



Appeal Decision

Site Visit made on 3 August 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2021

Appeal Ref: APP/A1910/W/21/3269008

Land at The Street, The Street, Chipperfield WD4 9BH

- 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 Laxton Properties Ltd against the decision of Dacorum Borough Council.
 - The application Ref 20/02279/FUL, dated 7 August 2020, was refused by notice dated 13 October 2020.
 - The development proposed is development of two dwellings, together with garaging and driveways.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal, the Government published the National Planning Policy Framework 2021 (the Framework). I sought comments from the main parties with regards to this matter and have taken the responses received into account in determining the appeal.
3. The appellant submitted a Heritage Impact Assessment (HIA)¹ which was produced following the Council's decision to refuse planning permission. The HIA does not seek to change the proposal and I note that the Council have responded to it in their statement. Therefore, taking into account the principle established by the Courts in Wheatcroft, I have accepted the HIA and have considered it in my assessment of the appeal proposal.
4. The Council refers to harm to the setting of the Grade II* Listed The Pale Farm. The listing refers to this building as 'The Pale Farm and barn adjoining on east'². The main parties have referred to the listed building simply as The Pale Farm and that is how I shall refer to it.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and relevant policies of the Development Plan;
 - The effect of the proposal on the openness of the Green Belt;

¹ Dated January 2021 produced by Cotswold Archaeology.

² Listing Entry Number: 1173068.

- The effect of the proposal on the character and appearance of the Chipperfield Conservation Area and the setting of the Grade II* Listed The Pale Farm;
- The effect of the proposal on the living conditions of the occupants at the Old Barn Cottage, with particular regard to privacy and outlook; and,
- If the proposal is inappropriate development, 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 required to justify it.

Reasons

Whether inappropriate development

6. Policy CS6 of the Core Strategy 2006-2031 Adopted September 2013 (CS) is concerned with selected small villages in the Green Belt, within which a limited number of developments will be permitted. These include limited infilling with affordable housing for local people. The main parties agree that restricting limited infilling to affordable housing for local people is no longer appropriate. The Council's Officer Report states that this follows previous appeal decisions and the Government making it clear that smaller residential schemes should not contribute towards affordable housing needs in the interests of housing delivery. There is no evidence before me to suggest that I should take a different view.
7. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate with a limited number of exceptions, including limited infilling in villages. There is no dispute between the main parties that the appeal site is located within a village and I have reached the same conclusion.
8. Limited infilling is not defined by the Framework. The supporting text to CS Policy CS6 defines 'limited' as development which does not create more than two extra dwellings. 'Infilling' is defined as development whereby buildings, most frequently dwellings, are proposed or constructed within a gap along a clearly identifiable built up frontage or within a group of buildings. It does not include backland development, either in the form of plot amalgamation or tandem development. Further development will only be permitted where it is limited in scale.
9. The appeal site has a wide frontage and a depth that extends significantly beyond the plots of the dwellings that sit either side of it. Moreover, one of the proposed dwellings would be set deep into the site so that the proposal would appear as form of tandem development. Therefore, the proposal as a whole would not sit within a gap in a clearly identifiable built up frontage. Further, the dwellings to the north and north east of the appeal site are a significant distance from it and I do not consider the appeal site to be surrounded by properties. Moreover, the proposed dwellings would not sit within a group of buildings.
10. Moreover, while the proposal is for only two dwellings, these would be large properties with fairly large, detached garages. Consequently, due to the size of the proposed buildings and the proportion of the appeal site that the development as a whole would cover, I do not consider that it would be limited

in scale. Consequently, I find that the proposal would not amount to limited infill in the Green Belt.

11. In reaching this conclusion, I have had regard to the appeal decisions submitted by the appellant. While the appeal at The Royal Oak is in Chipperfield³, the others relate to development in different parts of the country, so are likely to be viewed in a different context to the current appeal proposal. I am mindful also that each case must be considered on its own merits. With regard to the appeal at The Royal Oak, there was no dispute between the parties that the site in that case was an infill site. Moreover, while close to the current appeal site it is viewed in a different context. Consequently, I afford these matters limited weight and do not consider that they demonstrate the proposal before me would be limited infill.
12. I conclude that the proposal would not constitute limited infill in a village and would, therefore, comprise inappropriate development in the Green Belt. There would be conflict with CS Policy CS6 and the Framework. I do not consider that any of the other exceptions of the Framework apply and the proposal would be inappropriate development that is by definition harmful to the Green Belt.⁴

Openness

13. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
14. The proposal is for two large dwellings with detached garages. Due to the size and scale of the buildings and the proportion of the site that development would cover, the proposal would result in a spatial and visual change to the appeal site and its environs that would reduce the openness of the Green Belt. While the reduction in openness would be relatively localised it would, nonetheless, result in harm to the Green Belt. Thus, the proposal would conflict with the aims of the Framework.

