

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 16/02901/RECON

**Ward:**  
**Chelsfield And Pratts  
Bottom**

**Address :** Lilly's Farm, Chelsfield Lane, Orpington  
BR6 6NN

**OS Grid Ref:** E: 548176 N: 164335

**Applicant :** Mr T Pitham

**Objections :** YES

### **Description of Development:**

Variation of Condition 11 of planning permission 15/01024 (allowed at appeal) concerning accordance with the approved plans to enable the construction of basements beneath the permitted dwellings

Key designations:

Conservation Area: Chelsfield  
Areas of Archeological Significance  
Biggin Hill Safeguarding Area  
Green Belt  
London City Airport Safeguarding

### **Proposal**

Under reference 15/02024/FULL1 permission was granted at appeal for the demolition of all existing commercial buildings on the site and the erection of three detached residential dwellings with associated access road and parking. In effect, this proposal seeks to provide basements to all three dwellings. These basement areas will incorporate a combined floor area of 285.2sq m.

The planning application is accompanied by a supporting letter which sets out planning, heritage and design & access matters concerning the proposal.

The application has been amended since submission with the reduction of the proposed additional cumulative basement floorspace from 456.7sq m to 285.2sq m (by documents received 24.8.16).

### **Location**

The site is located within Chelsfield village within the Chelsfield Village Conservation Area. The village forms a rural settlement entirely within the Green Belt.

The site is bounded to the north by open Green Belt land. To the west is a large detached residential property known as Lilly's. To the east of the site lies Rosewood Farm a residential property which has two large detached outbuildings

to the rear, understood to be used for purposes ancillary to the residential use. To the south is Chelsfield Lane and the current vehicular and pedestrian access to the site joins Chelsfield Lane close to its junction with Warren Road.

## **Consultations**

### Comments from Local Residents

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- total floor area of the proposed buildings exceeds that of the existing structures
- increase in floor area undermined basis on which appeal was granted for 2015 scheme for a reduction in the amount of development within the site
- no justification for this proposal
- local planning policy seeks to avoid a material net increase of more than 10% in relation to dwellinghouses in the Green Belt
- details of the proposed basements are unclear
- concerns relating to construction noise and traffic associated with the proposal
- need to take account of Party Wall Act
- construction method statement should be provided if permission is granted
- local environmental considerations should be taken into account, including the surrounding trees and natural habitats
- concern as to whether excavation work will undermine ebb and flow of water in the vicinity

Since the time that the above comments were received, the proposal has been amended to include smaller basement areas for each of the three houses.

### Comments from Consultees

The Council's Drainage consultant has raised no objection.

From an Environmental Health perspective, a contamination assessment should be undertaken.

From a technical Highways perspective, no objections have been raised.

## **Planning Considerations**

The application falls to be considered with regard to the following UDP policies:

- H1 Housing
- H7 Housing density and design
- T3 Parking
- G1 The Green Belt
- T11 New accesses
- T18 Road Safety
- EMP5 Development outside business areas
- BE1 Design
- BE3 Buildings in rural areas

NE5 Protected Species  
NE7 Development and trees

The Supplementary Guidance for the Chelsfield Village Conservation Area is also a relevant consideration.

London Plan 2015

3.3 Increasing Housing Supply  
3.4 Optimising Housing Potential  
3.5 Quality and Design of Housing Developments  
3.8 Housing Choice  
3.9 Mixed and Balanced Communities  
5.12 Flood Risk Management  
5.13 Sustainable Drainage  
5.14 Water quality and wastewater Infrastructure  
5.15 Water use and supplies  
5.21 Contaminated land  
6.13 Parking  
7.1 Lifetime Neighbourhoods  
7.2 An Inclusive Environment  
7.3 Designing Out Crime  
7.4 Local Character  
7.5 Public Realm  
7.6 Architecture  
7.8 Heritage assets and archaeology  
7.16 The Green Belt

Housing: Supplementary Planning Guidance. (March 2016)

National Planning Policy Framework

Paragraph 80, 89 and 90 of the NPPF are relevant to this application and relate to the Green Belt.

