



Report to East Buckinghamshire Area Planning Committee Deferred Application

Application Number:	PL/22/4074/FA
Proposal:	Redevelopment of the site to create a new multifunctional Parish Centre with cafe, day nursery building, replacement rectory with detached garage, 2 outbuildings to provide prayer room and substation/bin and bicycle store, associated parking and landscaping.
Site Address:	St Leonards Church Hall Glebe Way Chesham Bois Buckinghamshire HP6 5ND
Applicant:	St Leonard's Parochial Church Council
Case Officer:	Melanie Beech
Ward affected:	Amersham and Chesham Bois
Parish Town Council:	Chesham Bois Parish Council
Valid date:	13 December 2022
Determination date:	11 January 2024
Recommendation:	Conditional Permission

1.0 Matters for consideration

- 1.1 Members will recall that this application was heard by the Planning Committee at the meeting on 17th October 2023. The Planning Committee Report considered at this meeting is attached at **Appendix A**. The application was deferred for the following reason:

“To allow officers to consider further the implications of the proposed development on the integrity of the Chiltern Beechwoods Special Area of Conservation (SAC). The site lies within the Zone of Influence of the SAC and Members disagreed with Officers' screening of the proposal that no likely significant effects would occur. They requested deferral of this planning application, subject to receipt of a satisfactory Appropriate Assessment for the site, considering potential usage against some different scenarios.”

- 1.2 An Appropriate Assessment and report was prepared for the East Area Planning Committee scheduled for 13th December 2023. However, that Committee was cancelled

and therefore this report incorporates the evaluation from the previous report and responds to further comments received since the publication of the report for the December Committee.

2.0 Evaluation

- 2.1 An Appropriate Assessment is informed by comments from Natural England. Natural England were consulted on 19th October 2023 and provided comments on 3rd November 2023. They concluded that “Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutory designated sites and has no objection.” Their full comments are attached at **Appendix B**.
- 2.2 Attached at **Appendix C** is a screening template which is used to screen for the likely significant effect on the Chiltern Beechwoods SAC. In consultation with Natural England, officers still conclude that there would not be a Likely Significant Effects ‘alone’ and/or ‘in-combination’ on features associated with the Chilterns Beechwoods Special Area of Conservation. Therefore officers consider that an Appropriate Assessment of the proposal is not necessary.
- 2.3 However, it is recognised that Members of the Planning Committee were clear in their request for an Appropriate Assessment to be carried out, which considers potential usage against different scenarios. The Appropriate Assessment is attached at **Appendix D**.

3.0 Conclusion on the Chiltern Beechwoods SAC

- 3.1 The Appropriate Assessment considers potential usage of the SAC against three different scenarios and concludes that it is unlikely that the proposed development would have a significant effect upon the integrity of the Chiltern Beechwoods SAC. This is because people using the new facilities on the site are visiting for a specific purpose and given the distance (11.3km) and travel time (25 minutes’ drive), as well as the availability of other open spaces in much closer proximity, it is unlikely that the proposal will increase recreational pressure on the Chiltern Beechwoods SAC.
- 3.2 The Appropriate Assessment has been informed by consultation with Natural England and therefore provides a robust analysis of the potential effects on the Beechwoods SAC.
- 3.3 Based on the Appropriate Assessment and comments from Natural England who raise no objection to the proposal, the recommendation remains to grant conditional permission.

4.0 Response to comments made by Chesham Bois Parish Council dated 20th November 2023

- 4.1 Chesham Bois Parish Council have submitted a further letter in relation to this application, dated 20th November 2023 requesting that the application form, applicant’s documents and case officer report be reviewed. Their full comments are attached at **Appendix E**. They raise concern that some issues have not been addressed, including the scale and use of the proposed development, impact on heritage assets, traffic generation and parking requirements, biodiversity, impact on the neighbouring property, anti-social behaviour, and the impact on the Chiltern Beechwoods SAC.
- 4.2 All of these issues have been addressed by the Planning Inspector in the appeal decision and in the Committee Report considered at the October Committee. The application was deferred solely so that an Appropriate Assessment could be carried out and the

impact on the Chiltern Beechwood SAC be further considered. As such, this is the only matter for consideration as no new substantive evidence or information has been submitted by the Parish Council or other interested party.

