



Appeal Decision

Hearing Held on 19 November 2019

Site visit made on 19 November 2019

by Simon Hand MA

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

Decision date: 26 November 2019

Appeal Ref: APP/X0415/C/18/3204017

Land at Just The Car Ltd, 112 Latimer Rd, Chesham, Bucks, HP5 1QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Amit Thakrar against an enforcement notice issued by Chiltern District Council.
 - The enforcement notice, numbered 2017/00121/AB/EN1, was issued on 3 May 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land for the display for sale and storage of cars (Use Class sui generis).
 - The requirements of the notice are 5.1 cease the unauthorised use of the land for the display for sale and storage of cars, as described in section 3 above; and 5.2 remove from the land all cars, car parts, machinery, tools and equipment associated with the unauthorised use of the land for the display for sale and storage of cars.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting "6 months" from the period for compliance and replacing it with "12 months". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. At the Hearing the appellant agreed he had no dispute with the wording of the allegation and that the car sales and storage were sui generis. Consequently it was agreed the ground (d) appeal could not succeed and was withdrawn.

Fallback Position

3. Because of the way the various cases have been argued the fallback position is of primary importance. The site has been used for many years for various industrial uses, but exactly what they have been is a matter of dispute. There is no planning permission or LDC for the use of the site, although in the past it was described by the Council as an established B2 use. This was the case in 2005 when an application for replacement industrial buildings was refused. The subsequent appeal was also refused but the Inspector noted there was an established general industrial use on the site, otherwise the proposed use of

the site, outside of any built up area and in the green belt would be entirely unsuitable¹. The site was originally larger, containing a house, but in 2000 a new bridge was allowed across the river (the current access to the appeal site) which enabled the site to later be split, so the house (which itself was then redeveloped following a successful appeal) is now separate to the appeal site. At no point during any of these applications and appeals was the established use of the appeal site queried by the Council.

4. Now the Council argue that actually there has been a mix of uses on the site, mostly sui generis and none have been undertaken for more than 10 years. There is thus no established use of the site and should be treated as previously developed land. The Council's list of uses on the site begins in 2000 when the new bridge was allowed. The officer's report notes the land is used as a builder's yard, which is sui generis. From 2004-09 the use was steel fabrication and waste processing, a mixed use of B2/sui-generis and from 2009 to 2015 a sui generis use of storage and refurbishing of compactors.
5. The appellant argues the site has been used for steel fabrication from 2000-2008 and by Compactors Direct from 2008-15. Both B2 industrial uses. However in 2006 an application for an LDC for a materials reclamation and waste transfer station was refused. The then applicant argued the land had been used since 1979 until 2006 as a scrap yard and for demolition waste reclamation. That refusal was not appealed.
6. This evidence is contradictory, both between the parties and internally. The Council for example consider the use in 2000 to be a builder's yard but in 2005 to be an established B2 use. I am not in a position to reach a definitive view on these matters, but it does seem the site has been consistently used for employment purposes, possibly falling within the B2 use class for many years, with the possible interruption of a builder's yard use in 2000. It seems possible that the B2 use might have continued for 10 years and so become lawful, and this was certainly the Council's view up until recently. For the purposes of this appeal I think it is reasonable to assume the use of the site for some sort of employment use will continue, whatever the outcome of the appeal and that a B2 use forms the fallback position.

The Appeal on Ground (b)/(c)

7. The ground (b) appeal is that the matters alleged have not occurred. That is clearly not correct as the sui generis car sales and storage use is accepted. The appellant meant that the use for storage was lawful because of the fallback position. The GPDO at Class I of Part 3 of schedule 2 allows the change of use from B2 to B8 storage, thus the use of the site for a B8 use is lawful.
8. However, the allegation is not the use of the site for B8 storage, but a sui generis use comprising storage and sales of cars. The storage element cannot be separated out from the sales as they are interdependent. The cars are only stored on the site because they are for sale. Therefore matters alleged have occurred and do not benefit from planning permission, so whichever ground is considered – (b) or (c) – it will be unsuccessful.

¹ APP/X0415/A/05/1188234 paragraphs 7-8

The Appeal on Ground (a)

9. The site lies between a branch of the River Chess and a well trafficked minor road with rising ground beyond leading to the Chilterns AONB. It would seem that the small river valley has historically supported a number of uses and there is a sewage works and recycling centre to the south-east of the site and a large commercial enterprise which had the appearance of a builder's merchants to the west. The site itself is a compound surrounded on three sides by buildings the fourth faces the road and is screened by trees and bushes. Access to the road is across a small bridge. Views into the site are limited to those from the road over the access bridge, otherwise it is well screened.
10. I agree with the appellant that the emerging local plan is at a very early stage in its process. There are substantial objections to its employment and housing policies that remain unresolved. In any event it does not directly affect the appeal site. The council's saved policies from the 1997 local plan on green belt are somewhat out of date and it was agreed I should rely on the NPPF for the green belt issue. It was also agreed there were no landscape, design or amenity objections. However policy GC12 sought to protect the character of the land in the vicinity of the river Chess. This was relevant because of the suggestion the use spilled out of the site onto the bridge and the road verges. Highway issues are covered by TR2 and TR11.

