

## **Item No. 11**

<b>APPLICATION NUMBER</b>	<b>CB/15/04299/OUT</b>
<b>LOCATION</b>	<b>West Orchard, Fairfield Park, Stotfold, Hitchin,</b>
<b>PROPOSAL</b>	<b>Outline: 2 No. Dormer Bungalows on the area of vacant land in the northern part, to the south of West Drive at Hardy Way; of the former orchard to the west of Fairfield Hall</b>
<b>PARISH</b>	<b>Fairfield</b>
<b>WARD</b>	<b>Stotfold &amp; Langford</b>
<b>WARD COUNCILLORS</b>	<b>Cllrs Dixon, Saunders &amp; Saunders</b>
<b>CASE OFFICER</b>	<b>Nicola Stevens</b>
<b>DATE REGISTERED</b>	<b>12 November 2015</b>
<b>EXPIRY DATE</b>	<b>07 January 2016</b>
<b>APPLICANT</b>	<b>P.J.Livesey Holdings Ltd</b>
<b>AGENT</b>	<b>P.J.Livesey Holdings Ltd</b>
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Called in by Councillor Dixon</b> <ul style="list-style-type: none"><li>• <b>dormer bungalows not in keeping with the design guidance on Fairfield</b></li><li>• <b>both dwellings will have a detrimental impact on the adjacent trees which have TPOs</b></li><li>• <b>neither property is in accordance with the Fairfield Masterplan</b></li></ul>
<b>RECOMMENDED DECISION</b>	<b>Outline Application - Approval</b>

### **Reasons for Recommendation**

The site is located within the Fairfield settlement envelope and in a sustainable location. The proposal would not have a negative impact on the character or appearance of the area or an adverse impact on the residential amenity of neighbouring properties and is acceptable in terms of highway safety. The proposal would not significantly harm the wider setting of the listed building, nor have an unacceptable impact on the County Wildlife Site and on protected trees. On balance whilst there are material considerations which weight against the development on the small part of the county wildlife site currently within the application site these do not override the planning policies against which this application has been considered.

Therefore by reason of its site, design and location, the proposal is in conformity with Policies CS14, CS15, CS17, DM3, DM4, DM13 and DM14 of the Core Strategy and Management Policies, November 2009; National Planning Policy Framework (March 2012). It is further in conformity with the technical guidance Central Bedfordshire Design Guide 2014.

### **Site Location:**

The application site is 'west orchard' which is an area of land located to the south of West Drive at Hardy Way. The land to the south is also within the applicants ownership and forms part of a former orchard to the west of Fairfield Hall which is a Grade II listed building.

The site lies within the settlement envelope for Fairfield Park as identified in the

Core Strategy as a small village. Part of the application site and all the land to the south within the applicants ownership is a County Wildlife site. The site is listed by the Local Authority as a Asset of Community Value (ACV).

## **THE APPLICATION:**

The application seeks outline planning permission for the erection of 2 No. Dormer Bungalows. All matters are reserved.

The reserved matters are defined by article 2 of the Town and Country (Development Management Procedure) (England) Order 2015 as:

- Access – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- Appearance – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
- Landscaping – the treatment of land (other than buildings) for the purpose of enhancing or protecting visual amenities of the site and the area in which it is situated including:
  - screening by fences, walls or other means;
  - the planting of trees, hedges, shrubs or grass;
  - the formation of banks, terraces or other earthworks;
  - the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
  - the provision of other amenity features;
- Layout – the way which building, routes and open spaces with the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
- Scale – the height, width and length of each building proposed within the development in relation to its surroundings.

As stated all matters as outlined above are reserved under this application, whereby the layout, scale and access of the development shown on the plans submitted are indicative only.

## **RELEVANT POLICIES:**

### **National Planning Policy Framework (2012)**

Section 7 - Requiring good design

### **Core Strategy and Development Management Policies - North 2009**

CS1 - Development Strategy

CS2 - Developer Contributions

CS14 - High Quality Development

CS15 - Heritage

CS18 - Biodiversity

DM3 - High Quality Development

DM4 - Development Within and Beyond Settlement Envelopes

DM13 - Heritage

## Central Bedfordshire Council's Emerging Development Strategy 2014

At the meeting of Full Council on 19<sup>th</sup> November 2015 it was resolved to withdraw the Development Strategy. Following this decision, no weight should be attached to the Development Strategy. However, its preparation was based on and supported by a substantial volume of evidence studies gathered over a number of years. These technical papers are consistent with the spirit of the NPPF, and therefore will remain on our web site as material considerations which may appropriately inform future development management decisions.

