufficient to safeguard the privacy of occupiers within habitable rooms of the neighbouring dwellings, even taking into account the difference in ground levels.
9. However, I saw that whilst relatively large, the rear gardens of Hawthorn House and Tinkersfield lead immediately off the back of the host properties such that full extent of the gardens are in active use as functional private outdoor amenity space.
10. The introduction of roof dormer windows on the appeal dwellings would enable elevated and expansive views across these private garden spaces. This effect would be compounded by the difference in relative levels of the properties. In my judgement, this would result in an unacceptable degree of overlooking of those rear gardens and give rise to a harmful loss of privacy for the properties' occupiers.
11. I appreciate that the appellant has already undertaken significant replacement landscaping along the rear boundary of the appeal site, in line with the requirement of the recent permission. This, in due course, can be expected to combine with existing planting to provide a high degree of screening between the properties. Nevertheless, it is reasonable to expect such planting to take a considerable period of time to mature to the extent that it would provide effective screening of views from roof dormer level. Moreover, I am mindful that soft landscaping cannot, in any event, be guaranteed to remain in good health and effective in perpetuity and would not, in this case, therefore provide an effective safeguard against loss of garden privacy.
12. In terms of outlook, I am satisfied that the distances involved would not give rise to any unacceptable sense of enclosure from either the neighbouring properties' gardens or houses and so no harm would arise in that respect.

13. In conclusion on this main issue therefore, whilst no unacceptable loss of outlook would occur from the neighbouring properties, or loss of privacy from the dwellings, the proposed development would give rise to a harmful loss of garden privacy for occupiers of those dwellings. As such, the scheme would conflict with the Saved Chiltern District Local Plan (September 1997 including alterations adopted May 2001 and consolidated September 2007 & November 2011) (the CLP) Policy GC3. That Policy seeks to achieve good standards of amenity for existing adjoining and neighbouring properties in considering proposals for development.

*Character and appearance*

14. Woodchester Park is a sizeable development of large, detached dwellings generally occupying spacious plots in a landscaped environment. Whilst in this respect there is a high degree of consistency, there is also considerable variation in the size and type of buildings and the orientation of plots.
15. The appeal scheme proposes the erection of three detached dwellings which would cover a similar width of development as that already consented under the original and recent permissions. The dwellings would all directly address the road frontage and according to the appellant's evidence, would be separated from each other by gaps of 4.6m. The dwellings and their associated garage/carport blocks would be set back some distance from the highway behind existing landscaping.
16. In terms of its effect upon the street scene, the scheme would give rise to a more dense form of development compared to that of the original permission. However, it would nonetheless be broadly comparable to, and appear as a continuation of, Plots 14A and 14B immediately to the north west which I saw were under construction at the time of my site visit. Furthermore, the scheme would, in proposing three smaller dwellings, introduce a lesser degree of continuous built-up frontage.
17. Moreover, whilst the dwellings would incorporate living accommodation at roof level, this would not be readily perceptible in public views from the highway and the dwellings would not appear disproportionately tall.
18. As such, from this perspective, I consider the proposal would not appear as a cramped form of development in the street scene and would be consistent with the character of the immediately surrounding area.
19. Turning to adequacy of proposed garden space, CLP Policy H12 sets out, amongst other requirements, a general expectation of minimum rear garden depths of about 15m throughout the District. The purpose of the Policy is stated as being to ensure environmental quality and also to provide reasonable amenity space for future occupiers. For convenience, I have considered both these aspects in this main issue.
20. The submitted plans show that all three of the proposed gardens would incorporate a depth of at least 12m for a substantial proportion of their width, albeit that those distances would, in places, be considerably less taking into account the proposed projecting rear elevations of the dwellings.
21. Accordingly, the proposal would not, on the face of it, comply with the stated numerical requirement of CLP Policy H12. Moreover, the Council submits that

average garden lengths in the area exceed 15m and, in accordance with criterion (i)(a) of CLP Policy H12, that the level of provision required under the appeal proposal should be similarly larger.

