Appeal Decision

Site visit made on 22 September 2015

by Jane Miles  BA (Hons)  DipTP  MRTPI

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

Decision date: 11th November 2015

Appeal Ref: APP/X0415/W/15/3130992

11 Netherwood Road, Beaconsfield, Buckinghamshire  HP9 2BE

- 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 Martin Coles against the decision of Chiltern District Council.
- The application ref: CH/2014/2066/FA, dated 17 November 2014, was refused by notice dated 12 February 2015.
- The development proposed is demolition of an existing dwelling and erection of two detached 5 bedroom dwellings.

Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing dwelling and erection of two detached 5 bedroom dwellings at 11 Netherwood Road, Beaconsfield, Buckinghamshire HP9 2BE, in accordance with the terms of the application, ref: CH/2014/2066/FA, dated 17 November 2014, subject to the conditions listed at the end of this decision.

Preliminary Matter

2. The Council’s second refusal reason concerns a failure to make provision for a contribution towards affordable housing, pursuant to Policy CS8 of the Council’s Core Strategy. Further to a High Court judgement and declaration Order concerning such contributions in relation to schemes of less than ten houses, this reason is still relevant. However the planning obligation in the unilateral undertaking submitted by the appellants during the appeal process meets the statutory tests, including that of necessity, and would provide for the requisite contribution. I have taken the undertaking into account on this basis and consider that it would satisfactorily address the second refusal reason.

Reasons

3. In the light of paragraph 2 above, the main issue in this appeal is the effect of the proposal on the character and appearance of the surrounding area. No. 11 is a corner plot at the junction of Netherwood Road and Howe Drive, such that the proposed development would be seen in the context of both roads. Both were originally developed in the 1960s and the generally spacious layouts

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1 That is, the Local Development Framework Core Strategy for Chiltern District (2011)
2 The Judgment, West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 222 (Admin), followed a challenge to a 2014 Written Ministerial Statement and subsequent alterations to the Planning Practice Guidance (PPG)
combined with established planting contributes to their character. However many dwellings appear to have been altered, extended or, in a few instances, remodelled or replaced. Moreover, although roof pitch and height appears to have remained more or less consistent along the length of Netherwood Road there is now greater variation in these elements and also more generally in the design and appearance of buildings along the northernmost part of Howe Drive. There is also greater variation in plot widths and spacing between buildings along this stretch of Howe Drive.

4. In this site context I can find no compelling grounds to reject the proposal on the basis that replacing one existing dwelling with two new ones would reduce plot widths to such an extent that it would harm the character of the appeal site surroundings. The proposed roof pitches would be steeper and some ridge heights would be taller than is characteristic of the original 1960s designs but the proposed dwellings would be seen in various views, including northwards along Netherwood Road, in the context of more varied roof heights and forms to the west and north.

5. Moreover the variation in roof heights and roof forms in the design of each dwelling, and a gap of some 4m between them, would help to assimilate the buildings into their surroundings. Both would be set further back from the Netherwood Road frontage than the existing house and, although part of one would be closer to Howe Drive than the existing built form, existing and proposed planting would soften its impact in the street scene. I find therefore that space around the buildings and associated planting would be sufficient to prevent the proposed dwellings appearing unduly cramped or over-dominant in either street scene.

6. An extract from the Chiltern Townscape Character Assessment\(^3\) suggests that Netherwood Road and Howe Drive are in a residential area which has a moderate capacity to accommodate medium and small scale development. That does not seem an unreasonable finding, given the nature of development surrounding the appeal site but, in the absence of information about the current status of that Assessment, I do not give it significant weight.

7. Even so, on balance I conclude the proposed development would not harm the character and appearance of the surrounding area. It would not conflict with the aims of saved LP\(^4\) Policies H3 and GC1 or CS Policy CS20 which, in general terms, seek to ensure development of high quality design that respects and is compatible with the character of its surroundings. Such policies are broadly consistent with the more recent National Planning Policy Framework.

8. I note local residents’ concerns about access, traffic and highway safety but the proposals include access, visibility and parking arrangements satisfactory to the Council and Highway Authority. Subject to such arrangements being put in place before either dwelling is occupied, which could be secured by condition, I find the proposals acceptable in these respects. I have had regard to all other matters raised, including neighbouring occupiers’ concerns about privacy and concerns about local infrastructure. However I have found nothing so significant as to outweigh my findings on the main issue which leads me to conclude overall that the appeal should succeed and planning permission should be granted subject to conditions.

\(^3\) Appended to the appellants’ statement of case

9. A condition specifying the approved plans is needed for the avoidance of doubt and in the interests of proper planning. It is reasonable to require details of materials and of existing and proposed levels in the interests of visual amenity. A condition to ensure the proposed parking, access and visibility arrangements are put in place is needed in the interests of highway safety, along the lines of conditions suggested by the Highway Authority. Given the site’s proximity to a junction, that condition should also include a requirement to keep the parking and manoeuvring space (including the garages) available for such purposes, notwithstanding the appellants’ contrary view regarding use of the garages.