- 4.3 In their letter dated 20th November 2023, Chesham Bois Parish Council also raise concerns over procedural matters such as opportunities to speak at Committee, IT issues and consideration of financial penalties (or “costs”) if the Council challenges the Inspectors decision. Officers are confident that the application has been assessed properly in a sound way, following proper procedure.

5.0 Response to comments made by Chesham Bois Parish Council dated 7th December 2023

- 5.1 Following the publication of the Committee Report prepared for the December Planning Committee meeting (which was cancelled), Chesham Bois made further comments and submitted an Ecology Review prepared by Future Nature WTC, and a vehicle count report from November 2023. Their full comments are attached at **Appendix F** and the reports are available to view on the Council’s website.
- 5.2 Officers have considered the information that has been submitted and conclude that it does not change the recommendation to approve the application, subject to conditions. This is because the additional information does not bring up any new material information that has not been previously addressed by the Planning Inspector or in the previous Committee reports. For completeness, each of the comments received are addressed below.

Chiltern Beechwoods SAC

- 5.3 Section 1 of the comments relate to the Chiltern Beechwoods Special Area of Conservation (SAC). CBPC query the rationale for the selection of scenarios set out in the Appropriate Assessment and state that no “high risk” scenario has been provided. Officers were instructed by Members at the previous Committee Meeting to carry out an Appropriate Assessment for the site, “considering potential usage against some different scenarios” (quoted from the minutes of the Committee Meeting held on 17th October 2023). The scenarios were chosen as they represented different users of the new facility and are likely to attract different types and numbers of visitors. The first scenario considered users of the new parish centre combining trips to the Chiltern Beechwoods SAC and is therefore the “high risk” or worst case scenario that CBPC say has not been provided.
- 5.4 CBPC also refer to the comments from Natural England who were consulted on 19th October 2023. An Appropriate Assessment has been carried out which is informed by the comments received. The conclusion of this Appropriate Assessment is that the proposed development is unlikely to have a significant effect upon the integrity of the Chiltern Beechwoods SAC.

Scale

- 5.5 CBPC state that the capacity of the proposed development was not provided for the Planning Inspectorate and has not been detailed in the re-submitted application. This is not correct. The Planning Inspector was provided with all the plans and supporting documentation which detailed the capacity of the proposed development. Based on an assessment of the application, the Inspector raised no objection to the scale of the proposed development. The re-submitted application is the same as the previous application save for the removal of the additional dwelling. This is explained in paragraphs 1.2, 2.4 – 2.8, and 5.3 – 5.5 of the previous Committee Report.

5.6 The comments from the Heritage Officer made in March 2023 are addressed in paragraphs 5.11 and 5.12 of the previous Committee Report.

Ecology

5.7 CBPC say that important ecology and biodiversity matters were not provided for the Planning Inspector and that these matters were not discussed at the previous Committee Meeting. On the contrary, the Inspector was provided with all the information available at the time of the appeal and raised no objection to the proposed development in terms of biodiversity.

5.8 CBPC have instructed an independent ecologist to review the reports submitted with the application and assess the potential impact of the development on the Chesham Bois Common. The Council's Ecologist has reviewed the report prepared by Future Nature WTC on behalf of CBPC and does not consider that any new information has been provided. She acknowledges that a new Statutory Biodiversity Metric User Guide was published in November 2023 but such updates occur regularly and to expect applicants to have to update their metric every time would be unreasonable. The Council assesses the application at the time of its submission. Officers are confident that the impact of the proposed development on protected species has been properly considered and this is set out in paragraphs 5.30 and 5.31 of the previous Committee Report. The new report that has been submitted does not alter this conclusion.