22. However, I am mindful that a great deal of development has taken place recently in the area and I have been provided with no substantive evidence to indicate that average gardens depths in the area are "significantly" in excess of 15m as required by the Policy. On the contrary, the proposed garden areas are marginally smaller than, but broadly comparable with those of adjoining Plots 14A and 14B, with which the dwellings would be closely associated.
23. In terms of the effect of the garden sizes on the character and appearance of the area, the configuration of the plots are such that no significant views of the rear of the proposed dwellings would be gained from public vantage points. The depth of the proposed rear gardens would not therefore be determinative of, or detrimental to, the character and appearance of the area.
24. Furthermore, whilst the proposed dwellings would be relatively large, I have no substantive evidence to show that the proposed garden spaces would not be provide a comfortable level of outdoor amenity for normal domestic needs.
25. In any event, whilst not achieving a minimum depth of 15m, the proposed gardens are broad, with the smallest plot totalling 178 sq.m. according to the appellants' figures.
26. In this context, I am conscious that CLP Policy H12 refers to "about" 15m as the minimum standard to be achieved. Consequently, having regard to the consistency of the proposed gardens with those on the adjoining development and the generous widths of the garden areas, I find no conflict with Policy H12 in this case.
27. I acknowledge the appellants' submission that the Policy, having been adopted in 1997 and having antecedents some time before that, should be regarded as out of date. However, the National Planning Policy Framework (the Framework) indicates that existing policies should not be considered out-of-date simply because they were adopted prior to its publication. In this regard, it states that due weight should be given to those policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
28. Whilst the Framework establishes that development should make efficient use of land taking into account the desirability of maintaining and area's prevailing character and setting (including residential gardens), that is not inconsistent with the overall intentions of CLP Policy H12. As noted above, that Policy does not require the rigid application of a blanket numerical standard in all cases. Accordingly, I have therefore had regard to the Policy in determining the appeal.
29. In conclusion on this main issue therefore, I find that the proposed development would not lead to a cramped form of development and would not fail to make adequate provision for private outdoor amenity space. As such it would accord with CLP Policies GC1, H3, GC3 and H12 and adopted Chiltern District Core Strategy (November 2011) (the CCS) Policy CS20. Together, these Policies require high standard development to be compatible with the character of the built-up area by respecting the general density, scale, siting,

height and character of buildings in the locality and the presence of landscaping. They also require the provision of adequate garden areas including good standards of amenity for future occupiers of the development.

### **Other Matters**

30. The Council's second reason for refusal related to the absence of developer contributions towards affordable housing. As noted above, however, a UU was submitted during the appeal which would secure a payment of £75,000 for off-site affordable housing measures in line with CCS Policy CS8. The Council has not indicated whether this would remove its concerns in relation to this matter.
31. Nevertheless, as there would be planning benefits in terms of affordable housing, this matter weighs in favour of the proposal. Furthermore, there is no dispute between the main parties that the appeal site is, in principle, a suitable location for housing development and the scheme would contribute to general housing land supply. However, these benefits are limited by the small scale of the scheme which amounts to a single net additional dwelling compared to the original permission. As such, the benefits are not sufficient to outweigh the harm I have found in the overall planning balance.

### **Conclusion**

32. Whilst the proposed development would not be unacceptably harmful to the character and appearance of the area, it would give rise to unacceptable loss of garden privacy for occupiers of neighbouring properties. For the reasons given, the appeal should be dismissed.

*Ian Bowen*

INSPECTOR



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## Appeal Decision

Site visit made on 1 July 2019

**by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

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

**Decision date: 05 August 2019**

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**Appeal Ref: APP/X0415/W/19/3226293**

**Land Adjacent to Woodcote, Burtons Lane, Little Chalfont HP8 4BA**

- 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 Salter against the decision of Chiltern District Council.
  - The application Ref PL/18/2956/FA, dated 3 August 2018, was refused by notice dated 28 January 2019.
  - The development proposed is the erection of new residential dwellings, access, landscaping and associated works.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issues are:
  - a) Whether the proposal would be inappropriate development in the Green Belt.
  - b) The effect of the proposal on the openness of the Green Belt
  - c) The effect of the proposal on the character and appearance of the Chiltern Area of Outstanding Natural Beauty (the AONB).
  - d) If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### Reasons

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

3. Policies CS1, CS4 and CS20 of the Core Strategy for Chiltern District 2011 (the CS) and saved Policies GC1, GB2 and GB17 of the Chiltern District Local Plan 2019 (including alterations 1 May 2001) Consolidated September 2007 and November 2011 (the LP), state that the council will seek sustainable development that protects the Greenbelt and that planning applications will be considered in line with national policy. Section 13 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in