10. The appellants maintain the Council’s suggested condition relating to obscure glazing is not necessary. Although I agree in relation to three of the four flank elevations I find a condition along these lines is justified for the side elevation adjacent to no. 9 Netherwood Road, to prevent undue overlooking of that property’s private amenity space. Given that permitted development rights to install new windows/dormer windows are subject to conditions, and also the absence of any exceptional circumstances in this case, there is no need for a condition removing such rights. The conditions which follow are based on those suggested by the Council with some modification and (in condition 5) some additions, in the light of the preceding reasoning and advice in the PPG.

11. Planning permission is therefore granted subject to the following conditions:

1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 447/TP/01, 447/TP/02 and 447/TP/04 to 447/TP/12 inclusive, all received by the local planning authority on 17 November 2014; 447/TP/03 received by the local planning authority on 18 December 2014.

3) No development shall take place until details and/or samples of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until plans and/or cross sections showing details of existing ground levels and proposed slab and finished floor levels in relation to a fixed datum point outside the site have been submitted to and approved in writing by the Council. Development shall be carried out in accordance with the approved details.

5) Neither dwelling hereby permitted shall be occupied until vehicular access, parking and manoeuvring space has been provided in accordance with the approved plans and made available for use. The parking and manoeuvring (including the garage parking spaces) shall be kept available for such purposes at all times thereafter.

6) Before the first occupation of the dwelling identified as ‘11A’ on the approved plans hereby permitted the first floor windows in the southern elevation of that dwelling shall be fitted with obscure glazing and shall be permanently retained in that condition.

Jane Miles
INSPECTOR
Appeal Decision

Site visit made on 22 September 2015

by Jane Miles  BA (Hons)  DipTP  MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11th November 2015

Appeal Ref: APP/X0415/W/15/3131221
Rowan Garden Centre, Gorrels Lane, Chalfont St Giles, Buckinghamshire HP8 4AB

- 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 Christopher Veys against the decision of Chiltern District Council.
- The application ref: CH/2014/2209/FA, dated 8 December 2014, was refused by notice dated 3 February 2015.
- The development proposed is described as “retention of four structures required for the growing and display of plants and related products – retrospective”.

Decision

1. The appeal is dismissed insofar as it relates to ‘The Hut’ (Structure ‘D’ on the submitted layout plan). The appeal is allowed insofar as it relates to the ‘Potting Shed’, ‘Shade House’ and ‘Little Hut’ (Structures B, C & E respectively on the submitted layout plan). Planning permission is granted for Structures B, C & E, required for the growing and display of plants and related products at Rowan Garden Centre, Gorrels Lane, Chalfont St Giles, Buckinghamshire HP8 4AB, in accordance with the terms of the application, ref: CH/2014/2209/FA dated 8 December 2014, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Procedural Matters

2. The application is made retrospectively for four structures which are already in place and in use. Each structure is clearly identified on the submitted plans and drawings by a title and an initial, as follows: ‘B: Potting Shed’; ‘C: Shade House’; ‘D: The Hut’; ‘E: Little Hut’. I have therefore used these details for identification purposes in the decision paragraph above.

Main Issues

3. The garden centre is in the countryside and in the Green Belt. Consequently the first main issue is whether or not the structures constitute inappropriate development in the Green Belt, for the purposes of development plan policy and the National Planning Policy Framework. In relation to this issue I shall also consider the effect of the structures on the openness of the Green Belt and on the purposes of including land within it. If the structures are found to be inappropriate development in the Green Belt, then the second main issue is
whether the harm arising from inappropriateness and any other harm is clearly outweighed by other considerations, thereby amounting to the very special circumstances needed to justify the proposals.

Reasons

Whether or not inappropriate development

4. Saved Policy GB2 of the Chiltern District Local Plan (LP\(^1\)) lists categories of development that will not be inappropriate development in the Green Belt, based largely on Planning Policy Guidance 2: Green Belts (now superseded). The Council maintains the structures the subject of this appeal do not fall within any of the categories listed in Policy GB2. That may be so, but there are some significant differences between the categories in this LP policy and those in paragraph 89 of the Framework, which is a key material consideration. Moreover paragraph 215 of the Framework advises that a development plan policy such as this one should be given due weight according to its degree of consistency with policies in the Framework.

5. The Framework continues the long-established policy that inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate subject to the exceptions listed. Unlike LP Policy GB2 this includes “limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development”. Insofar as it does not include this type of development, LP Policy GB2 is not consistent with the Framework, and I therefore give greater weight to the provisions of the Framework in this respect.