Technical housing standards - Nationally Described Space Standard (March 2015)

### **Planning History**

The site has an extensive planning history related to the current commercial use. There have been attempts to secure planning permission for residential development at the site before.

Under reference 83/02578 permission was refused by the Council for an outline proposal for a detached bungalow and garage as the site was located in the Green Belt, an Area of Great Landscape Value and the Cray Valley Area of Special Character and no very special circumstances had been provided to warrant an exception to the policies for such areas.

In 1984, under reference 84/02587, a planning permission for a detached three bedroom house with garage was refused for similar reasons as the 1983 proposal, and dismissed at appeal, as the case for an agricultural dwelling had not been suitably demonstrated and the residential development was inappropriate.

The storage building to the NE corner of the site was originally constructed under an agricultural notification but was never used for agricultural purposes. This was the subject of an appeal decision dated 24.06.1992, following an enforcement notice issued by the Council. The Planning Inspector considered that the non-agricultural uses of the building were inappropriate in the Green Belt and harmful to the Conservation Area. The building itself has remained in place.

In 2003 application 03/01398 was refused for outline permission for a detached dwelling on the basis that the proposal was inappropriate development and no very special circumstances had been demonstrated, and that the proposal would harm the Area of Special Landscape Character within which the site was then located.

Under ref. 11/03108 planning permission was refused in respect of the existing commercial buildings and the erection of 4 x four bed, 1 x five bed and 1 x six bed detached residential dwellings with associated vehicular access and parking, and formation of community car parking area and village pond. This was refused for the following reasons:

- (1) that the proposal constituted inappropriate development in the Green Belt and no very special circumstances had been demonstrated to warrant the setting aside of normal policy considerations;
- (2) the proposal by reason of its density, size and siting would result in unacceptable visual impact and harm to the openness of the Green Belt;
- (3) the proposal would, by reason of its density, size and siting, fail to preserve or enhance the character and appearance of the Chelsfield Village Conservation Area.

#### 2012 application: 12/02558

Under this scheme (which was accompanied by a corresponding application for Conservation Area Consent for the demolition of the existing buildings, ref. 12/02559), an application involving the demolition of existing commercial buildings and the erection of 5 x 4 bed residential dwellings with associated vehicular access and parking, and formation of community car parking area was refused, in August 2012. The application submission included an explanation about the current business, and its needs to relocate to a more accessible location in order to remain viable. The application was refused on the following grounds:

1. "The proposal constitutes inappropriate development in the Green Belt and no very special circumstances have been demonstrated to warrant the setting aside of normal policy considerations, contrary to Policy G1 of the Unitary Development Plan and the National Planning Policy Framework 2012."
2. "The proposed development by reason of its density, size and siting would result in unacceptable visual impact and harm to the openness of the Green Belt,

therefore contrary to Policy G1 of the Unitary Development Plan and the National Planning Policy Framework 2012."

3. "The proposed development would, by reason of its density, size and siting, fail to preserve or enhance the character and appearance of the Chelsfield Village Conservation Area, contrary to Policies BE1, BE3 and BE11 of the Unitary Development Plan and the Chelsfield Village Conservation Area Supplementary Planning Guidance."

A subsequent appeal was dismissed in September 2013. Key findings of the Appeal Decision are listed as follows:

"The existing built development is focused towards the rear of the site, but in comparison, the proposed scheme would extend and spread largely two-storey built development across a much greater extent of the site. There would be some gain in openness towards the very rear of the site, with the removal of the single storey warehouse commercial building, and replacement with the rear garden to the house on Plot 5... Across the main part of the site, and notwithstanding the reduction in the area of hardstanding used for car parking, I consider that there would be a significant increase in both the overall spread and massing of mainly two storey built development in the layout and form of the houses proposed, together with their driveways and ancillary development. The proposed village car park on the very front part of the site, bounding onto Chelsfield Road, would introduce a more formal hard surfaced layout compared with the existing position." (Para 7)

The Inspector concluded (in Para 9) that, overall, the proposal would have a materially greater impact on the openness of the Green Belt and the purpose of including land in it than the existing development. This would constitute inappropriate development in terms of the NPPF.