The green belt

11. In terms of the green belt, whether the site is considered to be previously developed land or a material change of use from B2 to sui generis the effect of the NPPF is the same. The use for car sales and storage would not be inappropriate as long as there was no greater impact on openness than the existing development. In the case of previously developed land the existing development is the buildings on the site, and if they were in use they would have ancillary storage associated with them. If it is a material change of use, then an established B2 use would also have associated ancillary external storage. I accept that Class I allows a material change of use to B8, but that is only for the buildings. If they were all used for B8 storage purposes then the compound could also be used for ancillary outside storage. In my view there is little if any difference between the various possible scenarios. All could involve lawful outside storage but limited to that which was ancillary to the use of the buildings.
12. The car sales and storage use is however different. As I saw on my site visit the various buildings around the edge of the site were used as an office, storage for car parts, and in the several cases contained cars that were being repaired or valeted prior to sale. However, these buildings were small, and in total could contain no more than 6 or so vehicles. The compound had around 46 cars parked in it when I carried out my site visit. Many were nose-to-tail. The Council noted this was less than when they had visited the site, when more cars had been squeezed into the central area, and there are photographs from their 2017 site visit which appear to show more cars in the compound and also parked on the bridge and surrounded verges.
13. Even as I saw it, the compound was pretty full of cars leaving only a small central area free for limited manoeuvring. Had that amount of storage been associated solely with the use of the buildings it would have amounted to much more than ancillary and would have approached becoming a use in its own

right. In the context of the sui generis use subject to this appeal, the amount of outdoor storage would seem to be much greater than would reasonably be expected to be associated with a B2 or a B8 use, as described above. In terms of the green belt, therefore, the current use would seem to have a greater impact on openness than the possible fallback uses and so is inappropriate development. This is by definition harmful to the green belt and should only be approved in very special circumstances.

Highways issues

14. The council's other concerns were essentially highways related. It is beyond dispute that the business was much busier than it now appears, that cars were parked on the bridge over the river and on the verge. The latter sometimes cars for sale and sometimes customers. It also seems that car transporters were parked in the road or on the bridge when delivering cars. This was because the compound was full of cars for sale so there was no room for parking off the road or for turning and manoeuvring on the site. Because the use spilled out in this way onto the road it seemed pretty much to be accepted this was both harmful to the visual amenity of the area and to highway safety.
15. The road has a 30mph speed limit and the site lies on the southern side, on the inside of a bend. This is quite shallow to the west, but sharper to the east. While it was agreed by the Highway Authority that the required visibility splays could be accommodated visibility beyond that is limited and drivers would not expect to come across vehicles parked on the road or a car transporter blocking a lane. The appellant has since prevented this overspill of cars for sale and various conditions were suggested to keep space for customer parking on the site, to limit the maximum number of cars to be kept for sale and to limit deliveries to certain times of the day.
16. The appellant explained that the way the use operates is mainly on-line. Customers see the vehicles for sale and then make an appointment to visit the site and given them a test drive. There are about 3-4 customers a day and one delivery of cars a week. The Council accepted the site was restricted in size which limited the opportunity for intensification. It seemed to me that if the business continued to be run as it is currently, then that would resolve the highway issues (with the exception of the bridge width discussed below). With the numbers of cars limited to 45 that would leave space on site for customer parking and prevent spill-over onto the bridge. 1 lorry a week reversing onto the bridge to deliver cars for sale outside of peak traffic times would not cause a highway problem. The use would then essentially be contained within the site and operate at a fairly low level.
17. The problem is ensuring the use continued to operate as it is currently. While the site is limited in size there was clearly a time when more cars were stored there and there would be a strong temptation to do so again in the future, even if only for temporary periods. Enforcing the restriction on total numbers of vehicles would be difficult especially as numbers could fluctuate daily. There is also no guarantee the appellant would continue to operate the same way or that a different operator would not move to the site. Any planning permission would be for a general car sales and storage use, and even with the total numbers limited by size there could easily be a significant increase in customer numbers, putting pressure on on-site parking and encouraging cars to park on the verges, as well as necessitating more deliveries by car transporter. The

site is so constrained that even a small increase in turnover could lead to a potentially harmful increase in these issues.

18. In my view therefore, while the use, if constrained within the site, could be acceptable, the difficulty in ensuring this is so, coupled with uncertainty about the future if planning permission were granted suggest this is not the right place for a car sales and storage use. There is a strong potential to harm the character and appearance of the Chess valley, contrary to GC12 and to cause highway safety issues contrary to TR2.
19. The Council were also concerned that the bridge was too narrow to allow two cars to pass on another. It was measured on site at 4.33m wide. The Council preferred a width of 4.8m as this allowed two cars to pass comfortably, but figure 7.1 in Manual for Streets 1 suggests that at 4.1m two cars can just about squeeze past each other with care. Given the extra 23cm on the bridge and the small number of visitors expected the bridge width is satisfactory at the moment but could become a problem if the use of the site grew.
20. Pulling all this together the use enforced against is inappropriate development in the green belt, which is by definition harmful. The use as currently carried out causes no harm to the character and appearance of the area or to highway safety but it is difficult to see how that could be effectively controlled in the longer term and so to allow the ground (a) appeal would be contrary to GC12 and TR2. If the appeal is lost the appellant will not be able to use the site for his business, and I accept, despite the lack of any specific evidence, that he will have considerable difficulty in finding an alternative site in the area. It is common sense that any urban land is expensive because of the demand for housing while most of the rest of the District is either green belt or AONB. The likely closure of the business will cause the loss of several jobs. However, this does not outweigh the harm I have identified above and certainly does not amount to the very special circumstances required to allow inappropriate development in the green belt.
21. A temporary condition was considered at the hearing, but this would not overcome the problem of harm to openness. The appeal on ground (a) fails.