6. On my site visit I saw that the appeal site is an established garden centre and details of the planning history, albeit limited, support this. The lawfulness of the use is not queried by the Council and it is distinctly different from an agricultural use. There are permanent structures on the land, including the building which houses a shop and cafe for garden centre customers and which is part and parcel of such use. Therefore, having regard to the definition in the Glossary at Annex 2 to the Framework, I find that the garden centre site constitutes previously developed land.

7. In addition to the shop building and the structures the subject of this appeal there are various other features on the site, including fencing, plant bays and numerous table-like timber stands for displaying plants. The three smaller structures (B, C & E) sit amongst such features, and within the confines of the site as a whole. Given also their modest sizes I find that they constitute limited infilling on a previously developed site which is in continuing use.

8. Moreover the three smaller structures are not very tall, ranging in height from 2.4m to 3m. The smallest (Little Hut, which is scarcely larger than a domestic garden shed) has a completely open front and a transparent roof, such that it has very little impact on the openness of the Green Belt. The Shade House and the Potting Shed are larger in footprint size but both are largely open and airy spaces, enclosed to varying degrees by open vertical boarding, open roof

\(^1\) In full: Chiltern District Local Plan Adopted 1 September 1997 (Including alterations adopted 29 May 2001) Consolidated September 2007 & November 2011
battens (the Shade House) or transparent roof sheeting (the Potting Shed). In the context of their garden centre surroundings their impact on the Green Belt’s openness is very limited. I find that none of these three structures, individually or together, have a greater impact on the openness of the Green Belt than the existing development on the site.

9. Of the five purposes of Green Belt the most relevant in this case is that of assisting in safeguarding the countryside from encroachment. However, as an integral part of an established garden centre these three structures would not conflict with this purpose and they are not visually intrusive. They would not have a greater impact on the purpose of including land within the Green Belt than the existing development.

10. Consequently I conclude that the three structures, B, C & E, do not constitute inappropriate development in the Green Belt and there is no need to consider whether very special circumstances exist. These structures do not conflict with the Framework or with the overall aims of LP Policy GB2 and, in the absence of any other objection, there is no reason to withhold permission for them.

11. The fourth structure, The Hut, is very much larger than the other three, with a footprint size of around 170 sq.m. It is similar to the other structures in some respects (height, transparent roofing and a wide front opening) but its walls are of solid timber boarding. Although it is within the overall appeal site boundary it sits along the south-west boundary of the plant sales area with an undeveloped area behind it. However it is principally because of its footprint size that I find this structure cannot be considered as limited infilling. Therefore, even though in the context of the site as a whole its impact on openness is not very great, I must conclude that this structure constitutes inappropriate development in the Green Belt.

Other considerations and very special circumstances

12. As already noted above inappropriate development is, by definition, harmful to the Green Belt. The Framework sets out that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm arising from inappropriateness and any other harm is clearly outweighed by other considerations. In relation to The Hut there is harm arising from inappropriateness and a small amount of harm to the openness of the Green Belt.

13. In terms of other considerations the appellant’s case includes details of the operation of the garden centre site and buildings as a whole and the specific need for The Hut. It also sets out the benefits of the garden centre as a source of service, expertise, employment and training, such that the enterprise as a whole makes a significant contribution to the area’s rural economy. As the Council acknowledges, the Framework and its own CS\(^2\) Policy CS19 support the sustainable growth and expansion of business and enterprise in rural areas. With regard to The Hut I find that its function in the garden centre enterprise and the economic and social benefits of that enterprise merit a modest degree of weight in its favour.

14. I understand that the various glasshouses and buildings which previously existed on the site were significantly more extensive than those which exist at

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2 That is, the Local Development Framework Core Strategy for Chiltern District (2011)
Moreover the total area of replacement glasshouses for which there are extant permissions is also significantly greater than that of The Hut and the other three structures\(^3\). In particular it is set out in the appellant’s statement of case that The Hut is on the site of a glasshouse proposed to be retained and extended under a previous but extant permission. However these matters are not supported by documentary evidence or plans, and it is difficult to envisage how a permission to retain and extend a building that no longer exists can remain extant.

15. In the absence of specific details and/or plans which explain the history, siting and size of the previous and permitted glasshouses I cannot conclude with certainty that The Hut’s impact is substantially less than that of the previous and/or permitted buildings. I cannot therefore give this matter substantial weight in favour of retaining The Hut. I note the appellant was not given an opportunity to discuss and clarify these matters directly with Council officers, which is regrettable, but that does not alter my assessment of the proposals.

16. Therefore, having had regard to all other matters raised and in the particular circumstances set out above, I find that the modest weight attributable to the benefits of The Hut are not sufficient to clearly outweigh the substantial harm arising from inappropriateness and the small amount of harm to the Green Belt’s openness. Very special circumstances do therefore not exist and retaining The Hut would conflict with the Framework and with the overall aims of LP Policy GB2.