- very special circumstances. It states that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions.
4. The proposed dwelling would have 1 bedroom on an upper mezzanine, with 2 bedrooms on the larger ground floor, along with the proposed office and open plan kitchen living space. The basement of the proposed dwelling would provide a garage and small pool area. The roof of the proposed dwelling would be planted, incorporating solar panels and rooflights.
  5. The appeal property forms a plot currently designated as a field in agricultural use within the Green Belt. The plot is adjacent to 'Woodcote', a house on the edge of the built-up area of the village of Little Chalfont. A public footpath accessed from Burtons Lane runs between these two properties. The proposed dwelling would be located towards Burtons Lane, forward of the halfway point of the appeal plot, and would be accessed by a new driveway and pathway incorporated into a new landscaping scheme.
  6. The appellant has brought to my attention an Appeal Decision<sup>1</sup> that relates to the considerations of whether development proposals should be considered infill development in villages within the Green Belt. However, as clarified by the Appeal Court Decision<sup>2</sup>, also brought to my attention by the appellant, which determined that the 'village' in paragraph 89 of the Framework need not be the same as the settlement boundary, depending on the situation 'on the ground'. This is, therefore, a matter for my planning judgement based on consideration of matters affecting the proposed development.
  7. Where the appeal plot fronts on to Burtons Lane it faces detached houses on generous plots that form part of the built-up area of Little Chalfont and an open field that appears to be in agricultural use. The rear boundary faces onto open fields that also appears to be in agricultural use and the boundary of the plot away from 'Woodcote' is shared with the extensive garden of a property that appears to be called Rowood Farmhouse. This is a large detached house separated from the village by the field that forms the appeal site. This large detached house and its gardens form part of small grouping of larger detached houses and farm buildings isolated from the village.
  8. The appeal plot appears to be outside of the built-up area of the village and separates the village from other isolated buildings in the countryside and does not appear to be within the village for the purposes of infill development. I, therefore, conclude that the proposal does not benefit from the listed exception in Paragraph 145 of the Framework for limited infilling in villages.
  9. Taking all of the above into account, I find that the proposal would be inappropriate development in the Green Belt.

*The effect of the proposal on the openness of the Green Belt*

10. Section 13 of the Framework makes it clear that an essential characteristic of Green Belts is their openness and their permanence.
11. As I have identified above, the proposed detached building would result in an inappropriate development, that would add an additional built form into the

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<sup>1</sup> Appeal Ref: APP/P1940/17/3187494

<sup>2</sup> Julian Wood v SSCLG & Gravesham Borough Council [2015] EWCA Civ 195



Green Belt. The proposal would be readily apparent within the context of open fields from Burtons Lane, the existing properties on the edge of the village, Rohood Farmhouse and the fields adjacent to appeal site. Notwithstanding its design that incorporates an extensive planted roof, the proposed development would, due to its footprint and scale result in a loss of openness and, therefore, harm to the openness of the Green Belt.

#### *Chiltern Area of Outstanding Natural Beauty*

12. The site of the proposed development is a field in agricultural use adjacent to the village of Little Chalfont and other open fields within the AONB. I consider that the field makes a positive contribution to the scenic beauty of the AONB.
13. With respect to the proposed development's appearance, it is of a contemporary design that incorporates some commendable features that appear to make the house more environmentally sustainable and would not be out of keeping with other housing in the nearby village that exhibit a wide variety of architectural expressions. However, given the location of the proposal in relation to fields on the edge of the village, within a field that appears to be agricultural use, and without any topographical or natural screening from wider views in the area, I find that the proposal would introduce an urbanising feature, incongruous within its countryside setting. This would be harmful to the landscape and scenic beauty of the AONB and would therefore conflict with Policy CS22 of the CS and Policy and LSQ1 of the LP, which seek to ensure that development conserves or enhances the AONB's landscape character and scenic beauty.

#### *Other considerations*

14. Through the development of a 'windfall site' not identified in the Development Plan as a site allocated for housing, the proposal would add to the delivery of housing within the Chiltern District and an increase in housing stock. However, the benefit of a single dwelling within this context is a matter of only very limited weight in favour of the appeal scheme
15. The appeal site is one that appears to have good access to local transport facilities, being located close to the village and nearby train stations. Notwithstanding that the proposal includes substantial below ground garaging, this also appears to show plenty of scope for secure cycle storage and the local area appears to provide good scope for cycling. This would however carry little weight in favour of the appeal scheme.
16. Although the proposal does include some environmentally sustainable design features, such as solar panels and the planted roof that would appear to reduce/slow water run-off and provide opportunities for biodiversity. However, these benefits are limited and would not in themselves mitigate against the other hard surfaces proposed, or the energy use of the house when in occupation and, therefore carry little weight in favour of the proposal.
17. Whilst the construction of the proposal could potentially lead to temporary construction jobs and the occupants of the house could potentially lead to spending in shops and other local services, such as public transport, these benefits would be limited in scope and would have a minimal impact of the local economy and for this reason carry little weight in favour of the proposal.

### **Whether there are Very Special Circumstances**

18. The 5 purposes of the Green Belt, as set out in Paragraph 134 of the Framework relate to the reasons for designation of Metropolitan Green Belt as a whole. Although the proposal does not directly challenge 3 of these principles, the proposal would, because of harm to openness, conflict with the checking of unrestricted sprawl and safeguarding the countryside from encroachment.
19. Paragraph 143 of the Framework sets out the general presumption against inappropriate development within the Green Belt. This states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
20. I have concluded that the proposal is inappropriate development that, by definition, would harm the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. I have also found harm to the openness of the Green Belt and harm to the character and appearance of the AONB, and, having regard to Paragraph 172 of the National Planning Policy Framework (the Framework), I have given great weight to the requirement for development to conserve and enhance, wildlife, cultural heritage, landscape and scenic beauty in AONB's.
21. On the other hand, the other considerations I have already discussed are matters of limited weight in favour of the development. As such, the other considerations would not clearly outweigh the totality of harm that I have identified and therefore the very special circumstances necessary to justify the proposal do not exist. Consequently, the appeal scheme would be in conflict with Policies CS1, CS4, CS20 and CS22 of the CS and saved Policies GC1, GB2, GB17 and LSQ1 of the LP and the Framework.