Character and Appearance

15. The appeal site is located in the Chipperfield Conservation Area (CA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the 1990 Act) requires that, in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. The appeal site is also in proximity to the Grade II* Listed Pale Farm. Section 66(1) the 1990 Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, that special regard is had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
16. The significance of the CA is derived, in part, from the quality of its buildings and sense of rural openness. The appeal site is an open space that punctuates existing development along The Street. Its openness contributes positively to character and appearance of the CA. Although the frontage is screened with vegetation, the boundary fronting the drive to Pale House is not and is

³ APP/A1910/W/19/3231097

⁴ Paragraph 147 of the Framework.

therefore quite visible from The Street in oblique views. Further, the appeal site is highly visible from the properties at Old Barn Cottage and Pale House. In addition, the appeal site is a surviving remnant of the former fields network and agricultural uses that would have been found in this area. The importance of the appeal site to the character of the CA, therefore, is also in the way that it informs the historic evolution of the village.

17. There is dispute between the main parties as to whether the appeal site was once part of the former Kings Langley Royal Park. In light of my findings above, the appeal site is an important feature within the CA regardless of this issue. As such, this is not a determinative matter in the appeal.
18. The proposal by virtue of the size of the proposed buildings and the proportion of the appeal site that development would cover, would result in the unacceptable erosion of this important open space. It would, as a result of the scale, bulk and layout of the proposed development appear as an incongruous addition to the CA and would harm its character and appearance. As such, the proposal would fail to preserve or enhance the character or appearance of the CA.
19. The significance of the Grade II* Listed Pale Farm is derived, in part, from the age and the quality of the building. It is separated from the appeal site by intervening buildings and the private road leading to Pale House. There is also a post and rail fence along the southern boundary of the site and hedges along the northern boundary of Old Barn Cottage. However, the buildings around it together form a clearly identifiable former farmstead. Moreover, the appeal site, through its openness and by contributing to the understanding of the complex as a former farmstead, is an important part of the heritage asset's setting, contributing to its character and significance. This is apparent from the appeal site as well as from the properties at Pale House and Old Barn Cottage and in the glimpsed views from The Street.
20. As I have reasoned above, the proposal would, due to the size of the proposed buildings and proportion of the appeal site that development would cover, unacceptably erode this important open space. The contribution that the site makes to the understanding of the former farmstead would also be lost. Thus, the proposal would fail to preserve the setting of Pale Farm and harm would be caused to its character and significance through unacceptable development in its setting.
21. There is also a Grade II Listed Building known as the Barn at The Pale Farm (20 Metres North West of the House) (Barn at Pale Farm) located between Pale Farm and Old Barn Cottage. Although the Council have not specifically referred to this building in its refusal reason, it is mentioned in the appellants Heritage Impact Assessment⁵ and the Heritage Statement submitted with the application⁶. Third parties also refer to the Barn at Old Barn Cottage and I note that the appellant's Heritage Statement states that this C20th property contains a Grade II Listed Barn. I have a statutory duty to consider the effect of the appeal proposal on this building's setting. Given its location and the contribution that this building makes to the understanding of the former farmstead, it is logical that the same conclusions I have made in relation to

⁵ Figure 8 shows the relationship of the appeal site to nearby listed buildings.

⁶ A copy of the listing is provided in the appendices.

Pale Farm must be reached in terms of the impact of the proposal on the character and significance of this building.