### Supplementary Planning Guidance

Central Bedfordshire Design Guide (2014)

*1 - Placemaking in Central Bedfordshire*

*5 - Residential Development*

### PLANNING HISTORY:

<b>Case Reference</b>	<b>CB/09/05489/FULL</b>
Location	West Orchard Fairfield Hall Kingsley Avenue Stotfold
Proposal	Full: Erection of 26 town houses on former orchard land to west of Fairfield Hall.
Decision	Withdrawn
Decision Date	16.07.2010

<b>Case Reference</b>	<b>CB/10/02501/FULL</b>
Location	West Orchard Fairfield Hall Kingsley Avenue Stotfold
Proposal	Full: Proposed construction of 15 new homes with associated parking, gardens and landscaping
Decision	Withdrawn
Decision Date	12.10.2010

### REPRESENTATIONS: (Parish & Neighbours)

Fairfield Parish  
Council

Object, concerns are as follows:

- The site is within the Fairfield neighbourhood plan designated area. In the results of the survey providing evidence for the plan 95% of the 550 respondents felt that the Orchards should be protected from future development. This continues to support the overwhelming local reaction to the two previous applications CB/09/05489 and CB/10/02501 (both of which were withdrawn) where 117 and 660 pages of objections were received
- This Application is premature in being presented in advance of the emerging Neighbourhood Plan, which is expected to allocate the land subject to the application as Local Green Space designation, further to detailed consultation with residents of the parish. Initial consultation has already been

completed in connection with the parish plan and emerging green infrastructure plan and identifies the West Orchard as Priority number one for this designation. To approve the application at this stage would therefore undermine the neighbourhood plan process

- It is a County Wildlife Site recognised as such in 2010 as a Traditional Orchard with neutral grassland and non-fruit trees and should therefore be protected against development. Traditional Orchards are a UK Biodiversity Action Plan priority habitat. The Governments Planning Policies are outlined in their National Planning Policy Framework and reinforced in CBCs Local Development Framework.
- Planning Policy Statement 9 notes. The governments objectives for planning include 'to conserve, enhance and restore the diversity of England's wildlife and geology by sustaining, and where possible improving, the quality and extent of natural habitat'. To allow development on this site would be contradictory to this objective.
- The long established trees within the site have Tree Preservation Orders on them and it would be very difficult to avoid some damage to those trees as a result of the construction work.

Revised plans: No additional objections but previous objections still apply.

Fairfield Residents Association

No comments received

Neighbours

Objections received from 111 neighbours (6 residents reiterated their objections following consultations). Concerns raised are summarised as follows:

- the documents refer to 18 properties but there are no plans for this? The joint statements for two proposed developments is unhelpful and misleading
- the application goes against the development plan;
- There is more than enough houses on Fairfield park
- loss of green space, in the local Parish Plan the residents put the restoration and protection of the orchards as a priority
- the west orchard is a key open space and is a wildlife site which should be protected against development
- the application conflicts with the Nature Conservation Strategy (biodiversity) and PPG9 and directly with the Neighbourhood Plan. The area was to be a green recreation area,
- the application pre-empts the Green Infrastructure Plan process
- this land should be used for enhancing the ecology and for the greater benefit of the community
- this forms habitats for protected species (bats and owls)
- any development on the northern part of the west orchard would have an adverse impact on the CWS as a whole and break the link with open countryside,

- the applicants have not 'managed' the orchard and other unresolved section 106 agreements or work on the hall
  - Fairfield park has a distinct Victorian Architectural flavour, two chalet bungalows will be out of character with the area, it will change the character of that whole corner of Fairfield Park adjacent to the countryside and burial ground;
  - adverse impact on protected trees by development (on the application site and adjoining CWS) and demand for loss in future by future occupiers of the dwellings. Holly trees on northern boundary would be lost
  - adverse impact on highway and pedestrian safety
  - the orchards form part of the setting of the listed building, to allow development will give a green light to further chip away at the Hall setting;
  - it would set a precedent and put other green spaces at risk
  - it will put pressure on Fairfield Lower School for places
  - impact on local infrastructure including drainage
  - disruption from building works
- uncomfortable as to the offering of gifts by the developer should the residents allow the development - this is tantamount to blackmail

1 letter in principle in favour of the development, however have reservations about the works previously carried out by the developer

The above is a summary of the representation received. A full copy can be viewed on the application file.

### Consultations/Publicity responses

Natural England Wildlife Trust	No comments to make Concerns raised with regard to impact of development on CWS and its management
Conservation Officer	Wider setting of Grade II listed building- the former Three Counties Lunatic Asylum, 1860, 1870 & 1881, George Fowler Jones.

The former orchard is within the historic wider setting of the enormous former asylum/ hospital complex & to that extent is sensitive & clearly needs careful consideration both in terms of the principle of development (historic amenity trees) & the actual scale, massing, form & architectural design (yet to be fully determined as such). The dormer bungalows of the description suggests 1 & a half storey dwellings. Such a design approach could be successful if carefully handled- so long as you are satisfied with the principle of development in this sensitive site & the proximity of the trees & other site constraints.