The Appeal on Ground (f)

22. The appellant suggests it is excessive to require the stored cars to be removed. However, this relies on the same arguments as for the ground (c) appeal, that they have planning permission by virtue of being a storage use. However, they are not a separate storage use but part and parcel of the sui generis car sales use. The allegation is a material change of use to car sales and storage and so the requirement to cease the use and remove the vehicles is entirely reasonable. The appeal on ground (f) fails.

The Appeal on Ground (g)

23. The appellant argues that because of the difficulty in finding an alternative site 2 years would be reasonable. I have considerable sympathy with the appellant but 2 years is effectively a temporary permission which I have ruled out above. However, as the harm is largely technical rather than immediate an extension to 1 year would be reasonable and I shall vary the notice accordingly.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Gavin Cooper	Walsingham Planning
Andrew Chessum	Transport issues
Amit Thakrar	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Kirstie Elliot	Chiltern DC
Claire Hemmings	Buckinghamshire CC
James Duncan	Buckinghamshire CC

INTERESTED PERSONS:

Nigel Edward-Few



Appeal Decisions

Site visit made on 12 November 2019

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 21st November 2019

Appeal A

Appeal Ref: APP/X0415/W/19/3235481

The Meades, 32 Germain Street, Chesham, Buckinghamshire, HP5 1LH

- 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 Crosby against the decision of Chiltern District Council.
 - The application Ref PL/18/3736/FA , dated 8 October 2018, was refused by notice dated 13 June 2019.
 - The development proposed is described as "repair to wall and insertion of garage doors".
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Appeal B

Appeal Ref: APP/X0415/Y/19/3235480

The Meades, 32 Germain Street, Chesham, Buckinghamshire, HP5 1LH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Crosby against the decision of Chiltern District Council.
 - The application Ref , CH/2017/2364/HB dated 22 December 2017, was refused by notice dated 13 June 2019.
 - The works proposed are described as "rehabilitation of wall and introduction of opening".
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Decisions

1. Appeal A is allowed and planning permission is granted for repair work to existing wall and introduction of opening with wooden access gates at The Meades, 32 Germain Street, Chesham, Buckinghamshire, HP5 1LH in accordance with application ref PL/18/3736/FA, dated 8 October 2018 and the plans submitted with it and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Before any construction work commences, named types and samples of the materials to be used in the construction of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in the approved materials.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan - 2706.01, Proposed Site Plan - 2706.04, and Wall Details - 2706.05A.

2. Appeal B is allowed and Listed Building Consent is given for repair work to existing wall and introduction of opening with wooden access gates at The Meades, 32 Germain Street, Chesham, Buckinghamshire, HP5 1LH in accordance with application ref CH/2017/2364/HB dated 22 December 2017, and the plans submitted with it and subject to the following conditions:
 - 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Before any construction work commences, named types and samples of the materials to be used in the construction of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in the approved materials.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan - 2706.01, Proposed Site Plan - 2706.04, and Wall Details - 2706.05A.

Procedural Matter

3. The Council altered the description of development for both applications to "repair work to existing wall, introduction of opening with wooden access gates". As this more accurately describes the development and works proposed, I have also used this description in the determination of the appeals.

Main Issues

4. The first main issue for both appeals is whether the works and development proposed would preserve the Grade II listed building known as The Meades or any features of special architectural or historic interest that it possesses and whether the proposal would preserve or enhance the character and appearance of the Chesham Conservation Area.

Reasons

5. S16(2) and S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. S72(1) of the Act requires special attention to be had to the desirability of preserving or enhancing the character and appearance of that area. Policies LB1 and LB2 of the Chiltern District Local Plan (Local Plan) seek to ensure that new development, including development within the setting of a Listed Building, does not adversely affect the character of listed buildings. These policies reflect the statutory duties defined in the Act and are consistent with guidance in the National Planning Policy Framework (the Framework).
6. The Meads is a Grade II listed building. It was constructed in the late 19th Century as a residential dwelling and is an attractive example of a building from the period. The balanced proportions of the front façade, and the space around the dwelling contribute to the varied streetscene and the established character of this part of the Chesham Conservation Area. The building sits on an extensive plot that also contains the smaller Little Meads and Barn. The wall is curtilage listed as it forms part of the boundary to The Meads. The section in question forms part of a stretch of brick and flint walling which is

visible from King Street to the south, where it runs to the rear of an off-street parking area, itself separated from the highway by a lower brick wall.