Traffic Generation

5.9 CPBC monitored traffic around the site in November 2023 and instructed an independent consultant to review the reports submitted with the application and assess the impact of a full site capacity event. It is not clear who this consultant is but CBPC have said that the consultant has advised that "The proposed scale of the development would result in a significant uplift in traffic on the small roads adjacent to the site, which have minimal street lighting, no pavements, and are one-way when parking bays are occupied. New traffic generation would impact the tranquil nature of the Conservation Area, in particular at week-ends when the area surrounding the site currently has the most visitors for recreational purposes. The Common is also used to provide Forest School facilities for local schoolchildren during the week and there is a greater risk of accidents with increased traffic."

5.10 This view is not shared by the previous Planning Inspector or the Local Highway Authority, who have commented on both applications and raise no objection to the proposed development in terms of traffic generation. This is set out in paragraphs 5.19 – 5.24 of the previous Committee Report. The traffic monitoring at the site carried out by CBPC and the view of the independent consultant does not provide any new information that would change the comments made by the Highway Authority or the decision made by the Planning Inspector. As previously stated, the proposed development is exactly the same as the previous proposal, save for the removal of the additional dwelling and therefore it would not be reasonable to come to a different conclusion on traffic matters. In fact, the traffic generation is slightly less than the previous appeal scheme, given that the additional dwelling has been removed.

Impact on immediate neighbour

5.11 CBPC state that the Planning Inspector was not provided with detailed information about how the proposed development would impact on residents of the neighbouring property, The Old Rectory. This is not correct. The Planning Inspector was provided with

all the plans and supporting information submitted with the previous application and raised no objection to the proposed development in terms of its impact on neighbouring properties. This is explained in paragraphs 5.16 – 5.18 of the previous Committee Report.

- 5.12 CBPC also raise an issue in relation to a cesspit soakaway and associated waste drains which are located beneath the Glebe Land. They say that access to the drains and cesspit is required for maintenance and it is not clear that the area would be suitable for any excavation or development. The Lead Local Flood Authority (LLFA) have been consulted on the application and raise no objections, subject to a condition requiring a surface water drainage scheme for the site to be submitted, approved and implemented. This is set out in paragraph 5.28 of the previous Committee Report. The comments from CBPC do not change this assessment.

Summary on CBPC Comments received 7th December 2023

- 5.13 CBPC continue to object to the proposed development on grounds which have already been addressed by the Planning Inspector and in the previous Committee Report. The information that was submitted on 7th December is not new evidence and as such does not change the officer's assessment of the application or recommendation to approve, subject to conditions.
- 5.14 CBPC have requested an opportunity to speak at the Committee on 13th December 2023. However, in accordance with the Council's Constitution, "Where an application is deferred for consideration to a subsequent meeting and in the opinion of the lead planning officer there are no significant amendments or changes to the substance of the application, there will be no further public speaking when the application is brought back to the relevant Planning Committee."

6.0 Letter sent from Chesham Bois Parish Council (CBPC) to all Members of the East Area Planning Committee, 12 December 2023

- 6.1 This letter is attached at **Appendix G**. It is not considered that the letter to Members raises any new information and all of the objections have already been addressed.
- 6.2 With regard to which Committee Members are allowed to take part in the further consideration of the application, the Council's Constitution states that "When a Planning Committee is considering any item in a quasi-judicial capacity, a member of the Committee must be present throughout the entire presentation and subsequent debate on the item, in order to vote on that item." The "entire presentation" means the discussion when it was first heard by the Committee, along with any further discussion following a deferment. The Corporate Director for Legal Services and the Monitoring Officer have confirmed this is the case, namely that items deferred at Planning Committee shall only be voted on by Members that were in attendance at the previous meeting(s) wherein the application was discussed/presented.
- 6.3 Finally, CBPC query how many of the conditions could be monitored or enforced. The Planning Practice Guidance (PPG) says that "when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects." The PPG also states that planning applications should not be refused for matters that can be dealt with by condition, and to do so is a stated example of unreasonable behaviour. The conditions that have been recommended all meet the 6

tests for conditions that are set out in the Planning Practice Guidance and therefore they are all enforceable.