Highways Officer	No objection, suggest conditions and notes
Leisure Strategy Officer	No comments to make
Local Plans Officer	The Fairfield Parish Plan 2015 has not been adopted by CBC.

The emerging Fairfield Neighbourhood plan and Green Infrastructure Plan has not yet been submitted.

The Orchard does not form open space provision in the original Fairfield masterplan and not designated as open space in the Core Strategy.

The Orchard does provide an important contribution towards open space and landscaping within the settlement and its retention is clearly a strong aspiration of the community.

EHO  
Officer  
Tree officer

No objection, suggest conditions

The Tree report is out of date. An up to date report is required to show that the trees on the site would not be affected. Conditions should relate to landscape and boundary treatment details along with areas of hard surfacing and locations of all new services and soakaways with particular regards to areas that may encroach into root protection areas of trees.

Revised information:

The proposed location of the two dwellings should have minimal direct effect on trees with minor incursions into the RPAs. Five trees will need to be removed. The removal of two holly trees will open the north boundary of the site and break up this landscape feature, suggest replacement planting. Prior to any development work or site clearance starting we will require a detailed and agreed Arboricultural Method Statement. Landscape and boundary treatment detail will be required.

Ecology Officer

An arboricultural method statement is required to demonstrate construction would be undertaken without causing harm to the trees. A owl box should be retained. Part of the site is on the CWS but it is considered this represents a mapping anomaly and should be adjusted accordingly. Suggest the boundary be amended to exclude tree 18 and give a greater buffer for trees 19 and 20 otherwise object to detrimental impact to ecological network which the orchard CWS represents. It should be demonstrated the net gain for biodiversity. Suggest a condition regarding management of CWS.

Revised information:

Note revised boundary and that the updated report says there would be no detrimental impact to the fruit tree 19 whose RPA appears to fall within the built footprint of the bungalow. Ensuring construction works are undertaken to prevent harm to this tree will be essential.

The tree schedule only identifies Field maple for removal and yet the report states in 6.2.1 that trees 6, 7,8, 78 and 80 are to be removed in order to '*implement proposed development*'. The latest site plan dated 21st January 2016 does not reflect the proposed removal of these trees and as my earlier comments state there is significant value in

retaining the line of holly trees **intact** on this boundary.

Other previous comments remain the same.

Education Officer      No comments received  
Archeology Officer    No objection

## **Determining Issues**

The main considerations of the application are;

1. Principle of development
2. Character, appearance and streetscene
3. Impact on amenity
4. Parking and highways
5. Trees and landscaping
6. Other matters

## **Considerations**

### **1. Principle of development**

On 19/02/2016 an appeal was dismissed at a site in Henlow for a residential development adjacent to the settlement envelope. While the appeal was dismissed, in making her decision, the Inspector concluded that the Council had *“not demonstrated a five year supply of deliverable housing sites”* and discounted a number of sites from the supply. Therefore the Council cannot currently demonstrate a 5 year supply of housing and in these circumstances the National Planning Policy Framework paragraph 49 applies which states that the Council's Housing Policies are not up to date. Paragraph 14 of the NPPF states, among other things, that where the development plan policies are out-of-date, the Council should grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Fairfield Park is a established development to the south of the A507. It was formerly a Victorian hospital and is a Grade II listed building. The hospital buildings have been redeveloped and the surrounding land now forms a new village with a unique design philosophy that respects the setting of the former hospital. The development followed a detailed design code, the principles of which should be adhered to when dealing with applications in this location.

The site lies within the settlement envelope at Fairfield Park identified in the Core Strategy as a small village under policy CS1 of the Core Strategy and Development Management Policies (CSDMP). In small villages development will be limited to infill residential development. Policy DM4 of the Core Strategy makes provision for the erection of new dwellings provided they are acceptable in terms of their visual impact and the impact on neighbouring amenity and highway safety. The background text to the policy states that ' the scale of any type of new development should reflect the scale of the settlement in which it is located. Infill development can be defined as small scale development utilising a vacant plot which should continue to complement the surrounding pattern of development. Design and sustainability criteria relating to the proposal will also be major factors in determining any planning application'. Whilst viewed as being in accordance with Policy DM4 as a result of no 5 year land supply in any

event this policy is out of date.

Given the location of the site within the settlement envelope the principle of development is acceptable.

#### Other material considerations

The application site does not form open space provision in the original Fairfield masterplan and is not designated as open space in the Core Strategy.

It appears to be an area of landscaping in private ownership to which a condition was attached for future maintenance on a 2011 permission.

The Fairfield Parish Plan 2015 has been adopted by the Parish Council. That document identifies the Orchard at Hardy Way as a valuable community asset that should be protected from future development. This was supported by 95% of respondents has not been adopted by CBC. The Plan also identifies that a 'Friends of the Orchards' group has been set up with the intention of reinstating and enhancing the orchards. It suggests that the Parish Council are seeking to acquire the orchards for the community. The Parish Council have confirmed this in their comments. The Fairfield Parish Plan 2015 has not been adopted by CBC and is not part of the development plan for the area.