In regard to the Chelsfield Village Conservation Area, the Inspector commented and considered that this would detract from the more open and sporadic form of development which is characteristic of this part of the village.

The Inspector welcomed the introduction of a landscaped area with a village pond along part of the Chelsfield Lane frontage, but considered that this benefit would be reduced by the area of hard standing for a new village car park which would be situated toward the front of the site. Overall, the Inspector did not consider that the development would preserve the character and appearance of the Chelsfield Village Conservation Area.

The Inspector did not raise a specific objection in respect of the loss of the business site, although she noted that whilst "references in some of the representations [allude] to the busy nature of the site and large commercial vehicles entering the site, there is no direct evidence... to indicate that the existing commercial activities have a harmful effect on the living conditions of adjoining residents." She therefore afforded this matter "very limited weight in support of the proposal."

## 2015 application: 15/01024

Under this scheme, planning permission was sought for the change of use and demolition of existing commercial buildings and erection of 3 x four-bedroom houses, garage for plot 3, associated access road and parking. This scheme incorporated a total floor area of 1135.89sq m: this amounting to a reduction in the built floor area of 286.4sqm. There was a proportionate decrease in the volume from 5378.9cu m to 4130.5cu m (amounting to a total reduction of 1248.4cu m). This application was refused by the Council in August 2015 on the following grounds:

"The proposed development would, by reason of its size and siting, fail to preserve or enhance the character and appearance of the Chelsfield Village Conservation Area, contrary to Policies BE1, BE3 and BE11 of the Unitary Development Plan, the Chelsfield Village Conservation Area Supplementary Planning Guidance, and the National Planning Policy Framework 2012."

"The proposed development constitutes inappropriate development and by reason of its size siting and would result in unacceptable visual impact and harm to the openness of the Green Belt, therefore contrary to Policy G1 of the Unitary Development Plan and the National Planning Policy Framework 2012."

A subsequent appeal was allowed in April 2016, the Planning Inspector concluding that the development site comprised previously developed land wherein the provision of housing would be acceptable in principle. The Inspector noted that, cumulatively, the proposed new buildings would have a significantly smaller volume and footprint than the existing range of buildings which the appellant would demolish. There would also be a significant reduction in the area of land occupied by the mass of building towards the back of the appeal site. This would not result in encroachment into the countryside. The Inspector concluded that the proposed development would not be inappropriate development in the Green Belt as defined by the NPPF. In addition, the Inspector did not find fault with the development in terms of its impact on the character and appearance of the Conservation Area.

## **Conclusions**

The main issues for consideration are: the appropriateness of this development in the Green Belt, including its impact on the openness of the Green Belt and the purpose of including land within it; and whether, if the development is inappropriate in the Green Belt, the harm by reason of inappropriateness or any other harm, would be outweighed by other considerations so as to amount to very special circumstances.

As outlined above, the site is the subject of a detailed planning history. Whilst the Council previously refused for the redevelopment of the site for residential use, following the Appeal Decision of April 2016 the principle of residential development at the site has now been accepted. This proposal seeks to enlarge the overall floor area of the permitted houses by incorporating a basement area for each of the three houses. In this case, the proposal will result in a similar total floor area to the

existing development occupying the site. The resulting floor area will be 1421.09sq m.

Members will need to carefully consider whether they agree that the proposal constitutes appropriate development in the Green Belt, as there would now no longer be a substantial decrease in built development compared to the previous scheme granted at appeal. The Inspector placed considerable weight on the overall reduction in floorspace in deciding that the previous proposal was appropriate and did not conflict with the purposes of including land within the Green Belt. The application was considered to meet the test of appropriateness in bullet point 6 of paragraph 89 of the NPPF *"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."*