7.0 Comments from Protect Chesham Bois Common and Surrounding Area Action Group (The Action Group) dated 7th December 2023

Chiltern Beechwoods SAC

- 7.1 The Action Group, represented by Carter Planning, submitted additional comments on 7th December 2023. These are attached at **Appendix H**. They express their disappointment with the Appropriate Assessment that has been carried out by Officers, saying that there is no evidence that people will only visit the site for a specific purpose. In particular, they say that the café may well not be the sole destination. As the development has not been built yet, or even been given planning permission, there is no evidence to confirm either way whether or not people will combine trips to the application site with trips to the Chiltern Beechwoods SAC. Therefore the Appropriate Assessment must be based on the likelihood of this occurring, which is informed by professional judgement and in consultation with Natural England.
- 7.2 Natural England were consulted on the application on 19th October 2023 and were provided with all of the plans and supporting information submitted with the application. In addition, the case officer sent an email to Natural England, providing them with background information on the case and a further email once the comments had been received, specifically asking them for any comments on the impact of the proposed café. The response was that “The adopted strategic solution for Chilterns Beechwoods relates to increase overnight accommodation/net increase in dwellings and therefore this application would not be caught.” In summary, the proposed development does not result in a net gain in residential dwellings and therefore Natural England does not object to the application.

Land ownership

- 7.3 The Action Group reiterate their objection in relation to the applicant proposing to widen the access on land outside of their ownership. This is addressed in paragraph 5.21 of the previous Committee Report.

Badgers

- 7.4 The Action Group refer to the objection from the Buckinghamshire Badger Group and say that the Council’s Ecology Officer has not responded to all of the information submitted. This is not correct. The Ecologist’s comments are available to view on the Council’s website and in the previous Committee Report. She engaged with the Buckinghamshire Badger Group before providing her comments and ultimately raised no objection to the proposal. Members will note that a condition is recommended that requires the developer to obtain a badger development license from Natural England prior to the commencement of development (condition 15).

Thames Valley Police

- 7.5 The Action Group repeat their objection to the proposed development in terms of site security. This is addressed in paragraph 5.13 – 5.15 of the previous Committee Report and the comments submitted do not provide any new information that needs to be considered.

Light Pollution

- 7.6 The Action Group states that there has been no detailed consideration of the impact of light pollution on heritage assets and protected species. The Inspector raised no objection to the proposed development in this regard and it is reiterated that the current proposal is exactly the same, except for the removal of the additional dwelling. The Action Group have not provided any new information that means that this issue should be debated again. It is noted that condition 19 recommends a lighting scheme to be submitted, approved and installed prior to the use of the development.

Usage

- 7.7 The Action Group states that community groups have vacated the site since the initial application was made and that there are now more alternative worship and community spaces in the local area, whilst church attendance numbers continue to decline. Paragraphs 5.13 – 5.14 of the previous Committee Report sets out that the National Planning Policy Framework (NPPF) encourages the provision of community facilities and this has not changed since the appeal decision was made.

Highways

- 7.8 The impact of the proposed development on highway matters has been assessed by the Planning Inspector and the Local Highway Authority. This is set out in paragraphs 5.19 – 5.24 of the previous Committee Report. The Action Group challenge the Inspector's findings and the consultation response made by the Highway Authority. However, the appeal decision was not formally challenged and therefore it remains a material consideration in the assessment of the current application. As the proposed development is exactly the same as the previous one, apart from the removal of the additional dwelling, there is no reason to re-visit the impact of the proposed development on the highway.

Heritage

- 7.9 The comments from the Heritage Officer made in March 2023 are addressed in paragraphs 5.11 and 5.12 of the previous Committee Report.