Once adopted a neighbourhood plan would form part of the Local Development Framework. However, whilst the comments of the Parish Council are noted about the application being premature in light of the emerging Fairfield Neighbourhood plan and Green Infrastructure Plan this has not yet been submitted.

However, the application site and the orchard land outlined in blue is listed by the Council as a Asset of Community Value (ACV). The reason for listing is that the current use of the orchard furthers the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be use of the orchard which will further the social wellbeing or social interests of the local community. Para 6.15 of the Planning Statement says that the Parish Council have achieved a Community Right to Buy Order (the community has first option and a period of time to raise funds to buy community land for sale). The provisions do not place any restriction on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. The fact that the site is listed as a ACV is a material planning consideration but that in itself does not prohibit the granting of planning permission as any application must be considered against the development plan and the NPPF, taking into account all the circumstances of the case.

It is acknowledged that the Orchard does provide an important contribution towards open space and landscaping within the settlement and its retention is clearly a strong aspiration of the community.

The Planning Statement also refers to development of an area near the North Entrance however this is subject to a separate application under ref: CB/15/4320/OUT Outline Application: 18 No. dormer bungalows on area of open land which is not yet determined. That statement refers to the fact that if

agreement is made on the two developments then PJ Livesey will "Gift" the West Orchard (the land in blue on drg CBC/001) to the Fairfield Parish Council who may then be able to maintain, manage and restore this Orchard which they profess to having always been keen to do but not owning the land has prevented this from happening. Whilst it appears to be the applicants intention to give the orchard land to the Parish Council, such a transfer is not necessary to make this proposal or that separate application also on this agenda acceptable and as such it would fail to comply with the CIL Regulations and cannot be secured.

Part of the application site is within a County Wildlife site (CWS) which was designated in 2010 which is also a material consideration which will be considered below.

## **2. Character, appearance and streetscene**

It is proposed to erect two dormer bungalows. The applicant describes the site as the area of vacant land in the northern part, to the south of West Drive at Hardy Way; of the former orchard to the west of Fairfield Hall. The application site and former orchard appears to be part of the wider setting of the adjacent listed building (previously forming part of the landscaped grounds around the old hospital building)- it acts as a buffer between the curtilage of the Listed Building and new residential development to the west.

The site is surrounded by dwellings to the east and west. To the north is a footway and landscaping beyond which is open countryside. To the immediate east is a waste compound and car park serving the flatted development at the hall. To the south the remaining orchard is outlined in blue as being within the ownership of the applicant and this also forms the majority of the CWS. A small part of the application site also falls within the CWS.

With regard to the pattern of development the site is well contained within the wider context of surrounding buildings on three sides and well screened by existing landscaping from open countryside to the north. Policy DM4 supporting text states that 'infill development can be defined as small scale development utilising a vacant plot which should continue to complement the surrounding pattern of development'. The proposal for two dwellings is considered to be small scale development within a landscaped area. Whilst it goes against the grain of adjoining new built residential development to the west (identified in the Fairfield master plan as medium density) being development of very low density this is considered to be necessary to ensure the mature protected trees are retained on the site. The conversion of the hall itself to the west is shown within the Master Plan as low density. Furthermore, Fairfield is a new village which consists of the large converted listed building and new build residential dwellings. The village offers a number of services and facilities and as such this is considered to be a sustainable location within the settlement envelope. Therefore although the proposed development would constitute development of a very low density compared with the surrounding pattern of development particularly to the west, given the recognised need to retain the protected trees on the site and its sustainable location within the settlement envelope of Fairfield, this would not form a reason for the refusal of planning permission.

Whilst siting, design and external appearance are reserved matters a illustrative siting plan has been submitted which shows two dormer bungalows on the site with set back from both road frontages larger than some of the properties within

the development located on either side. Given the footprint indicated of the proposed dwellings on such a large plot, the site is of a sufficient size to accommodate two dwellinghouses whilst maintaining an acceptable separation between neighbouring properties. Although it is noted that the scheme is fairly tight in relation to the protected trees on the site, given that the southern boundary has been reduced slightly to protect the trees in the orchard within the blue land and is well stepped off all other boundaries with sufficiently sized rear gardens it is not considered that the proposal will result in a cramped form of development in this instance. Given a condition could be attached to restrict the height of the dwellings on this sensitive site and subject to careful use of high quality materials, overall the proposal is considered acceptable with regard to its effect upon the character and appearance of the area.

As stated all matters including layout and scale have been reserved and it is considered that the site is capable of siting two suitably sized and sited dwellinghouses. An informative shall be included in any decision issued to advise the applicant of the latter.