### **Conclusion**

22. For the reasons given above, the proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Victor Callister*

INSPECTOR





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## Appeal Decision

Site visit made on 2 July 2019

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> July 2019

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**Appeal Ref: APP/X0415/D/19/3224876**

**55 Tylers Hill Road, Chesham, Buckinghamshire HP5 1XJ**

- 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 Michelle and Evan Hamilton-Pike against the decision of Chiltern District Council.
  - The application Ref PL/18/3625/FA, dated 2 October 2018, was refused by notice dated 24 December 2018.
  - The development proposed is a two-storey side, single storey front and single storey rear extension following demolition of existing utility room.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: -

- Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework);
- The effect of the proposal on the openness of the Green Belt;
- The effect on the character and appearance of the existing property; and
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances which would be necessary to justify it.

### Reasons

#### *Whether Inappropriate Development*

3. The Government attaches great importance to Green Belts. Saved Policy GB2 of the Chiltern District Local Plan (Local Plan) indicates that planning permission will be refused for inappropriate development in the Green Belt. Policy GB13 of the Local Plan allows for extensions in the Green Belt where the proposal is subordinate to the size and scale of the original dwellings, taking into account the cumulative effect of previous extensions. These policies broadly accord with Framework paragraph 145 c) which allows for the

extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

4. The proposed extensions would materially add to the floor area and volume of the existing dwelling. It is agreed between the main parties that the proposed extensions would collectively result in disproportionate additions over and above the size of the original building. I concur with that assessment. Consequently, the proposal would be inappropriate development that is, by definition, harmful to the Green Belt, and in conflict with Framework paragraph 145 c) and Local Plan policies GB2 and GB13 which aim to safeguard the Green Belt by restricting the scale of development and keeping land open.

#### *Openness*

5. An essential characteristic of Green Belts is their openness. The proposed extensions would introduce additional built form to all three sides of the property extending into the garden which is currently free from development. Whilst the extensions can be accommodated within the plot, and due to the property's location at the end of a terrace the visual impact would be limited, the development would nevertheless give rise to some loss of openness. Accordingly, it adds to the harm to the Green Belt.

#### *Character and Appearance*

6. The property forms the end terrace in a row of properties located at a right angle to the road behind 45 Tylers Hill Road. These are modest properties with pedestrian access between the properties and the outbuildings. The existing building has a straightforward two storey form and the outbuilding aligns with others in the row. Individually the proposed extensions reflect guidance in the Residential Extensions and Householder Development Supplementary Planning Guidance (SPD) in terms of proportions and form, however collectively they would engulf the property with significant new additions to the detriment of the character and appearance of the host property. I acknowledge that the planning permission granted by the Council<sup>1</sup> (the extant permission) remains extant and is for a similar scale of development, but the development under that scheme is restricted to the side elevation and therefore the impact on the character of the existing property is different.
7. I therefore conclude that the scale and form of the development would not reflect and respect the character of the existing property. The proposal would be contrary to Policy CS20 of the Core Strategy for Chiltern District and the SPD which jointly, among other things, seek a high standard of design and for extensions to integrate in way that does not adversely affect the character and appearance of the property.

#### *Other Considerations*

8. Very special circumstances can only exist if the harm I have identified is clearly outweighed by other considerations.
9. The appellant has put forward a number of factors in support of the proposal. The extant permission would create the same amount of volume and footprint as the appeal scheme, although as noted above the two schemes differ in terms of their form and relationship with the existing property.

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<sup>1</sup> LPA reference CH/2018/0453/FA

10. The appellant refers to the appeal scheme as an amendment to the extant permission. However, the appeal scheme is for a separate planning permission and was described on the application form as an amendment to PL/18/2401/FA, which is a withdrawn scheme.
11. Whilst the appellant indicates that the single storey side extension from the extant permission would not be built, and that the appeal scheme is to be built instead there is no means for this to be controlled. The implementation of an existing planning permission cannot be prevented by a condition. The "revocation" of a planning permission can only be carried out by the Local Planning Authority or the Secretary of State by a process under sections 97 and 100 of the Town and Country Planning Act 1990. Alternatively, it can be dealt with by way of a binding obligation by the appellant. In the absence of such an obligation in this case, no weight is attached to the non-implementation of the extant planning permission.
12. Therefore, if this appeal was to be allowed the property would benefit from both planning permissions. Whilst the two-storey side extension is the same in both schemes it would mean that, even though the existing outbuilding would be demolished, all the single storey elements could also be implemented which would result in further disproportionate additions to the property, exacerbating the harm to the Green Belt and its impact on the openness of the Green Belt.
13. I note the Local Planning Authority's concern that another outbuilding could be erected, but this could be controlled by the imposition of a condition removing permitted development rights for outbuildings.
14. The Council have raised no concerns with the general design indicating that the extension would integrate with the vernacular of the host building nor would it adversely impact on the neighbours, highway safety or parking provisions. I have no reason to disagree with the Council's assessment, however, the absence of harm in these matters is a neutral factor.