22. There are other listed buildings in vicinity of the appeal site, including Grade II Listed Buildings at White Cottage and Yew Trees. Given the relationship of the appeal site to these buildings, Yew Trees is on the opposite side of the road and White Cottage is separated by intervening development, the proposal would not harm their settings. Further, the distance between the appeal site and the Grade II Listed Buildings at Copthall and The Tile House ensure that the proposal would have no effect on their settings. The Grade II Listed The Old Forge and the Outbuilding next to the Road at Old Forge sit adjacent to the appeal site and lower than it. These do not share the same visual or historic relationship with the appeal site that Pale Farm does. Consequently, the proposal would not harm the setting of these listed buildings.
23. In light of the foregoing, I consider that the proposal would result in harm to the significance of the CA as a heritage asset and the character and significance of Pale Farm and the Barn at The Pale Farm through unacceptable development in their setting. Paragraph 199 of the Framework directs me to attach great weight to the heritage assets' conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
24. The harm that would be caused to the significance of the CA as a designated heritage asset would be localised to the vicinity of the appeal site and would not result in a total loss of significance. I find the harm to be less than substantial. The harm to the character and significance of Pale Farm and the Barn at Pale Farm, through development within their setting, would also not result in a total loss of significance and would be less than substantial. Under such circumstances, paragraph 202 of the Framework states that these harms should be weighed against the public benefits of the proposal.
25. The proposal would contribute two dwellings to the area's housing stock. It would also likely contribute to the local economy through the construction period and associated employment, and because future occupants would be likely to use local services. However, the development of two dwellings is unlikely to make a significant contribution to these matters.
26. Consequently, the public benefits that would arise from the proposal do not outweigh the harm that would be caused to the heritage assets. Accordingly, the proposal conflicts with the Framework in terms of its aims to sustain and enhance the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
27. I conclude that the proposal would cause harm to the character and appearance of the CA and the significance of the designated heritage assets of the Grade II* Listed Pale Farm and Grade II Listed Barn at Pale Farm, as a development within their setting. There would be conflict with CS Policy CS27, which indicates, among other matters, that the integrity, setting and distinctiveness of designated assets will be protected, conserved and if appropriate enhanced. The proposal would also conflict with Saved Policies 119 and 120 of the Dacorum Borough Local Plan 1991 – 2011 Written Statement Adopted April 2004 (LP). In summary, these seek to ensure that development adjacent to a listed building will retain the character and setting of listed

buildings and that new developments in conservation areas would preserve or enhance the established character or appearance of the area. There would also be conflict with the overarching aims of the Framework.

Living Conditions

28. The proposed dwelling to the front of the appeal site would have large windows on its front elevation facing windows on the north elevation of Old Barn Cottage. The Council's uncontested evidence suggests the distance between the two buildings would be in excess of 23 metres, which would be sufficient to ensure that no harmful overlooking or unacceptable visual intrusion affecting the occupants of Old Barn Cottage would occur.
29. I conclude that the proposal would not harm the living conditions of the occupants of Old Barn Cottage with regard to privacy and outlook. There would be no conflict with CS Policy CS12 and Appendix 3 of the LP. These seek, among other matters, to ensure that proposed development does not result in visual intrusion or loss of privacy to the occupants of existing dwellings. There would also be no conflict with the overarching aims of the Framework. The Council also refer to CS Policies CS6 and CS13, however these do not relate to the effect of proposed development on living conditions. They also refer to Appendix 5 of the LP which relates parking provision. As such, these policies and the appendix are not directly relevant to this main issue.

Other Considerations

30. The proposal would contribute two dwellings to the area's housing stock and associated economic benefits, as I have set out above. However, the development of two dwellings is unlikely to make a significant contribution to these matters and I afford this matter limited weight.
31. Substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the proposal, and the reduction in its openness. I have also found that harm would be caused to the CA and the Grade II* Listed The Pale Farm and the Grade II Listed the Barn at The Pale Farm. I attach substantial weight to that harm. Thus, I find that the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.

National Planning Policy Framework Paragraph 11

32. The Council cannot demonstrate a 5 year housing land supply. I am advised that as of 1 April 2019, the supply stood at 3.8 years using a 5% buffer and 3.3 years using a 20% buffer. The Council state that the latest Housing Delivery Test Results show that they must prepare an action plan.
33. In light of the 5 year housing land supply shortfall, the Framework makes it clear that the most important policies for determining the application are out of date in the terms set out in paragraph 11d) and footnote 8 of the Framework. Thus, planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
34. Footnote 7 of the Framework refers to those areas or assets of particular importance set out by paragraph 11d). These include land designated as Green Belt and designated heritage assets. I have found that unacceptable harm

would be caused to the Green Belt, the CA and the listed buildings at Pale Farm and the Barn at The Pale Farm, and these provide clear reasons for refusing the proposed development. As such, paragraph 11d is not engaged.

Planning Balance and Conclusion

35. The proposal would contribute two dwellings to the area's housing stock and is likely to have associated economic benefits. However, the development of two dwellings would be unlikely to make a significant contribution to these matters and such benefits would be limited. Moreover, while the Council cannot demonstrate a 5 year housing land supply, for the reasons given above, the proposal does not benefit from the presumption in favour of sustainable development.
36. I have found that the proposal would not result in harm to the living conditions of the occupants of Old Barn Cottage. However, the absence of harm in this respect is a neutral factor in my overall considerations. By contrast, the proposal would cause harm to the character and appearance of the CA and the character and significance of the Pale Farm the Barn at Pale Farm through unacceptable development within their setting. While the harm would be less than substantial, there are no public benefits that would outweigh this.
37. Further, substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the proposal, and how it would reduce its openness. That harm, and any other harm resulting from the proposal, is not clearly outweighed by other considerations.
38. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Scott Britnell

INSPECTOR