The ground floor plans for the dwellings on the revised site plan indicates integral garages with driveways to the front. Details of hard surfacing can be conditioned to ensure adequate on site parking is provided.

The site is fairly flat and details of levels can be conditioned.

Overall the proposal is considered acceptable within regard to its effect upon the character and appearance of the area.

The proposed dwellings are therefore considered to be in keeping with the character and appearance of the area, and of a scale and massing that is appropriate to the street scene. The development is therefore considered to be in accordance with policies CS14 and DM3 of the Core Strategy and Development Management Policies (2009).

#### Setting of listed building

Whilst the two new dwellings are sited a significant distance from the adjacent listed building, it is noted that the application site and former orchard is within the historic wider setting of the enormous grade II listed former asylum/hospital complex. The Fairfield Master Plan states that 'the immediate setting of the hospital and its ancillary buildings is characterised by the strong landscape setting with large areas of lawn, mature orchards and walled courtyards'. The Local Planning Authority has particular duties when considering applications that affect the setting of listed buildings. These are set out in the Planning (listed Buildings and Conservation Areas) Act 1990. Section 66 states that... 'In considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting...'

The NPPF reinforces the statutory weight given to heritage assets. At para 129 it states that Local Planning Authorities should 'avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Para 132 states that when considering the impact of development...great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or

destruction of the heritage asset or development within its setting. At para 134 it states that 'harm may be weighed against the public benefits of a proposal where the proposal will lead to less than substantial harm. Para 133 states that 'where development will lead to substantial harm permission should be refused unless defined circumstances apply.'

As noted above the new dwellings are sited a significant distance from the adjacent listed building but the application site is considered to form part of the wider setting of the listed building. No details have been submitted regarding the actual scale, massing, form and architectural design (yet to be determined at reserved matters stage) but the description of development suggests one and a half storey dwellings. Given a condition could be attached to restrict the height of the dwellings on this sensitive site and subject to careful use of high quality materials, whilst siting is still a reserved matter it has been demonstrated they can be sited away from the adjoining listed building which will have a limited impact on the setting of the adjacent listed building and in this context will not be sufficiently harmful to have an adverse impact. The Conservation Officer has not objected to the proposal. Therefore any impact of the development to the setting of the listed building will be very minimal and taking account of the points made above will not amount to harm in terms of para 134. Consideration is given to the public benefits of the proposal which, in this instance include the provision of housing within the limits of an existing settlement. On balance it is considered that the less than substantial harm caused does not amount to justification to refuse the application on harm to the setting of the adjacent listed building. The principal elevation of the listed building and its setting are not diminished or removed as a result of this scheme.

### **3. Neighbouring amenity**

All matters have been reserved under this application, whereby the indicative plan, is purely that, indicative of how the site could be developed.

The site is located to the south of West Drive. It is proposed to take vehicular access off Hardy Way for one dwelling and the access road off North Drive for the other dwelling. It is bounded by residential development to the east and west together with a large car park and waste facility also to the west. Whilst no details have been submitted at this outline stage in terms of the design, scale and massing of the dwellings the block plan shows their siting in relation to existing surrounding housing. Given the separation distances and relationships involved this proposal will not adversely harm the residential amenities of those properties in terms of light, privacy or overbearing impact.

Whilst siting has been indicated it remains a reserved matter, however, the dwellings would be situated on large plots and sufficient private amenity space would be provided for future residents. It is noted that the dwellings are approx 18.4m away from each other which is below the recommended 21 back to back distances. However the two dwellings are offset from each other and not directly back to back and in this instance are considered acceptable.

Government guidance on restricting permitted development rights states that it should only occur in exceptional circumstances and where it would only make the development acceptable. In this instance, given the tight constraints of the

site with surrounding protected trees it is considered that permitted development rights should be removed to protect visual amenities, adjoining residential amenity and to safeguard protected trees on the site.

All other dwellings in the area are adequately removed to ensure that they would not be affected to any material degree.

It is considered that there will be no detrimental impact on the amenity of local neighbours, and no undue impact on outlook, daylight or privacy is expected. The proposal is therefore in accordance with the requirements of the Design Supplement 1 - New Residential Development and CS14 and DM3 of the Core Strategy and Development Management Policies.

#### **4. Parking and highways**

The application proposes the construction of two dormer bungalows on vacant land north of the former orchard to the west of Fairfield Hall. Documents submitted in support of the application include the indicative layout drawing that shows the location of the two bungalows and their intended point of access. They are in principle satisfactory. The proposed bungalows have, together, the potential to generate 12 trips per day which can satisfactorily be accommodated in the highway network. As such the highway Officer has no objection to the application and suggests conditions be attached to any approval. Whilst access is a reserved matter whereby the detail of which shall be assessed at that stage it is not unreasonable to attach conditions relating to junction of the proposed vehicular access with the highway and visibility splays given that there proposed location has been indicated. On site cycle parking could be addressed at the reserved matters stage if considered necessary.