The Inspector stated: *"Cumulatively, the proposed new buildings would have a significantly smaller volume and footprint than the existing range of buildings which the appellant proposes to demolish. Whilst the three dwellings would attract normal domestic outdoor paraphernalia, such as garden equipment, overall the proposed development would result in an increase in the openness of the Green Belt. Although one of the three proposed dwellings would be built on land which is currently used as car park and which has a generally open appearance, the site is situated within the built boundary of the village and there would be significant reduction in the area of land occupied by the mass of building towards the back of the appeal site. Overall, the development would not result in encroachment into the countryside and it would not be contrary to any of the five purposes of the Green Belt identified in Framework paragraph 80."*

Although the additional built development would be in the form of basement accommodation, this would still impact on openness despite the obvious lack of visual impact, and it would intensify the proposed residential uses. The benefit of the reduction in overall built development identified previously is now reduced and Members will wish to carefully consider whether the proposal still complies with bullet point 6 of paragraph 89 of the NPPF.

On balance it is considered that although the floor area of proposed development would now be almost the same as that existing, the reduction in the area of land towards the rear of the site occupied by buildings identified by the Inspector would still mean that there would be a marginal benefit to openness as a result of the proposal and permission is recommended.

In order for the Council to assess any future proposals for additions and alterations to the proposed houses, and to avoid excessive enlargements of the dwellings at a later date, a condition restricting permitted development rights is suggested for inclusion in the interest of safeguarding the character and openness of the Green Belt. This condition is justified on the basis of the enlarged floor area - amounting to an additional 285.2sq m - which is now sought and which will result in a more intensive form of residential development at the site, albeit that the proposed enlargements are proposed at basement level. The 2015 scheme was allowed at

appeal partly on the basis that this would result in a significant reduction in the existing floor area, whereas this proposal seeks to restore the original floor area. Accordingly, any further potential additions should be subject to planning control.

Please note that although this application relates to the variation of condition 11 all conditions previously imposed by the Inspector need to be included in this permission due to the variation of the plans condition.

Background papers referred to during production of this report comprise all correspondence on the file refs set out in the Planning History section above, excluding exempt information.

**as amended by documents received on 24.08.2016**

**RECOMMENDATION: PERMISSION**

**Subject to the following conditions:**

- 1 The development to which this permission relates must be begun not later than 4th April 2019.**

**REASON: Section 91, Town and Country Planning Act 1990.**

- 2 No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: means of enclosure and retaining structures; boundary treatments; materials of paved areas, vehicle parking and turning layouts and other hard surfaces.**

**Reason: In order to comply with Policy BE1 of the Unitary Development Plan and to secure a visually satisfactory setting for the development.**

- 3 The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied or in accordance with the agreed implementation programme and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.**

**Reason: In order to comply with Policy BE1 of the Unitary Development Plan and to secure a visually satisfactory setting for the development.**

- 4 No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the**



arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

**Reason:** In order to comply with Policy NE7 of the Unitary Development Plan and to ensure that all existing trees to be retained on the site are adequately protected.

- 5** Details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The works shall be carried out in accordance with the approved details.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area

- 6** No development shall commence until details of the arrangements for the storage of refuse and recyclable materials, including means of enclosure, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects.

- 7** No building hereby permitted shall be occupied until foul and surface drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,

iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

**REASON:** To ensure satisfactory implementation of the foul and surface drainage proposals and to accord with Policy 5.13 of the London Plan.

- 8 Details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 9 No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175:2011+A1:2013 Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

**REASON:** To reduce the impact of flooding both to and from the proposed development and third and to accord with Policy 5.13 of the London Plan.

- 10 No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved

**in writing by the local planning authority before any part of the development is occupied.**

**Reason:**In order to comply with Policy ER7 of the Unitary Development Plan and to prevent harm to human health and pollution of the environment.

**11** The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority.

**Reason:**In order to comply with Policy BE1 of the Unitary Development Plan and in the interest of the appearance of the building and the visual amenities of the area.

**12** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.

**REASON:** In the interest of the visual amenity and openness of the Green Belt and to accord with Policies G1 and BE1 of the Unitary Development Plan and Section 9 of the National Planning Policy Framework.