



Appeal Decision

Site visit made on 25 September 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14th October 2024

Appeal Ref: APP/A1910/W/24/3345253

Martlets, The Common, Chipperfield, Hertfordshire WD4 9BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Remus Nistorel against the decision of Dacorum Borough Council.
 - The application Ref is 23/00988/FUL.
 - The development proposed is the replacement of approved parking area to the side of the dwellings with new parking area to the front.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the decision notice made reference to a length of 1.8-metre-high privacy fencing, the appellant's appeal statement sets out that the 1.8 metre high fencing has been omitted when compared to the previous rejected application (22/03132/FUL). The submitted plans do not show such a feature and consequently I have determined the appeal on the basis that there is no length of 1.8-metre-high fencing included as part of the appeal proposal. I have also amended the description of the proposal from that included on the application form in order to take out some superfluous details.
3. There is an on-going dispute between the Council and the appellant as to whether the appellant has a right of way to access the proposed car parking spaces from an existing accessway. I understand that dispute is subject to legal proceedings. It would not be appropriate for me to express a view on whether or not the appellant has a legal right to access the proposed parking area as that will be determined separately.

Main Issues

4. The main issues are:
 - whether or not the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the development on the character and appearance of the area and in particular whether it would preserve or conserve the Chipperfield Conservation Area; and
 - if the development is inappropriate development in the Green Belt whether the harm by reason of inappropriateness, and any other harm,

is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether or not inappropriate development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. Moreover, under paragraph 155 of the Framework other forms of development are also not inappropriate in the Green Belt, including engineering operations, provided they preserve its openness and do not conflict with the purposes of including land within it.
7. Policy CS5 of Dacorum's Local Planning Framework - Core Strategy 2006-2031 adopted 25 September 2013 (CS) is consistent with the Framework as it sets out that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt. The policy goes on to set out certain types of small-scale development that will be permitted including limited extensions to existing buildings. Moreover, Policy CS6 of the CS concerns selected small villages in the Green Belt, including Chipperfield and consistent with the Framework and Policy CS5 sets out that house extensions will be permitted.
8. The appellant has suggested that the exception set out in paragraph 154(c) of the Framework, which concerns the extension or alteration of a building may apply. However, overall, the proposed introduction of three car parking spaces would not involve the extension or alteration of a building. Rather, the creation of the parking area and associated works, including the cross-over would involve an engineering operation.
9. As a result, it is necessary to consider whether the proposal would preserve openness. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The front garden area is predominantly undeveloped. In spatial terms the creation of the three parking areas with a gravel finish in a crate grid system would result in the introduction of a development in the largely undeveloped front garden area which would reduce openness. Further, the removal of a section of the existing picket fence, the creation of a cross-over, the introduction of the parking area as well as the introduction of parked vehicles in the front garden area would visually impact the openness of the area. As a result, spatially and visually the introduction of the proposed development would cause significant harm to openness.
10. Further the development would conflict with the purposes of including land within the Green Belt as the proposal would undermine the fundamental aim of Green Belt policy as land would not be kept permanently open. Further, taking account of my findings on the next issue, it would also harm the setting and special character of the village. Consequently, the appellant is unable to rely on any of the exceptions in paragraph 154 of the Framework or the other types of

development that may not be inappropriate as set out in paragraph 155 of the Framework.

11. I therefore find the proposal amounts to inappropriate development within the Green Belt which would cause significant harm to openness. Further, the proposal would conflict with the purposes of including land within the Green Belt. Consequently, the proposal would be at odds with Policies CS5 and CS6 of the CS as well as relevant guidance contained in the Framework as set out above. I give substantial weight to the harm the proposal would have on the Green Belt.

Character and appearance

12. The appeal site is located in a prominent position next to a parking area off The Common within the Chipperfield Conservation Area (CCA). The appeal property forms part of a cluster of period houses which sit comfortably on their plots and within this part of the CCA. A feature of the appeal property and some surrounding properties is that they are separated from the parking area and from access roads by attractive low level picket fences. Moreover, at the appeal property the front elevation is separated by a lawned front garden. This creates a sense of spaciousness which makes a significant contribution to the character and appearance of the area. It also creates an important visual break between the appeal property and the parking area.
13. The CCA has a very attractive key focal point at the crossroads with attractive period housing and a church surrounding a verdant open area comprising a Common and cricket pitch with fine views across the open part of the Common towards the woodland and from the woodland edge.
14. The significance of the CCA derives from the enduring historic pattern of development with a key focal point. This creates interest in the built form, which provide both aesthetic and historical value.
15. The introduction of the parking area and any associated parked vehicles to the front of the appeal property would unacceptably diminish the existing spacious appearance of the front garden which would harmfully impact the character and appearance of the area. Moreover, the proposal would result in the erosion of the important visual break between the appeal property and the existing parking area which again would unacceptably harm the existing character and appearance of the area and would neither preserve nor conserve the CCA. It follows that the development would not preserve the significance of the CCA which is a designated heritage asset.
16. In reaching that view I have taken account of the fact that the proposal would include a new hedge and soft landscaping along the frontage and part of the picket fence would be retained. However, views of the proposed new parking area would be possible from the public realm, particularly for anyone using the village hall and the proposed landscaping would not sufficiently ameliorate the harm caused by the proposal.
17. I also observed at the site visit that a nearby property, Little Cottage has frontage parking. However, the parking area at that property is materially different due to its orientation and size and consequently the area covered is much less than proposed here. Further, that property is further away from the village hall and therefore its relationship with its surroundings is materially

different and therefore this other example has limited weight in the determination of this appeal. In any event the fact that a nearby property has frontage parking does not justify harmful development at the appeal site.