The tree officer initially raised concern as to whether there is any intention to include garaging for the dwellings. The description of the application and the submitted plan does not include the erection of a garage. It is considered necessary to remove permitted development rights in relation to outbuildings on this site. However the revised site layout which is indicative only indicates integral garages. A condition could be attached at the reserved matters stage for integral garages to be retained if considered necessary. The number of bedrooms of each dwelling has yet to be formally confirmed, so the amount of car parking required cannot at this stage be assessed. However it is considered that the site is sizable for the provision of a number of off street car parking spaces. Therefore it is considered that an acceptable scheme can be achieved within the site in the context of highway safety and car parking it is considered that there is no highway reason to refuse planning permission for the proposed development.

For the reasons outlined above it is considered that the proposed development is acceptable in a highway safety and car parking context in accordance with Policy DM3 of the Core Strategy and Development Management Policies (2009).

#### **5. Trees and landscaping and County Wildlife Site**

The application site and former orchard appears to be part of the wider setting of the adjacent listed building - it acts as a landscape buffer between the curtilage of the Listed Building and new residential development to the west. A legal agreement attached to a former planning application requires management of

that land. In 2010 the land in blue together with a small area of the application site was designated as a County Wildlife site. The application site and West Orchard is also protected by Tree Preservation Orders.

The Natural Environment and Rural Communities Act 2006 states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Policy CS16, seeks to avoid damage to landscape distinctiveness and Policy CS17, seeks to protect green infrastructure assets and ensure management of a network of new and enhanced sites. Policy DM14 seeks to retain and protect trees and hedgerows in close proximity to building works. Policy DM3 is also relevant as this seeks to secure high quality development through sympathetic design. Policy CS18 supports the management and protection of CWSs. Development that would fragment or prejudice the biodiversity network will not be permitted.

Supplement 2 of the adopted Central Bedfordshire Design Guide (paragraph 2.03.04) states 'the restoration of orchards, planting new and conserving old is considered important in preserving local heritage, and development sites including or near to orchards should ensure that they are protected and enhanced through replanting, where appropriate.

The proposal is for the construction of two new detached dormer bungalows on land north of the orchard. Section 3 of the Design and Access Statement states that the mature trees on the site will be retained and incorporated into the proposed garden areas and a new southern boundary created by the planting of a native hedge. Section 13 of the Design and Access Statement recognises that trees on the site including the mature Lime trees located within the proposed plots for the two new dwellings are protected by Preservation Order and also states that all foundations will be located outside the root protection areas (RPA) of the trees on site (however the updated report mentioned below shows that some RPAs will be slightly affected). Supplied with the application are a plan from Aspect ecology number 2258/ORC1 dated 2014 which identifies amongst other items the location of trees on site. Supplied also is a Tree Schedule from Aspect Arboriculture the result of a survey carried out in 2010 which is considered to be out of date.

Following concerns raised by the Tree Officer and Ecology Officer a new report has been submitted - a full Arboricultural Impact Assessment (AIA) and Method Statement (MS) to detail all possible effects by any proposed development on the trees on site and how they would be mitigated. A revised site plan has also been submitted with the southern boundary made slightly smaller to ensure three trees close to the dwelling remain in the blue land.

The Ecology Officer has acknowledged the amendment to the southern boundary of the western bungalow and understands from the arboriculturalist who undertook the survey that it was their opinion that the new boundary would ensure no detrimental impact to the fruit tree 19 whose RPA appears to fall within the built footprint of the bungalow (Drg 8839 TPP 01). Ensuring construction works are undertaken to prevent harm to this tree will be essential.

As such appropriate conditions relating to protective fencing, foundation details etc will need to be conditioned.

The Ecology Officer notes an inconsistency in the submitted information in that the tree schedule only identifies Field maple for removal and yet the report states in 6.2.1 that trees 6, 7, 8, 78 and 80 are to be removed in order to '*implement proposed development*' (as shown on Drg 8839 TPP 01). The latest site plan dated 21st January 2016 (CBC/001) does not reflect the proposed removal of these trees. The Ecology Officer has also commented that whilst those five trees are to be removed there is significant value in retaining the line of holly trees intact on the northern boundary.

However, the Tree Officer has re-visited the site and discussed the revised proposals with the applicants Arboculturalist and has commented that the proposed location of the two dwellings should have minimal direct effect on trees with minor incursions into the root protection areas (RPA) of trees indicated on the supplied Tree Protection Plan 8839 TPP 01 as T16, T15, T19, T20, T14 and T9. In addition to facilitate the development it is suggested that five trees will need removal. Two of these trees are Holly that would probably have been part of the Hospital planting scheme and are categorised as Category C trees (in terms of quality these represent generally unremarkable examples of their type... and may be readily replaced without significant individual impact on the amenity of the site). Having looked at the trees it is agreed their retention category is accurate. The removal of these two trees will open the north boundary of the site up and break up this landscape feature. However the Tree Officer is satisfied that provided replacement Holly can be included within the landscape detail for this area their removal would be acceptable.

