
Appeal Decision

Site visit made on 22 April 2024

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 2 May 2024

Appeal Ref: APP/A1910/C/23/3316713

Land at Martlets, The Common, Chipperfield, Kings Langley, Hertfordshire WD4 9BS

- 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 Remus Nistorel against an enforcement notice issued by Dacorum Borough Council.
 - The enforcement notice was issued on 16 January 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a detached structure to provide two semi-detached outbuildings.
 - The requirements of the notice are:
 - 1 Remove all the fixtures and fittings from the outbuildings
 - 2 Remove the outbuildings in their entirety
 - 3 Remove all hardstanding facilitating the outbuildings from the land
 - 4 Remove all materials from the land in connection with steps 1-3 above
 - 5 Restore the land to its original condition
 - The period for compliance with the requirements is:
Steps 1 to 4 - Three months
Step 5 – Six months
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a), the deemed planning application

Main Issues

2. The main issues in this case are:
 - The effect on the character and appearance of Chipperfield Conservation Area;
 - Whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, and if so, the effect on openness; and

- 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 the proposal.

Reasons

Character and appearance of Chipperfield Conservation Area

3. The appeal site lies within Chipperfield Conservation Area (CA). From the available evidence, including Chipperfield Conservation Area Character Appraisal (CAA), the Chipperfield Village Design Statement (DS) and observations on my site visit, I consider the significance of the CA is largely derived from the juxtaposition of a large number of historic properties primarily fronting onto the Common, which itself is a dominant historic feature at the heart of the village. The diverse and irregular plots and sizes of the buildings influence the feeling of space around the buildings and the absence of a strong building line creates opportunities for oblique views between the buildings, which contributes to the character of the village. The appeal premises form part of a C19 terrace of three cottages constructed in flint and brick with decorative pendant bargeboards to the front elevation. They are identified in the CAA as locally listed and their historic form, layout, design and use of materials make an important contribution to the character and appearance of the CA.
4. The enforcement notice relates to Land comprised of two cottages and their associated gardens. The cottages benefit from a recent grant of planning permission for the extension and conversion of a dwelling into two cottages. While implementing this development a timber outbuilding situated within the garden of the original dwelling was demolished. The unauthorised development relates to the construction of a replacement detached outbuilding which now straddles the rear gardens of the two cottages. The outbuilding is divided internally and provides outside storage space for each cottage.
5. Design guidelines set out in the DS aim to ensure that buildings are designed in such a way to reduce the appearance of bulk and to fit into their site and surroundings. Buildings with a deep floor plan often appear bulky and large spans result in expansive shallow pitch roofs. Materials and styles should reflect the premises and their immediate environs where appropriate.
6. The new building is sited within the rear gardens of the two cottages and traverses the common boundary between those gardens. Thus, in terms of its siting the building does not respond to the original plot layout of the cottages and appears incongruous. Moreover, its overall scale, extending the full width of both plots, has resulted in a building which appears cramped with little space around the building itself. Its box design and form are reinforced by the deep plastic fascia and shallow pitch roof. Considering its domestic fenestration arrangement, including the bulky UPVC windows/doors, the building has a crude residential appearance and does not display the simple characteristics of an ancillary utilitarian garden building. I appreciate that the building has been constructed in timber, however, the narrow tongue and groove boarding does not reflect the appearance of wide black weatherboarding, which is a more traditional and common material of construction for outbuildings in the CA. Overall, the design and appearance of the building does not respond to its setting and has a harmful effect on the character and appearance of the host properties and the CA.

7. I recognise that the outbuilding is located within the rear garden of the cottages and thus not readily visible from The Common. However, it is clearly visible from the approach to the Village Hall which is a public building and overlooked from windows within the Village Hall and by neighbouring properties. The painting of the outbuilding in a different colour (grey or green) would not mitigate the harm I have identified in relation to its scale, siting and form.
8. I conclude that the replacement building has a harmful effect on the character and appearance of the area and fails to preserve or enhance the character or appearance of Chipperfield Conservation Area. It causes less than substantial harm to the significance of the CA as a heritage asset. This harm is not outweighed by any public benefits. The unauthorised development is therefore contrary to policies in the National Planning Policy Framework (the Framework) which seek to conserve or enhance the historic environment and promote good design. In addition, there would be conflict with the design aims of Policy CS6, CS11 and CS12 of Dacorum's Core Strategy 2006-2031, adopted September 2013 (CS). I also find conflict with the heritage aims of Policy CS27 of the CS which reflects the duty related to conservation areas as set out in Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Inappropriate development