## **Conclusion**

15. In this appeal I have found harm to the Green Belt by way of inappropriateness and openness, and other harm in terms of the impact on the character of the host property. By definition these are harmful, and I attach them substantial weight as required by paragraph 144 of the Framework.
16. Despite having regard to all the other considerations put before me in favour of the scheme by the appellant, I conclude that these other considerations taken together, do not clearly outweigh the harm that I have identified to the Green Belt. The development would conflict with policies GB2 and GB13 of the Local Plan and the Framework. Accordingly, the very special circumstances necessary to justify the proposal do not exist and the proposal does not represent sustainable development.
17. For the reason set out above I conclude that the appeal should be dismissed.

*G Ellis*

INSPECTOR



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## Appeal Decision

Site visit made on 6 June 2019

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 02 August 2019**

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**Appeal Ref: APP/X0415/W/19/3225126**  
**21 Howe Drive, Knotty Green HP9 2BD**

- 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 Sani Aweida against the decision of Chiltern District Council.
  - The application Ref PL/18/3811/FA, dated 12 October 2018, was refused by notice dated 7 February 2019.
  - The development proposed is described as the demolition of existing dwelling and erection of two detached dwellings served by an altered access.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and,
  - protected species, with regards the absence of a nocturnal ecological survey.

### Reasons

#### *Character and Appearance*

3. The appeal property occupies a corner plot at the junction of Netherwood Road and Howe Drive. I observed at my site visit that while there is some variation in the width and depth of the residential plots, the area is generally characterised by large wide properties situated on large wide plots with established planting and open front gardens, creating an open and spacious appearance.
4. The proposed development would replace the existing dwelling and attached garage with two dwellings, subdividing the existing plot. The submitted plans show that the proposed dwellings would be set towards the western boundary of the site and closer to Howe Drive than the existing dwelling.
5. While I note that the submitted plans show a separation of approximately 4 metres between the two proposed dwellings, I nonetheless find that the resulting development would appear cramped and would fail to create the open and spacious appearance found elsewhere in the area. As such, the proposed development would be harmful to the character and appearance of the surrounding area.

6. In support of the appeal, the appellant has directed me to the redevelopment<sup>1</sup> of 11 Netherwood Road, situated opposite the appeal site on the junction of Netherwood Road and Howe Drive, for two dwellings.
7. While I agree that there are some similarities between the two sites, I note that the former site of No.11 is of a more regular shape and depth allowing the new dwellings to be more evenly spaced on the site and that the two new dwellings face onto Netherwood Road and as such are less prominent than those under consideration here.
8. I had the opportunity to view the new dwellings at No.11 at my site visit and they do not persuade me as to the acceptability of the development proposed here. Furthermore, I have not been provided with full details of the policies and circumstances that applied at the time that planning permission was granted for the redevelopment of No.11. In any event I have determined the appeal proposal on its own merits.
9. Consequently, I find that the proposed development would harm the character and appearance of the area contrary to saved policies GC1, H3 and H12 of the Chiltern District Local Plan and policy CS20 of the Core Strategy for Chiltern District (2011) (CS) that seek to protect the character and appearance of the area.

*Protected species*

10. A 'Bat Preliminary Roost Assessment' produced by Ecology by Design was submitted in support of the application. The assessment found no direct evidence of bats and that the appeal property has a low potential for roosting bats. However, the survey identified that there were also a number of potential roost features on the building and a single emergence survey was recommended to determine the presence, or otherwise, of bats.
11. No such survey has been submitted and the Council's Ecological Consultant therefore objected to the application, identifying that bats are a protected species and further survey work is required. The appellant asserts that no additional survey work is required and has referred to two extracts from the Bat Conservation Trust that include a flowchart and trigger list. I note that the guidance is only an *overview* and that a surveyor may deviate from the guidelines as a result of assessments made on site.
12. On the basis of the evidence before me, I find that on balance, there is insufficient information to adequately assess the impacts of the development on protected species. The proposed development is therefore contrary to Policy CS24 of the CS that seeks to protect biodiversity, wildlife and protected species and the guidance set out in paragraph 175 of the National Planning Policy Framework.