17. Consequently it follows that overall I conclude the appeal should be dismissed insofar as it relates to ‘The Hut’ but that it should be allowed insofar as it relates to the ‘Potting Shed’, ‘Shade House’ and ‘Little Hut’. As the latter three structures are already in place there is no need to impose any conditions.

*Jane Miles*

**INSPECTOR**

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\(^3\) Whether on the basis of the appellant’s figure of 1379 sq.m or the figure of 1389 sq.m attributed to the Council by the appellant
Appeal Decision

Site visit made on 20 October 2015

by Mr Kim Bennett BSc Dip TP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28/10/2015

Appeal Ref: APP/XO415/D/15/3119191
60 Oakington Avenue, Little Chalfont, Buckinghamshire HP6 6SR
- 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 Potts against the decision of Chiltern District Council.
- The application Ref CH/2015/0743/FA, dated 21 April 2015, was refused by notice dated 12 June 2015.
- The development proposed is the erection of a part two storey, part single storey rear extension, garage conversion and front dormer window (Resubmission following approval).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of No 58 Oakington Avenue.

Reasons

3. Number 60 Oakington Avenue is a detached property located on the north west side of the road. The area is wholly residential in character and there are a variety of dwelling types including detached, semi-detached and bungalows. Adjoining the property to the south west is No 58 Oakington Avenue, a detached property of similar age to No 60.

4. Planning permission was granted in February 2015 for an extension very similar to that currently proposed except that the depth of the rear extension was 3.6 metres\(^1\). A subsequent application proposed increasing that depth to 4.5 metres and was refused in April 2015\(^2\) for the same reason as the appeal proposal. The latter now proposes a compromise depth of 4 metres but otherwise is similar to that approved in February 2015.

5. The appellant considers that the proposed increase in depth of 400 mm beyond that which has already been approved, would only have a marginal additional impact upon the neighbouring property. In assessing the proposal I took the opportunity to view it from within No 58 as well as the appeal site, in order to

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\(^1\) Application Ref CH/2014/2284/FA
\(^2\) Application Ref CH/2015/0307/FA

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fully appreciate the relationship between the two. No 58 has a double patio
door providing natural light to the living area and I agree it would be unlikely to
be adversely affected in that respect given the spacing between the two
properties and the fact that the extension would be well outside the 45 degree
line, which although not mandatory, is a commonly accepted indicator devised
by the Building Research Establishment to assess whether there might be
potential for loss of light. Similarly, given No 58’s location to the south west of
the appeal property, the extension would be unlikely to have any adverse
impact in terms of loss of sunlight.

6. However, in terms of physical impact, the extension would be in close proximity
to the rear common boundary with No 58 at just over a metre away from the
boundary fence. No 58 also has a patio area extending beyond the living area
immediately the other side of the fence. In my view, the extension as approved
will already have some impact upon the occupiers of No 58 as a result of its
proximity, full two storeys in height and large hipped roof. Whilst some impact
from adjoining extensions is often inevitable and the previous proposal was
considered acceptable by the Council, a further increase in depth would create a
more dominant and overbearing effect to the occupiers of No 58 in terms of
outlook from their rear garden area in particular, and to a lesser extent from
the rear living area, albeit that would be an oblique view. Whilst I acknowledge
that it would only be a further 400 mm than the depth of the approved
extension, such an argument could be repeated several times over and a
judgement has to be made as to when the point is reached where the impact of
an extension changes from having an acceptable relationship, to one where the
impact increases to an extent that becomes unacceptable. Given the size of the
extension that has been permitted to date, I consider that an increase beyond
that would cause harm to the living conditions of the adjoining occupiers.

7. I acknowledge the reference to the example of an apparently similar situation
concerning an extension to a property at Highfield Close. However, individual
cases tend to be determined by the precise conditions of each particular site in
terms of factors such as orientation, levels, existing projections, window
positions etc. and therefore cannot set a precedent for situations elsewhere
where any combination of such circumstances might be different. For that
reason it has not been decisive in my findings above.

8. For the reasons given the proposal would be contrary to Policies GC3, H13 (i)
and H14 of the Council’s Local Plan 1997 and its Supplementary Planning
Document on Residential Extensions and Householder Development 2013, in
that it would dominate the neighbouring property, have an overbearing
appearance and would be detrimental to the amenities of the occupiers as a
result. Although the appellant considers the policies of the local plan to be
somewhat out of date, the general thrust of its policy approach in respect of
protection of residential amenity in particular, is consistent with advice within
the National Planning Policy Framework, relating to the need for good design.
In that respect the need to protect residential amenity is part of good design.

9. Accordingly, for the above reasons and policies referred to, the appeal should
be dismissed.

Kim Bennett    INSPECTOR