9. It is common ground that the deemed planning application relates to a replacement building located within Chipperfield, which is a selected small village in the Green Belt as defined by Policy CS6 of the CS. Policy CS5 of the CS advises that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. It states that development within selected small villages in the Green Belt will be permitted in accordance with Policy CS6. Policy CS6 of the CS states that within Chipperfield, the replacement of existing buildings will be permitted provided the development is sympathetic to its surroundings, including the adjoining countryside in terms of local character, design, scale, landscaping and visual impact; and retains and protects features essential to the character and appearance of the village.
10. Paragraph 154 of the Framework advises that the construction of new buildings should be regarded as inappropriate development in the Green Belt subject to a number of exceptions. A replacement building which is in the same use and not materially larger than the one it replaces, is included in those exceptions.
11. Considering my findings set out in the first main issue above, where I found that the scale and design of the replacement building does not respond to local character, there is conflict with Policy CS6 of the CS. Furthermore, the replacement building has a footprint which is 48% larger than the building it replaced. The increase in depth and width of the building has resulted in a building which I consider to be materially larger than the one it replaced. I have had regard to the Council's decision on a replacement building at Pale House, Chipperfield¹. In that case the replacement building's footprint was only 27% larger than the building it replaced and was also considered to be sympathetic to its context. It was thus not in conflict with Policy CS6 of the CS and thus not directly comparable to the findings in this case.

¹ Appellant's Statement of Case, Appendix 3

12. Having regard to the position of the new building within the rear gardens of existing dwellings and situated within the framework of the village, I do not consider that the development results in an encroachment of development into the countryside. However, the replacement building has a larger footprint and volume than the one it replaced and thus there has been a small loss of openness both visually, and spatially, having regard to the cramped positioning of the building.
13. For the reasons given above I conclude that the building would be inappropriate development in the Green Belt.

Other considerations

14. I have had regard to the size and type of development that is available to residential properties, and land within their curtilage, through permitted development allowances under the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. I also recognise that those allowances are also available to properties located in the Green Belt. However, in this case the appeal premises do not benefit from those rights as they have been removed by a condition on a previous grant of planning permission. There is therefore no fallback position available to the Appellant and I give this consideration no weight.

Green Belt Balance

15. The development enforced against is inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The development would also cause harm to the openness of the Green Belt. Furthermore, I afford great weight to my finding that the unauthorised development fails to conserve the significance of the heritage asset, Chipperfield Conservation Area.
16. There are no considerations advanced which weigh in favour of the development to clearly outweigh the harm I have identified to the Green Belt by reason of inappropriateness, the harm to openness and other harm. Accordingly, very special circumstances do not exist to justify the development and the development conflicts with Policy CS5 of the CS and the Framework.

Conclusion

17. For the reasons given above, the construction of the detached structure to provide two semi-detached outbuildings would not comply with the development plan and no considerations merit a decision otherwise than in accordance with the development plan as a whole and the Framework. I conclude that the appeal on ground (a) fails and planning permission on the deemed application is refused.

Appeal on ground (f)

18. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
19. Section 173 of the Town and Country Planning Act 1990 (as amended) (the Act) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to

amenity which has been caused by the breach. The purpose of the notice in this case is to remedy the breach of planning control.

20. The Appellant considers that it is excessive to require the hardstanding upon which the outbuilding sits to be removed. It is his case that the hardstanding has no impact on openness and does not impact on the character and appearance of the Conservation Area.
21. The hardstanding has been constructed to facilitate the construction of the outbuildings and it is not therefore excessive for the notice to require its removal. I am mindful that the hardstanding could be part of the matters alleged in the notice and that Section 177(1) (a) of the Act allows for permission to be granted under the appeal on ground (a) for any part of the matters alleged. However, in this case I do not have any details of the hardstanding that has been constructed, and I do not know what its form or appearance would be once the outbuilding is removed. It is not therefore possible for me to determine the planning merits of retaining that part of the unauthorised development. Whilst the Appellant suggests that part of the base of the previous outbuilding remains, I have not been provided with any substantive evidence to demonstrate that to be the case.
22. I concur with the Council that the Notice does not require the original outbuilding to be rebuilt.
23. I conclude that the requirements are not excessive to achieve the statutory purpose of the notice and the appeal on ground (f) fails.

Appeal on ground (g)

24. The issue is whether the compliance period of three months (Steps 1-4) to remove the outbuildings is reasonable. The Appellant considers that a period of 12 months is necessary as the outbuildings are currently being utilised to store tools and equipment associated with construction works to extend and subdivide Martlets into two cottages, and those tools need to be on site with nowhere else to store them.
25. It was clear from my site visit that the construction works on the Land are now complete and the cottages occupied. Having regard to the household items stored within the outbuildings at the time of my visit, I conclude that a period of three months is a reasonable time frame within which Steps 1-4 of the notice can be complied with.
26. The appeal on ground (g) fails.

Overall Conclusions

27. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

Elizabeth Pleasant

INSPECTOR