7. As part of a short section of boundary in brick with flint infill panels, which is distinct from the adjacent walling, it makes a small contribution to the wider setting of the main heritage asset of The Meads and contributes to the setting of Little Meads and The Barn and the appearance of the Conservation Area. The contrast with the adjoining brick built boundary suggests that the stretch of wall in question predates The Meads, although there is limited evidence to identify its origin. It therefore may hold some significance due to its antiquity, although I noted on site that the wall appears to have been rebuilt and repaired in places, with the varying age of materials evident from the differing colour of brickwork.
8. The proposal comprises the demolition of a section of the brick and flint wall and the insertion of a pair of double wooden gates within the rebuilt wall. The proposed gates would be larger versions of the existing wooden doorway which already provides access from the parking area. Although not mentioned in the description of development, the plans show an extended area of hardstanding to the rear of the gates to facilitate the use of part of the area adjacent to Little Meads for parking. The proposals also include removal of a short section of the "outer" brick boundary fronting King Street.
9. The application is supported by two structural surveys. One of these¹ identifies the wall as being unstable. I noted on site that the wall was leaning outwards towards the adjoining car park, and that in parts the upper sections of the wall were bowed and starting to twist. I have no way of identifying how long this movement has been in place, and have no compelling evidence that the structure is in immediate danger of collapse. Nevertheless, I see no reason to disagree with the appellant's view that in the interests of public safety some structural work will be required to support the wall.
10. The Council are of the view that the original structure should be retained and propped or supported with buttresses on the car-park side. Setting aside any implications for parking I am not convinced that such works would be visually appropriate in this case. I am therefore of the view that some rebuilding of the wall will be necessary and that this may lead to the loss of some historic fabric.
11. I note that the provision of brick piers to facilitate the gates would enable sections of the wall to be retained in situ. This approach has some merit in facilitating the long term retention of parts of the structure. The height of the boundary wall would be retained and the gates would be set within the wall, with coping above. A solid boundary would be maintained, along with the existing sense of enclosure which is characteristic of this part off the Conservation Area. I noted on site that the existing wooden entrance through the wall was unobtrusive and although the proposed gates would be wider, I am satisfied that once established they would not feature prominently in views into the site. In this regard the visual impact of the changes on the setting of the listed buildings, and upon the wider Conservation Area would therefore be very limited.
12. The Council have raised no concerns regarding the use of the garden for parking, or the removal of a short section of the brick wall to facilitate access

¹ Report by Mark Crosby July 2018

- to the existing parking area. Whilst I do not share the views of neighbours, that this would lead to an intensification of use of The Barn, the provision of parking behind the listed wall would have a small erosive effect on the character of the curtilage and with it the wider setting of the heritage assets.
13. The harm identified would amount to “less than substantial harm” which the Framework advises must be weighed against the public benefits of the scheme. The proposal would provide additional parking for the adjoining properties. As on-street parking is tightly controlled along King Street so the proposal would not lead to a reduction in overspill parking in the immediate area. It would nonetheless provide improved parking for 3 private properties and I attribute some limited weight to this benefit.
14. I note that the highways authority are satisfied with the access arrangements and concur that the proposal is unlikely to be detrimental to highway safety. Furthermore, I do not consider it likely that the extent of likely use would cause any loss of amenity for adjoining residential occupiers. These matters are therefore neutral factors and the absence of harm in these regards does not weigh in favour of the proposal.
15. The Framework is clear that heritage assets are an irreplaceable resource and that in considering the impact of development on the significance of heritage assets great weight should be given to the asset’s conservation. The scheme as proposed would enable parts of the original fabric to be retained and repaired and I attribute greater weight to this benefit than to the very limited visual harm that would occur as a result of the scheme. When considered as a whole, the historic interest of the heritage assets would be preserved.

Conclusion

16. I therefore conclude that the proposal would preserve the historic and architectural interest of the Listed Building known as The Meades. I find no conflict with Policies LB1 and LB2 of the Local Plan which both seek to ensure new development does not adversely affect buildings listed as being of architectural or historic interest. Neither would it impact upon the character or appearance of the Chesham Conservation Area, and so I find no conflict with guidance with the Framework. Having regard to these and all other matters raised, the appeals are allowed.

Conditions

17. I have considered the conditions put forward by the Council in the light of the guidance contained with Planning Policy Guidance. In addition to conditions in relation to time and implementation in accordance with the approved plans, for the avoidance of doubt, I also consider it reasonable and necessary to require that details of materials are approved prior to construction. The Council have also suggested that a historic record of the wall is made prior to development. However, having regard to the small proportion of the original wall which is proposed to be lost I do not consider that this condition is necessary to make the scheme acceptable.

A Jordan

INSPECTOR

Appeal Decision

Site visit made on 4 November 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2019

Appeal Ref: APP/X0415/Y/19/3231606

5 The Broadway, Amersham HP7 0HL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs D Thompson against the decision of Chiltern District Council.
 - The application Ref PL/18/2972/HB, dated 6 August 2018, was refused by notice dated 31 December 2018.
 - The works are described as listed building consent to retain internal partition walls.
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Decision

1. The appeal is dismissed, and listed building consent for internal partition walls is refused.

Preliminary Matters

2. As the proposed works relate to a listed building, I have had special regard to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The appellant has confirmed that the works described in the drawings have been completed. Though the works do not reflect entirely the layout shown on the floor plan, this has not affected my determination of the appeal.

Main Issue

3. The main issue is whether the works preserve the grade II listed building, given as 1 3 5 7 9, Broadway in the listing, and any features of special architectural or historic interest that it possesses.

Reasons

Special interest and significance

4. This timber-framed building was listed in 1958 for group value and is described as C15 and later, being re-fronted in the C18. No 5 is the upper floor of the rear wing, four bays in length. The Council considers that the building had a high status, possibly as a guildhall or manorial hall or Wealden house to the front, with the large rear wing, incorporating a purpose-built upper floor, used as a maltings. It suggests that the upper floor of the rear wing was originally a long, open space, and points to stave holes on the underside of the tie between the first and second bays from the road end of the building suggesting a partition may have been installed there.
 5. Without more detailed information on the construction of the building or inspection inside the high level section of the roof, I am unable to confirm its structural system. However, from what I could see of the exposed sections of
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the trusses, their collars, pegged corner braces and posts, as well as the arrangement of openings and framing in the walls, the structure of the roof of this section appears to be broadly contemporary to the rest of the building, dating from the C15. Significantly, photographs of the first floor show the three intermediate trusses spanning across to the external walls of the building, apparently without intermediate, vertical support, confirming the Council's suggestion that this may be a queen post roof.

6. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the roof and the first floor of this rear wing, and the contribution of these elements to the significance of the whole listed building.

The effect of the works

7. Without an accurate plan of the layout and the details of each truss before these works were completed, it is difficult to establish precisely the changes for which consent was sought. It is not clear if it was the works in the application the subject of this appeal which infilled the space above the ties of the trusses. There is no substantive evidence that the trusses were originally infilled. Given the framing system of the building, this truss infilling alone has had a diminishing effect on the architectural character of the roof structure. It has reduced the legibility of the joinery of the trusses and the continuity of each truss, both individually and as part of the whole roof structural system, notable for the length of the cross-span, the continuity of each tie, and their curved braces. The distinctive vertical, spatial character of the C15 roof has been truncated by the truss infilling. The architectural integrity of the whole roof structure, and its historic significance, whether it was used as a maltings or not, has been diminished.
8. Notwithstanding this infilling within the trusses, and assuming these infills were already in place at the time of the works in this appeal, the solid nature of the partition walls below the trusses, and in particular those running perpendicularly between them, only exacerbates the architectural and spatial disconnection between the tortuous, enclosed layout of small spaces resulting from these works, and the distinctive span and height of the historic roof structure and its simple bay layout, the significance of which has been further diminished. The overall spatial effect on the first floor as a result of the partition walls which are clearly part of these works, has been to further undermine the historic and architectural significance of the roof structure.
9. The appellant argues that the special interest and significance of the building does not lie in the openness of the first floor and roof, but in its linkage to the adjoining buildings, its façade, and internal woodwork. The appellant is right to identify these other aspects of special interest, but these do not lessen the special interest of the design of the roof structure, and the substantial length of its free span, the purpose of which both parties have speculated as being to provide an open-plan space in a building over two floors, consistent with the characteristics of a maltings.
10. I acknowledge that the building has developed over time. Extensions have been added and removed and uses have changed. Whatever the previous uses were, this does not change the significance of the building, the special historic and architectural interest of its structure and fabric, which have survived from the C15, and which the evidence suggests has been infilled only relatively recently.

11. I appreciate that some of the partitioning has been erected on the truss lines which diminishes the conflict between the insertion of smaller spaces under the historic roof. I note that the corridor on the entrance door side provides a degree of spatial connection between the first floor space and the roof structure. However, it is limited in extent and does not mitigate the truncation elsewhere. The harm to the special architectural and historic interest of the roof remains, particularly towards the road end of the roof, where low ceilings have been inserted below the trusses, truncating the layout both vertically and horizontally from the space of the first floor as a whole.
12. The appellant accepts that the works have altered the previously relatively open layout of the first floor and agrees that some openness has been lost. However, in my view, the works have not only diminished the special architectural interest of the first floor and roof; the historic significance of the timber-framed building as a whole has been undermined by these works.

Planning balance

13. I conclude that the internal walls have not preserved the special architectural and historic interest of the listed building, contrary to the clear expectations of the Act. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Although the degree of harm here is less than substantial, this does not equate to a less than substantial planning objection, especially where the statutory test is not met.
14. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimal viable use of listed buildings. The appellant describes how the works allow the building to continue to be used by a long-standing business, which supports jobs and the local economy. However, while I recognise this benefit, there is no substantive evidence that an alternative, more sensitive design approach to the interior arrangement of spaces would not allow the present use to continue, or that without these walls the use of the building would become unviable. Indeed, the appellant points out that the works are completely reversible and that the first floor could return to an open character. This public benefit does not outweigh the harm identified above.
15. In the absence of any public benefit to outweigh the harm identified above, I conclude that the works fail to preserve the special historic and architectural interest of the Grade II listed building. They fail to satisfy the requirements of the Act, paragraph 192 of the Framework, and development plan policies insofar as relevant.

Conclusion

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

Patrick Whelan

INSPECTOR

Appeal Decisions

Site visit made on 4 November 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2019

Appeal Ref: APP/X0415/W/19/3229215

Norton House, 46 Whielden Street, Amersham HP7 0HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs I Dunleavy against the decision of Chiltern District Council.
 - The application Ref PL/19/0145/FA, dated 15 January 2019, was refused by notice dated 8 April 2019.
 - The development proposed is a single storey rear extension, small first floor enlargement to existing shower room and internal alterations.
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Appeal Ref: APP/X0415/Y/19/3229224

Norton House, 46 Whielden Street, Amersham HP7 0HU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr & Mrs I Dunleavy against the decision of Chiltern District Council.
 - The application Ref PL/19/0146/HB, dated 15 January 2019, was refused by notice dated 8 April 2019.
 - The works proposed are a single storey rear extension, small first floor enlargement to existing shower room and internal alterations.
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Decisions

Appeal A Ref: APP/X0415/W/19/3229215

1. The appeal is dismissed.

Appeal B Ref: APP/X0415/Y/19/3229224

2. The appeal is dismissed.

Preliminary Matter

3. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Background and Main Issues

4. The Council has given listed building consent and planning permission for internal alterations, a first floor extension, and a 4m deep, ground floor, rear extension of similar appearance to that the subject of these appeals, but which would be 6.1m deep. However, it concludes that this latest proposal would not preserve the listed building.
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5. Therefore, the main issue is whether the proposal would preserve the grade II listed building whose statutory address is given as 44 46, Whielden Street, and any of the features of special architectural or historic interest that it possesses.