The Arboricultural Impact Assessment is an assessment of the indicative layout only. Tree Protection Plan (TPP) indicates the positions of Tree Protection Fencing and also areas of ground protection. All this is to ensure that trees to be retained are done so in good order. The TPP also indicates areas of foundation hand dig. Prior to any development work or site clearance starting we will require a detailed and agreed Arboricultural Method Statement which will identify all issues that could potentially occur and solutions to those issues, it will also contain the phasing of all actions and include on an agreed plan locations of all service lines. Landscape and boundary treatment detail will be required to include replacement planting of Holly to mitigate for loss of trees T6 and T8. These details would need to be conditioned.

The Ecology Officer has stated that 'looking at the CWS citation it is apparent that the SW edge of the development sits within the CWS boundary and so would be contrary to policy 18. However, having visited the site it is felt that the northern boundary of the CWS represents a mapping anomaly and should be adjusted accordingly (to exclude it). This process has to be formally approved by the Bedfordshire CWS Panel.

The remainder of the CWS comprises two compartments. A dense, uniform stand of Laxton apple trees and more open orchard of mixed fruit and nut trees including various Bedfordshire varieties. This compartment lies within the blue land as shown on the location plan and was subject of a 106 management plan from a previous planning application. The 2003 management plan specified a mowing regime to support a flower rich sward with a cut twice yearly and

removal of arrisings. In 2010 the orchard was designated as a CWS due to its value as a Priority Habitat. During the site visit it was clear that the site had not received the required level of management as the grassland was becoming dense and matted. The fruit trees were in a poor condition and would benefit from management also. As such it is suggested a planning condition be attached to require the submission of a management plan and commitment to undertake necessary works to retain the CWS status as under positive conservation management so bringing the application in line with the NPPF.

However it is considered that it would be unreasonable to require the management of the orchard within the blue land as this does not form part of the current application and is not necessary to make the development acceptable. It is also covered by a separate legal agreement. The applicant has been asked about the intentions of the management of the land and has responded to say the intention is to transfer it to the Parish Council although has not yet been done. The Wildlife Trust have also raised concern with regard to impact of development on the CWS and its management and suggest this be dealt with via the transfer of the land to the Parish Council however this does not relate to the current application the subject of this application and cannot be secured here.

In response to other comments – Tree 14, a common lime, Has a Tawney Owl nest box attached to it which should be retained however this is nor considered necessary to make the development acceptable. Any additional landscaping will also support biodiversity of the site which would be covered by reserved matters

Although it is acknowledged that the Parish Council have aspirations to safeguard the land as open space it is not clear from the Parish Plan the full extent of that land. However both the application site and land in blue is an Asset of Community Value and a significant number of local residents have objected to this application based on the lost of part of the Asset of Community Value. In section 11 of the Design and Access Statement the applicant states that the outline application demonstrates that two building plots could be achieved on the ecologically less valuable land, leaving the main part of the former orchard as a community asset. A recent audit undertaken by the Leisure Development to inform the leisure strategy does not identify the land in red as having an open space use, although it does identify the land in blue as an orchard. Although part of the application site includes the CWS the Ecology Officer has confirmed that this is not considered to be worthy of being retained within the CWS and should be removed. The Tree Officer has not objected to the revised information submitted regarding the removal of some trees on the site. Whilst the west orchard is an important landscape buffer the two dwellings would be sited on land to the north of orchard furthest away from listed building. On balance whilst there are material considerations which weight against the development on the small part of the orchard currently within the application site these do not override the planning policies against which this application has been considered which demonstrates that two dwellings can be satisfactorily accommodated on the site.

By considering the impact on biodiversity within this report the Council has complied with The Natural Environment and Rural Communities Act 2006.

## **6. Other matters**

### Archeology

The proposed development is located within the designed landscape associated with the former Fairfield Hospital (HER 16866). It is also within an area that contains extensive evidence of Bronze Age, Iron Age and Roman occupation (HERs 16801, 19621 and 19622), which was identified during archaeological investigations in advance of development. These are heritage assets with archaeological interest as defined by the *National Planning Policy Framework (NPPF)*. However, the scale, nature and location of the proposed development are such that there is unlikely to be a major impact on archaeological remains or on the significance of the heritage assets. Therefore, the Archeology Officer has no objection to this application on archaeological grounds.

### Contaminated land

The Land Contamination Assessment referenced in section 6 of the design and access statement has not been submitted with the application and therefore Public Protection is unable to comment on the detail of that assessment nor any conclusions regarding land contamination in the design and access statement. Therefore a full detailed and current contaminated land assessment is required prior to development commencing. The Environmental Health Officer therefore suggests conditions are attached to any approval.