Impact on the Grade II listed neighbouring property

- 7.10 The Action Group believe that the Planning Inspector's assessment of amenity and heritage assets was inadequate. However, as previously stated, the appeal decision was not formally challenged and therefore it is an important material planning consideration in the determination of the current application. The Inspector raised no objection to the proposed development in terms of its impact on heritage assets or amenity, and as the application is exactly the same apart from the removal of the additional dwelling, there is no reason to re-visit these issues. In fact, the current proposal represents an improvement to the setting of the listed building as the additional dwelling which was proposed adjacent to The Old Rectory has been removed. This is set out in paragraphs 5.11 - 5.12 and 5.16 – 5.18 of the previous Committee Report.

Summary on comments from the Protect Chesham Bois Common and Surrounding Area Action Group

- 7.11 It is clear that The Action Group are not happy with the Planning Inspector's assessment of the previous application or the decision that was made. However, this is not the forum to challenge the appeal decision, which is a material planning consideration in the assessment of the current application. The Action Group have not provided any

substantial or material new information or evidence that would change the recommendation of Officers to approve the application, subject to conditions.

8.0 Letter from Iain Purvis KC dated 7th December 2023

- 8.1 The Parish Council has submitted a document from a local barrister, which provides some commentary on procedural matters; specifically in relation to the importance of the previous appeal decision. This is attached at **Appendix I**. The letter correctly highlights that an Inspector may make an award of appeal costs against a Planning Authority if it has been guilty of unreasonable behaviour in refusing an application, noting that the Planning Practice Guidance includes as one potential example of this as, 'unreasonably refusing' an application by 'persisting in objections to a scheme or elements of a scheme which...an Inspector has previously indicated to be acceptable.'
- 8.2 They also highlight some case law regarding consistency of decision-making. One crucial issue identified in the case law is that if the second application is distinguishable in some material way from the first, then the relevance of consistency falls away. The letter states that it may be reasonable to uphold objections to a new application, where the evidence is different or where the Planning Authority disagrees with the reasoning of the Inspector on reasonable grounds. In relation to these points, as discussed above, the new parish centre is identical to the previous appeal scheme and the issues relating to its capacity, usage and highway matters were all addressed by the previous Appeal Inspector. None of these matters have changed and there is no significant new information or evidence which would justify a departure from the previous Inspector's decision. To quote from the Planning Practice Guidance (above), if the LPA was to persist in objections which the Inspector has previously concluded to be acceptable, this would be regarded as unreasonable behaviour. In addition, a departure from the previous Inspector's reasoning could only be considered if the reasoning was flawed, not simply because Members disagree with the Inspector's conclusions. The Inspector went into considerable detail on the issues of character and appearance, and other matters, and their reasoning was well articulated. It cannot be said their reasoning was flawed, even if Members disagree with the conclusions.

9.0 Conclusion

- 9.1 The additional information that has been submitted has been thoroughly assessed and acknowledged. It is clear that CBPC and the Protect Chesham Bois Common and Surrounding Area Action Group have strong objections to the proposed development and fundamentally disagree with the Planning Inspector's decision. However, the additional comments and reports do not provide any new evidence or information that materially change the assessment of the application. Therefore, the only matter for consideration by the Committee should be the sole reason for deferring the application; that is to carry out an Appropriate Assessment to further assess the impact of the proposed development on the Chiltern Beechwoods SAC.
- 9.2 Officers have undertaken the Appropriate Assessment and concluded that the proposed development would have no impact on the Chiltern Beechwoods SAC. This was informed by additional comments from Natural England, who confirmed the same. It is not considered that visitors to the new café/centre would combine such trips to the SAC at Ashridge, given the distance involved, the nature and time of the journey, the presence of other recreation destinations closer to Chesham Bois and the presence of numerous other cafes located much closer to the SAC.

9.3 The recommendation therefore remains to approve the development.

10.0 Recommendation: Grant planning permission subject to the conditions set out in the Officer's previous Committee report (Appendix A).