Reasons

6. The listing description describes the building, listed for group value, as 1693 but altered in the C18. Its rear elevation is significant for its generally fine architectural texture, in terms of both the scale of the built forms and the elements of townscape which form them. The building displays incremental enlargement to the back since its subdivision into two houses by 1740, first by linking to and incorporating a former detached store, and later by incorporating what is presently the kitchen. I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with its origin as an early post-medieval structure with surviving historic forms and fabric alongside the legibility, scale, and character of its phased alterations and development, reflecting the character of the group.
7. The Council raised no objection to the first floor extension or internal alterations, and I have no reason to disagree. The focus of its concern is the proposed ground floor extension. This would fill in most of the back yard between what was once possibly stables, and the boundary wall to the adjoining house. The rear range has a long footprint and is linked back past the former detached store into the developed space between the original building and the former detached store.
8. The rear range would lose most of its long, open aspect, which isolation reduces its impact on the rear of the main section of the building, in terms of its scale as a single mass. The proposed extension would run up to the existing outhouse in the presently open, former yard. The overall effect of the extension would be to overwhelm the finer scale of the back of the building with an extension disproportionately deep in relation to the listed building and its historical, incremental development back from the street.
9. I have taken into account the consented proposal with an extension of 4m. However, this would reduce the open aspect of the rear range proportionately less, and it would retain a separation from the outbuilding, unlike this proposal. I appreciate that the eaves of the extension would be low and that its appearance would make it read as a distinct element, with some transparency through to the fabric behind. This would diminish its impact, but the effect of its footprint, particularly its depth, and its diminishing of the legibility of the existing forms of the building and the more modest scale of the increments of its phased development would remain.
10. I find no harm from the present pair of timber doors which would be removed as part of this proposal sufficient to mitigate the harm identified. I acknowledge that being confined to the ground floor and back of the building, the works would have only limited prominence in views from the open space behind the plot. However, listed buildings are safeguarded for their inherent, special architectural and historic interest, irrespective of whether or not public views of them can be gained.
11. The ground floor extension would not preserve the special architectural and historic interest of the grade II listed building, contrary to the clear expectations of the Act. It would conflict with saved policy LB1 of the Chiltern

District Local Plan 1997 consolidated in 2007 and 2011 (LP) which says that planning permission and listed building consent will not be granted for extensions or alterations to a listed building which would not preserve its character and appearance as a building of special architectural or historic interest.

12. Paragraph 193 of the National Planning Policy Framework 2018 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Both the Council, and the appellants in their heritage impact assessment, have found that the harm from the proposal would be less than substantial. While I have had regard to the appellants' position in their appeal statement, I agree with these conclusions. However, this does not equate to a less than substantial planning objection, particularly so where the statutory test is not met.

Other Matters

The setting of neighbouring listed buildings

13. The Council raised no objections in terms of the effect of the proposal on the setting of surrounding listed buildings and the Amersham Old Town Conservation Area. Given the height of the intervening boundary enclosures between the listed buildings fronting Whielden Street and the buildings developed behind them, the proposed extension would have such limited impact on their setting that they would be preserved in accordance with the expectations of the Act, and the requirements of saved LP policy LB2 which protects the settings of listed buildings. Nor would there be any conflict in this regard with the objectives of the Framework which recognises the potential for harm to the significance of a designated heritage asset from development within its setting.

The Amersham Old Town Conservation Area (CA)

14. I have found harm from the proposal to the significance of the listed building, which contributes to the sum of architectural and historic interest of the CA, particularly the appearance of the buildings and the scale of their incremental development behind the street frontages, in which context the extension would be visible from the footpath across the open area behind Whielden Street.
15. Notwithstanding this, and mindful of the special attention which the Act requires is paid to the desirability of preserving or enhancing the character or appearance of the CA, the difference between this proposal and the fallback position of the 4m extension which has already been consented and which appears a realistic prospect is extremely limited. In regard to the CA as a whole, in these circumstances I find the proposal would not be detrimental to the CA and would thus preserve its significance. There would be no conflict with saved LP policy CA1 which says that planning permission will not be granted for extensions to buildings in a conservation area which do not preserve or enhance its character or appearance.

Planning Balance

16. Notwithstanding the lack of harm to the setting of the neighbouring listed buildings and to the CA, the proposal would fail to preserve the special

architectural and historic interest of the listed building. I give this harm considerable importance and weight in the planning balance of these appeals. Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.

17. The appellant claims that the works would trigger investment into repairs and modernisation of the house. However, I have no substantive evidence of the condition of the building and the need for repairs or modernisation, or that without this proposal the continued use of the building would be in jeopardy. Similarly, I can identify no problem of integration between the house and the garden which this proposal would overcome, nor is the design of the extension so exceptional that allowing it would be in the public interest. While I understand the factors in favour of the proposal, they do not amount to a public benefit, and they would not, in any event, outweigh the harm to the listed building.
18. In the absence of any defined public benefit, I conclude that the proposal would fail to preserve the special architectural and historic interest of the grade II listed building, as well as the requirements of the Act, paragraph 192 of the Framework, and the requirements and objectives of the development plan.