**Conclusion**

13. For the reasons detailed above, the appeal is dismissed.

*Mark Brooker*

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<sup>1</sup> APP/X0415/W/15/3130992 - 11 November 2015

INSPECTOR



## Appeal Decision

Site visit made on 16 July 2019 by Alex O'Doherty LLB (Hons) MSc

**Decision by A U Ghafoor Bsc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

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**Appeal Ref: APP/X0415/D/19/3225773**

**378 Chartridge Lane, Chartridge HP5 2SJ**

- 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 Terry Dyer against the decision of Chiltern District Council.
  - The application Ref PL/18/4774/FA, dated 18 December 2018, was refused by notice dated 12 February 2019.
  - The development proposed is a detached garage.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The effect of the proposed development on the character and appearance of the surrounding area.

### Reasons for the Recommendation

4. The established pattern of development surrounding the appeal site is characterised by houses which are substantially set back from the road. On the site's side, the frontages have been mainly kept open and devoid of any notable development. The site, and its immediately adjoining neighbours, follow this pattern. Apart from views directly in front of the site, it is largely screened from views in both directions when seen from the road, due to landscaping. The proposed garage would be positioned closer to the front boundary than to the house. Whilst other garages are present along Chartridge Lane, as a whole the road is remarkably varied in its character, and as such it is necessary to assess the proposal against the character of the immediate vicinity.
5. Whilst aesthetically the garage would complement the house, due to the similarity in roof form, it would be a substantially-sized structure, in comparison, due to its height and width, and would not be seen as a subordinate addition. As such, the proposal's scale and massing, combined with its proposed siting in a somewhat isolated position in the front garden, has the potential to be an imposing feature in the street scene, which would be out-of-keeping with the quality of the street scene, and which would disrupt the established pattern of development. Currently the soft landscaping, which would not be removed by the proposal, softens this visual effect to an extent, but the presence of landscaping cannot be relied upon to reduce the harmful impacts of the proposal, as the screening could be removed at any time, either by present or future occupiers of the appeal property. The development would be

at odds with the aims and objectives of advice found in the Residential Extensions and Householder Development Supplementary Planning Document (2013) (the 'SPD').

6. The appellant has referred to an appeal decision relating to a proposal in Prestwood, Great Missenden<sup>1</sup>. However, in that appeal, the Inspector mentioned that even if planting were to be reduced in the future, the proposal would have a minimal effect on the landscape and scenic beauty of the area. This is not the case here, where if the screening were to be removed, the proposal would appear out of character with the established pattern of development. The appellant also referred to an appeal decision relating to a proposal in Chalfont St Giles<sup>2</sup>. However, that appeal involved a shed, which the Inspector noted was relatively small in scale, which is not the case for this proposal.
7. The appellant provided details of two grants of planning permission for garages, near the appeal site: Homestead Farm Cottage (Chartridge Lane), and 341 Chartridge Lane, and I went to both of these locations on my site visit. Regarding Homestead Farm Cottage, the established pattern of development and the street scene is markedly different from the proposal, with that site appearing in views as an independent and distinct unit. That proposal is not comparable with the scheme before me. In relation to 341 Chartridge Lane, the development appeared to be nearing completion, and whilst there are some similarities with the appeal proposal in terms of scale, that development does not set a desirable example due to such a large mass being positioned near the front boundary, in clear views from the road.
8. Both parties have referred to a previous appeal decision relating to 372a Chartridge Lane<sup>3</sup>. However, as each case must be determined on its individual merits, my assessment of the merits is based on the circumstances that prevailed at the time of my site visit.
9. In light of the above, I find that the proposal would have a significant adverse effect on the character and appearance of the surrounding area, in conflict with Policy GC1 of the Chiltern District Local Plan (including alterations adopted 2001) (consolidated 2007 and 2011), and with Policy H20. The proposal would also conflict with Policy CS20 of the Core Strategy (2011). Additionally, the proposal would conflict with the advice given in the SPD regarding the siting of garages in areas characterised by open frontages.

### **Conclusion and Recommendation**

10. Based on the above, and having regard to all matters raised, I recommend that the appeal should be dismissed.

*Alex O'Doherty*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

11. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

*A U Ghafoor*

INSPECTOR

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<sup>1</sup> APP/X0415/D/18/3209591

<sup>2</sup> APP/X0415/D/18/3205771

<sup>3</sup> APP/X0415/D/12/2189124





## Appeal Decision

Site visit made on 2 July 2019

by **M Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 August 2019

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**Appeal Ref: APP/X0415/W/19/3225983**

**Land Adjacent to The Old Britannia, Bottom Road, Buckland Common, HP23 6NU**

- 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 A. Davidson, Founthill against the decision of Chiltern District Council.
  - The application Ref PL/18/4808/FA, dated 19 December 2018, was refused by notice dated 14 February 2019.
  - The development proposed is described as "Development of site to provide 5no. dwellings arranged in 2no. pairs of semi-detached and 1no. detached dwelling, with associated access, hardstanding, landscaping and car parking".
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues raised in this case are:
  - Whether or not the proposal is inappropriate development in the Green Belt;
  - The effect of the proposal on the openness of the Green Belt;
  - The effect on the character and appearance of the area having regard to the sites location within the Chilterns Area of Outstanding Natural Beauty (AONB); and
  - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

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

3. The appeal site is located within the Green Belt. The National Planning Policy Framework (the Framework), at paragraph 145, indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Limited infilling in villages, is listed as one of the exceptions.