18. I have also taken account of the fact that the existing approved parking area to the side of the appeal site would be replaced by the proposal. However, the existing area is tucked away to the side of the appeal property and is screened by close boarded fence and a gate. As a result, notwithstanding that the existing parking area is larger than proposed, the proposal would be in a much more visually prominent location and consequently the impact would be materially more harmful than the existing situation.
19. 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. Given the nature of the proposal, I consider the degree of harm to the significance of the conservation area in this case would be less than substantial but as required by the Framework I afford that harm great weight.
20. The Framework sets out that where development would result in less than substantial harm to a heritage asset this must be balanced against public benefits. However, in this case, the provision of an alternative parking area for private use does not outweigh the great weight I have afforded the harm the proposal would have on the designated heritage asset.
21. I therefore conclude that the development would harm the character and appearance of the area and would fail to preserve and conserve the CCA. Consequently, the proposal would not accord with policies CS12 and CS27 of the CS which among other things seek to ensure development integrates with the streetscape character and positively conserve and enhance the appearance and character of conservation areas. The development would also conflict with the Framework which seeks to ensure development is sympathetic to local character and as set out sets out that great weight should be given to the conservation of designated heritage asset.

Other Considerations

22. The appellant highlights that after a period of five years when the landscaping condition on the original planning permission (20/00887/FUL) expires they will be able to pave the front garden of both cottages under permitted development rights. Subject to overcoming any legal restriction, the Council accept that the appellant could use their permitted development rights as suggested. I have no reason to disagree.
23. As outlined above, it would not be appropriate for me to express a view on whether or not the appellant has a legal right to access the proposed parking area as that will be determined separately. The appellant also points out that bollards have been erected on land outside their control which prevents access to the front garden area of the appeal property. To my mind, this matter would necessarily need to be resolved as part of the on-going legal proceedings and it has not had a bearing on my finding about whether or not there is a legitimate fall-back position.
24. The appellant has submitted planning applications for the introduction of a parking area to the front of the appeal property. Moreover, having had the

latest application refused they have pursued an appeal. As a result, I consider that they are sufficiently motivated to construct the proposed parking area in the front garden. Consequently, there is a greater than theoretical possibility that the development might take place.

25. On that basis, it is necessary to ascribe weight to the fallback position. As outlined above, the proposal would result in inappropriate development within the Green Belt which would cause significant harm to openness and would conflict with the purposes of including land within the Green Belt. Further, the proposed development would harm the character and appearance of the area and would fail to preserve and conserve the CCA.
26. Although the fallback would ultimately result in a similar impact to that caused by the proposed development, of importance here is timing. If I were to allow the appeal, given the apparent motivation of the appellant to implement the scheme, which has led to me agreeing that there is a legitimate fall-back position, it is reasonable to find that the harm would occur relatively quickly. In any event, even if the appellant took their time, they would still need to commence the development by the time the standard commencement condition expires which would be three years from the date of this decision.
27. As outlined, the appellant would need to wait for the landscape condition to expire. It follows that this scheme would cause the unacceptable harm I have identified earlier than any development subject of the fall-back position. That lessens the weight of the fall-back position, but nevertheless I still ascribe it significant weight.
28. I have also taken account of the fact that the proposed development would replace the existing parking area. However, although in spatial terms the area of Green Belt affected would be reduced, for the reasons set out above, the proposed development would have a materially greater visual impact than the existing situation. As a result, in terms of openness and impact on the Green Belt, the existing parking area and the proposed development would have a similar impact and therefore this consideration is a neutral factor in the determination of the appeal in terms of Green Belt impact. However, the harm the proposal would cause to the CCA would be materially greater than the existing situation and this weighs against the proposal.
29. I have had regard to the Written Ministerial Statement and draft National Planning Policy Framework published on 30 July 2024. Whilst national policies relating to the Green Belt are proposed to change as part of this consultation, these changes can only be given limited weight at this stage. Even if the proposed changes were to be accepted, it would not materially affect the outcome of my decision since the changes would not materially alter the Framework policies relevant to this case.

Green Belt Balance

30. I have afforded some considerations weight as outlined above, including significant weight to the fall-back position. However, I have also ascribed substantial weight to the harm the proposal would have on the Green Belt and great weight to the harm the proposal would have on the Chipperfield Conservation Area. It follows that overall, the other considerations do not clearly outweigh the harm by reason of inappropriateness, and the other harm

I have identified so as to amount to the very special circumstances required to justify the development.

Conclusion

31. The proposal conflicts with the development plan and the Framework and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given the appeal is dismissed.

S Rawle

INSPECTOR