Conclusion

19. For the above reasons and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Patrick Whelan

INSPECTOR

Appeal Decision

Site visit made on 4 November 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Appeal Ref: APP/X0415/D/19/3234478

Evergreen, Coleshill Lane, Winchmore Hill HP7 0NP

- 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 T Barron against the decision of Chiltern District Council.
 - The application Ref PL/19/0603/FA, dated 22 February 2019, was refused by notice dated 6 June 2019.
 - The development proposed is the construction of a detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the development plan policies and the National Planning Policy Framework;
 - its effect on the openness of the Green Belt;
 - its effect on the character and appearance of the Chilterns Area of Outstanding Natural Beauty (the AONB);
 - its effect on the living conditions of the occupiers of 1 The View, Coleshill Lane, with particular regard to outlook; and,
 - if the proposed development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

3. Saved policy GB2 of the Chiltern District Local Plan 1997 (including alterations adopted 2001, consolidated 2007 & 2011) (LP) describes most development in the Green Belt as being inappropriate save for six exceptions. The exception the most relevant to this proposal concerns the limited extension of dwellings, which should be in accordance with LP policy GB15. This permits the construction of separate, ancillary, non-habitable buildings within domestic curtilages, so long as they are small and subordinate in scale to the original dwelling.
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4. The Council considers that the land on which the garage would be built is not within the domestic curtilage of the original building and that it would conflict with saved LP policy GB16 which resists the extension of an existing residential curtilage onto land in the Green Belt that is in non-residential use. However, the appellants point to a certificate of lawfulness of existing use or development that confirms the land as being in residential use, and they affirm that this is in connection with the original dwelling. This would appear to remove any conflict from the proposal with LP policy GB16.
5. Notwithstanding this, the Framework contains policies for development in the Green Belt. Its exceptions to the construction of new buildings in the Green Belt being considered inappropriate do not include stipulations about domestic curtilage or that an extension must be small, subordinate or concerning a dwelling. It postdates the saved policies by 22 years and is a material consideration of great weight. Given the degree of inconsistency between the saved policies and the Framework, I give greater weight to the policies in the Framework.
6. In paragraph 145, the Framework sets out a number of exceptions including exception (c), the extension of a building provided that it does not result in disproportionate additions over and above the size of the original building. Though the garage would be around 25m from the house, located behind the back gardens of neighbouring houses which are enclosed by fences and planting, and with its openings facing in the opposite direction of the house, the appellants contend that the development would not be inappropriate as it would be an extension of the original building and not disproportionate to its size.
7. I note the appellants' reference to the judgement in *Sevenoaks District Council v SSE and Dawe* [1997], and I have taken into account that the site of the garage is presently used for parking. However, because of the physical and visual separation of the proposed garage from the dwelling, particularly its siting in relation to the original dwelling fronting Coleshill Lane, it would not be a normal, domestic adjunct to the dwelling. It cannot therefore be considered as an exception as defined in 145(c).
8. Notwithstanding this conclusion, even if it were considered to be an extension to the dwelling, its floor area is described as being around one third of the floor area of the house together with its annexe. Its roof, with a ridge at around 5m high, would be conspicuously voluminous. In the terms of LP policy GB15 the garage would not be small or subordinate to the original building. In terms of paragraph 145(c), its footprint and volume would be a disproportionate addition over and above the size of the original building. Therefore, the proposed development would not, in any event, meet the criterion of an exception under either the Local Plan or the Framework.
9. There are no other exceptions in paragraph 145 which apply to the proposal. It would therefore be inappropriate development, placing it in conflict with the objectives of LP policies GB2 and GB15, and with the Framework which indicates that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances.

The openness of the Green Belt

10. Openness is described in the Framework at paragraph 133 as an essential characteristic of the Green Belt. I have taken into account the siting of the

proposed garage close to the garden boundary and the other buildings in the site. Nonetheless the proposal would add to the amount of built development within the Green Belt, its volume and bulky form reducing its openness, which given the scale of the development, would result in moderate harm to its openness, to which the Framework requires that substantial weight be given.

The character and appearance of the AONB

11. I appreciate that the proposal would extend the footprint of buildings further from Coleshill Lane and towards the undeveloped area of open countryside. However, given its proximity and similar scale to the annexe and the position of neighbouring buildings to the west of the site, I can see no harm from its size, siting or use to the character of the AONB. Its wall boarding and roof tiling could be conditioned to be sensitive to the material character of the area, as could its detailing. Given the scale of the proposal and its shape and arrangement of materials, its appearance would reflect the vernacular of the area. There would be no conflict from the proposed development with saved LP policies GC1 and LSQ1 and policies CS20 and CS22 of the Core Strategy 2011 which seek to conserve or enhance the special landscape character, distinctiveness, and high scenic quality of the AONB.

The living conditions of the occupiers of 1 The View

12. Given the siting of the garage off the back boundary of the long back garden to 1 The View, and the modest height of the eaves of its roof which would slope away from 1 The View, its impact on the outlook from within the dwelling would be very limited. From within the back garden of 1 The View the roof of the garage would be seen over the high timber fence and planting on the back boundary. Taking into account the size of the back garden of 1 The View, the limited height of the garage, the fence in front of it, and its separation, it would not have an over-enclosing or visually intrusive effect on the outlook from the garden.
13. The proposed garage would be sited to the north of 1 The View. It would not harm the daylight or sunlight received by 1 The View, and given its site is presently used for parking, the risk of loss of privacy from noise or disturbance is low. The effect of the proposed development on the living conditions of the occupiers of 1 The View, Coleshill Lane, with particular regard to outlook, would not be harmed. There would be no conflict with LP saved policy GC3 which protects the amenities of the occupants of neighbouring properties.