4. The site lies on the southern side of Bottom Road, a lane which has a distinctly rural character. Whilst there are a small number of dwellings located along the road, these are well-spaced apart and there are little, if any, cohesive qualities as far as they are positioned along the lane. There is also some variation in the siting of these dwellings, with some set alongside the road and others set back.
5. The site comprises a gap between the existing properties, which contributes to this sporadic pattern of development, and has a greater affinity with the surrounding countryside than it does to any of the nearby dwellings, due to the general lack of built form within the site. Thus, the site is part of the rural setting and it does not comprise any part of a village. The appellant contends that the site is part of St Leonards, which comprises a group of dwellings further to the south of the site. However, there is a visual separation between these existing dwellings to the south and the dwellings along Bottom Road. In light of this, the site cannot reasonably be described as forming part of this grouping.
6. There is also reference to the site lying adjacent to a former public house, which it is contended would have been a focal point for a village and thereby, points to the site being within a village. However, there is not the substantive evidence to demonstrate that the public house had such a function as regards any village and it would not have been unusual for such a facility to be located in the countryside. I also note mention of the proximity to the parish hall and church. However, these are well separated from the site. As such, these matters do not dissuade me from my findings above. Consequently, as the site does not lie within a village, it would be inappropriate development in the Green Belt. The scheme would therefore conflict with the provisions of the Framework.
7. As a consequence, whether or not the site could be said to be 'limited infilling' is not a determinative factor as, even if this was the case, this would not address the conflict with the exception in relation to the site not being located in a 'village'. I am mindful of the Wood judgment<sup>1</sup> to which the appellant has referred. However, with the site's location, its limited relationship with existing development and to a settlement, and its physical circumstances, the site is not within what can be deemed a village. My views are also not altered by the definitions of a village, that have been referred to in the appeal submissions.
8. Saved Policy GB2 of the Chiltern District Local Plan (1997) (the Local Plan) allows for the limited infilling in Existing Rows of Dwellings (as defined in Policy GB4) and in Green Belt Settlements (as defined in Policy GB5). However, the Council highlights that the site does not fall within the areas permitted by these policies. The scheme would therefore also be contrary to Policy GB2. The age of this saved policy does not lessen my concerns, as in any event, the scheme would be contrary to the provisions of the Framework as I have outlined above.

*The effect of the proposal on the openness of the Green Belt*

9. The Framework, at paragraph 133, indicates that openness and permanence are the essential characteristics of the Green Belt. The proposed scheme would result in the construction of dwellings where there are currently none. The buildings, their accesses and parking areas, together with the domestic paraphernalia that is likely to be associated with residential units, would

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<sup>1</sup> Julian Wood v SSCLG and Gravesham Borough Council [2014] EWHC 683 (Admin), [2015] EWCA Civ 195

inevitably lead to a loss of openness of the Green Belt, which in my view, would be considerable.

#### *Character and appearance*

10. The site is currently undeveloped and, as I identify above, has a greater affinity with the surrounding countryside than with any nearby dwellings. The sporadic nature of the development along Bottom Road contributes to the rural character of the area, as well as that of the AONB at this location. Consequently, the introduction of five residential dwellings to the site would fundamentally change its appearance, as well as its contribution to the character of the area. It would introduce a considerable amount of built form, that fails to respect the pattern of development in the area and would be highly visible from the adjacent road. The scheme would be an obvious deviation from the irregular spacing of dwellings within the vicinity. This harm would not be adequately addressed by that there may not be longer distance views of the scheme. The proposed dwellings would also have a distinct sub-urban appearance, at odds with the rural setting.
11. Thus, I find that the scheme would have an unacceptable effect on the character and appearance of the area, including the AONB. The scheme therefore would conflict with Policies GC1 and LSQ1 of the Local Plan and Policies CS20 and CS22 of the Core Strategy for Chiltern District (2011). Together, and amongst other things, these policies seek to ensure development relates to the characteristics of the site on which it is located, that development respects the character of the surrounding area and that proposals conserve and enhance the special landscape character of the Chilterns AONB. The scheme would also conflict with the guidance in the Framework, in respect of conserving and enhancing landscape and scenic beauty in AONBs.

#### *Other considerations*

12. The appellant has stated that the Council cannot demonstrate a 5-year housing land supply in accordance with the Framework and this has not been contested by the Council. Whilst the proposal would make a contribution to housing land supply and boost housing provision, with the number of additional dwellings that would result, such a benefit would be modest. The same applies as regards the economic and social benefits. As a consequence, these considerations attract limited weight.
13. Despite the matters that arise from the housing land supply, the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework, does not apply because the application of policies in the Framework that protect areas or assets of particular importance, related to the Green Belt and the AONB, provide a clear reason for refusing the development proposed.

#### **Conclusion**

14. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also lead to a considerable loss of openness. The scheme would also result in harm to the character and appearance of the area, in particular the AONB. The other considerations in this case do not clearly outweigh the totality of the harm that I have identified. Consequently, the very

special circumstances necessary to justify the development do not exist. The proposal would be contrary to Policies GB2, GC1 and LSQ1 of the Chiltern District Local Plan (1997) and Policies CS20 and CS22 of the Core Strategy for Chiltern District (2011), as well as the guidance in the Framework.

15. Therefore, for the reasons given and having regard to all matters raised, the appeal is dismissed.

*Martin Allen*

INSPECTOR



## Appeal Decision

Site visit made on 10 July 2019

by **N McGurk BSc (Hons) MCD MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> July 2019

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### **Appeal Ref: APP/X0415/D/19/3228350**

### **11 Hawthorn Lodge, Rickmansworth Lane, Chalfont St Peter, SL9 0JY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Simpson against the decision of Chiltern District Council.
  - The application Ref PL/18/4825/FA, dated 21 December 2018, was refused by notice dated 15 February 2019.
  - The development proposed is a detached garage.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

3. The appeal property is a detached two storey dwelling situated along Rickmansworth Lane, close to its junction with Fernsleigh Close. It has gardens to the front, side and rear and its front garden is separated from the pavement by a tall hedgerow.
  4. The appeal property is located in a residential area largely characterised by the presence of detached two storey dwellings sat in relatively large garden plots.
  5. Whilst they have larger gardens to the rear, houses across Rickmansworth Lane from the appeal property are set close to the road such that there are only very small garden areas between their front elevations and the pavement. By way of contrast, the appeal property and other dwellings on the same side of the road, are sat well back from the pavement behind gardens. This provides for a significant sense of spaciousness.
  6. During my site visit I observed that the presence of hedgerows, mature trees and gardens provides the area with an attractive green character. Further, these green and spacious attributes are significantly enhanced by the presence of attractive green and open public spaces adjacent to junctions along Rickmansworth Lane. During the time of my site visit, these significant open spaces were adjoined by the presence of luxuriant foliage.
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7. One such open space lies close to the appeal property, at the junction of Rickmansworth Lane and Fernsleigh Close. There is a very tall evergreen hedgerow adjacent to the space and this continues to comprise the hedgerow to the front of the appeal property. As one travels towards and past the appeal property towards Fernsleigh Close, there are green, open and spacious views along and over the property's hedgerow.
8. Consequently, the garden area to the front of the appeal property makes a significant contribution to the green, open and spacious qualities of the area.
9. The proposed development would comprise a very large garage – which would be tall, long and wide. It is proposed to locate the garage in the area of garden between the front elevation of 11 Hawthorn Lodge and Rickmansworth Lane. It would replace an open area of garden that currently contributes to the green and spacious qualities of the area and it would be clearly visible above the hedgerow, as well as through a new entrance to be constructed as part of the implementation of another planning permission<sup>1</sup>.
10. The harm arising from the above would be exacerbated as a result of the proposed garage, due to its size and siting, drawing the eye as a dominant built feature within a part of Rickmansworth Lane currently notable for its green and spacious qualities. I also find that the garage, which would be located much closer to the pavement than the host property, would combine with the presence of dwellings built close to the opposite side of Rickmansworth Lane to severely reduce the sense of greenery and spaciousness that currently exists.
11. Taking all of the above into account, I consider that the proposed development would harm the character and appearance of the area. This would be contrary to the National Planning Policy Framework; to Local Plan<sup>2</sup> Policies GC1, H13, H15 and H20; to Chiltern District Core Strategy (2011) Policy CS20; and to the Council's Supplementary Planning Document: Residential Development and Householder Development (2013), which together amongst other things, protect local character.

### **Other Matters**

12. In support of their case, the appellants refer to other developments elsewhere. However, there is no substantive evidence before me to demonstrate that the circumstances relating to these developments are so similar to those before me as to provide for direct comparison. For example, none appear to be adjacent to the nearby space, or to a public space with the same qualities, as the one referred to in this decision.
13. Notwithstanding this, I have, in any case, found that the proposal would result in significant harm and this is not something that is reduced or mitigated by the presence of other developments elsewhere.

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<sup>1</sup> Reference: CH/2018/0644/FA.

<sup>2</sup> Chiltern District Local Plan<sup>2</sup> 1997 (including Adopted Alterations 2001 and 2004) Consolidated 2007 and 2011.

**Conclusion**

14. For the reasons given above, the appeal does not succeed.

*N McGurk*

INSPECTOR