Conclusion

14. I have found that though the proposed development would not harm the character or appearance of the AONB or the living conditions of surrounding occupiers, it would be inappropriate development in the Green Belt. I have given only limited weight to the other considerations cited in favour of the proposal, and conclude that, taken together, they do not clearly outweigh the harm that the proposal would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt. Accordingly, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

Appeal Decision

Site visit made on 4 November 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal Ref: APP/X0415/Y/19/3232574

159 High Street, Amersham HP7 0EB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Claire Kenny against the decision of Chiltern District Council.
 - The application Ref PL/19/0732/HB, dated 5 March 2019, was refused by notice dated 30 April 2019.
 - The works proposed are to remove rear ground floor window, flint and brick wall and door and replace with two side hung patio doors with flanking single light casements and reconstructed wall panels using the reclaimed flint from the original wall.
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Decision

1. The appeal is dismissed and listed building consent to remove rear ground floor window, flint and brick wall and door and replace with two side hung patio doors with flanking single light casements and reconstructed wall panels using the reclaimed flint from the original wall is refused.

Preliminary Matter

2. As the proposed works relate to a listed building in a conservation area, I have had special regard to sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issue

3. The main issue is whether the proposed works would preserve the grade II listed building, 159 High Street, and any features of special architectural or historic interest that it possesses.

Reasons

Special interest and significance

4. This building, part of a long terrace fronting the High Street, was listed in 1958 for group value and is described as having a late C18 front over an earlier building, which the Council considers may date from the late mediaeval period based on its records which also suggest that the building was altered in the C18. The brickwork and timber door in the rear elevation, which has retained its timber framing in the gable, indicate that the back may well have been altered then, too.
 5. The back wall of the house has been altered around the ground floor window which appears to be early C20 and incorporates a panel of knapped flintwork below its cill of clay tiles. Within this is a small, timber water chute, possibly
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once connected with a scullery, though it remains an isolated archaeological feature today, the space within the building no longer having a direct connection to it. Beside the window is what appears as an C18 plank door in a pegged frame, under a shallow arch of a single course of headers, the shape and wear of the brickwork of the reveal beside its leading edge suggesting the intensity of its former use.

6. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the fabric of the rear elevation and the architectural character of the scale and arrangement of the openings within it.

The effect of the proposed works

7. Though the present flint panel and timber chute would be incorporated below the new window openings alongside sensitive, new material, the removal of the C18 door would result in the loss of historic fabric, significant not only for its material and construction interest, but equally for its role as a small, efficient opening connecting the inside of the house with the outside area behind it.
8. I appreciate that the brick arch above the door would remain, which would mark the location of the former opening, but this would not mitigate the loss of the smaller scale of a single door opening. Moreover, the retained arch would have lost its purpose and integrity, appearing as little more than an architectural vestige above an opening several times its width. The span of the new opening, at almost the breadth of the house, would be disproportionately long compared to the narrower openings in the present rear elevation, which retains a solid: void ratio that is more characteristic of this building's age, use, and location.
9. I note that the application the subject of this appeal followed pre-application consultation with the Council after a refused application, and my attention has been drawn to the neighbouring buildings in this terrace, many of which have a modern rear extension including patio doors. However, I am not aware of the significance of those buildings or the circumstances which led to their consents, to draw parallels to these works which I have considered against this building and on the merits of this case.
10. The proposed works would fail to preserve the special historic and architectural interest of the listed building, contrary to the clear expectations of the Act. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets.
11. Although the degree of harm here would be less than substantial, this does not equate to a less than substantial planning objection, especially where the statutory test is not met. For the same reasons, the works would also conflict with the development plan policies which seek similar policy objectives.

Planning balance

12. In the context of the definition of setting in the Framework, as the surroundings in which a heritage asset is experienced, the works would have such limited, direct impact on the setting of the other buildings in this group,

that they would be preserved in accordance with the expectations of the Act, and the requirements of development plan policies insofar as relevant. Nor would there be any conflict in this regard with the objectives of the Framework which recognises the potential for harm to the significance of a designated heritage asset from development within its setting.

13. I have had regard to my duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Amersham Old Town Conservation Area (CA), to the distinctive architectural character of which the rear elevation and openings of this building make a significant contribution. Despite the harm that would be caused to the listed building, I do not find that the proposal would be detrimental to the character or appearance of the CA. This is because the proposed changes would not be visible from the public domain and only have limited prominence from the private domain. Unlike listed buildings, the significance which a CA is dependent upon is more widely experienced. Case law¹ has established that proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. Given the above, I find that the proposal would not be detrimental to the CA and would thus preserve its significance.
14. Under such circumstances, paragraph 196 of the Framework advises that harm should be weighed against the public benefits of the proposal. I appreciate the points the appellant advances about the benefits of the proposed works. I acknowledge that the Framework promotes the transition to a low carbon future in a changing climate and that the thermal efficiency of the house would be improved, and its carbon footprint reduced. It would also rectify problems of damp.
15. However, there is no substantive evidence that a more sensitive solution could not achieve similar benefits. I acknowledge that admitting more daylight into the dining room would have amenity and health benefits for the occupiers. While I understand the motivation and recognise the environmental and social benefits of the proposed works, these would be of little benefit to the public at large. In any event, they would not outweigh the harm to the listed building.

Conclusion

16. In the absence of any public benefit to outweigh the harm identified above, I conclude that the works would fail to preserve the special historic and architectural interest of the grade II listed building. It would fail to satisfy the requirements of the Act, paragraph 192 of the Framework, and the development plan policies insofar as relevant. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR

¹ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89