### Financial Contributions

Policy CS2 of the Core Strategy and Development Management Policies (2009) seeks developer contributions, in accordance with the Planning Obligations Strategy for the North. This strategy follows a tariff based approach to obligations which is no longer in accordance with the regulations. Contributions are determined on a case by case basis in accordance Part 11 of the Community Infrastructure Levy Regulations 2010 (as amended). On 31 July 2015 the High Court quashed previously announced policy changes which directed Local Planning Authorities not to impose affordable housing contributions and other infrastructure contributions on housing proposals for ten dwellings or fewer. Therefore the Council is now able to consider such contributions on all housing developments. The provision of two dwellings is considered to have a minimal impact on local infrastructure and considerations should therefore be in line with national policy guidance. The impact of the scheme would not conflict with the requirements of the National Planning Policy Framework to provide sustainable development. In this instance the development is not of a scale that would require the Council to seek contributions to local infrastructure.

The proposed dwelling would not meet the affordable threshold as set out by Policy CS7 of the Core Strategy and Development Management Policies (2009). Thereby the Local Planning Authority have not sought an affordable housing contribution.

The Education Officer has not raised any concerns regarding education provision in relation to this application.

### Human Rights/The Equalities Act

Based on the information submitted there are no known issues raised in the context of the Human Rights/The Equalities Act) and as such there would be no relevant implications.

There are no further considerations to this application.

## **Recommendation**

That Outline Planning Permission be GRANTED subject to the following:

### **RECOMMENDED CONDITIONS / REASONS**

- 1 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 **Details of the access, layout, scale, appearance and landscaping (including replacement holly planting on the northern boundary and a native hedge along the southern boundary), including boundary treatments (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.**

**Reason: To comply with Part 3 Article 6 of the Town and Country Planning (General Development Procedure) Order 2015.**

- 3 **The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.**

**Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**

- 4 **No development shall take place until details of the existing and final ground, ridge and slab levels of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties. Thereafter the site shall be developed in accordance with the approved details.**

**Reason: To ensure that an acceptable relationship results between the new development and adjacent buildings and public areas in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).**

- 5 **No development shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved scheme before the buildings are occupied and be thereafter retained.**

**Reason: To safeguard the appearance of the completed development and the visual amenities of the locality and safeguard the protected trees on the site in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).**

- 6 **No development shall commence until the following has been submitted to and approved in writing by the Local Planning Authority:**

**A Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination, incorporating appropriate soils and gas sampling and adhering to BS 10175.**

**Reason: To protect human health and the environment**

- 7 No occupation of any permitted building shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

i) Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation adhering to BS 10175.

ii) Where shown to be necessary by the Phase 2 Site Investigation a detailed Phase 3 remediation scheme with measures to be taken to mitigate any risks to human health, groundwater and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.

iii) The effectiveness of any scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the Authority. Any such validation should include responses to any unexpected contamination discovered during works.

Reason: To protect human health and the environment

- 8 **No development shall commence until a detailed Arboricultural Method Statement and detailed Tree Protection Plan (which expands on Appendix D as set out in paras 8.1 to 8.3 of the Arboricultural Impact Assessment dated January 2016) in relation to the site and adjoining county wildlife site has been submitted to and approved in writing by the Local Planning Authority. This shall include the following:**

- i) details of tree protection barriers including type and positions and any revisions to barrier locations;**
- ii) schedule of tree works;**
- iii) phasing of work;**
- iv) safeguarding procedures for permanent development within RPAs;**
- v) a scheme for auditing tree protection and subsequent reporting to CBC's arboricultural officer**
- vi) details of proposed levels and service routes;**
- vii) details of proposed foundations;**

**viii) details of construction of parking areas and access roads.**

**Thereafter the site shall be developed in accordance with the approved details.**

**Reason: To ensure the protection of trees and hedgerows to be retained and to avoid unnecessary damage to their root systems in accordance with policies DM3 and DM14 of the Core Strategy and Development Management Policies (2009).**

- 9 Any subsequent reserved matters application shall include details of the junctions of the proposed vehicular accesses with the highway to be approved by the Local Planning Authority and no dwelling shall be occupied until the junction has been constructed in accordance with the approved details.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and the premises in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 10 Before the accesses are first brought into use, a triangular vision splay shall be provided on each side of the new access drive and shall be 2.8m measured along the back edge of the highway from the centre line of the anticipated vehicle path to a point 2.0m measured from the back edge of the footway into the site along the centre line of the anticipated vehicle path. The vision splay so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of above the adjoining footway level.

Reason: To provide adequate visibility between the existing highway and the proposed accesses and to make the accesses safe and convenient for the traffic that is likely to use them in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 11 Before the new accesses are first brought into use visibility splays shall be provided on each side of the new access at its junction with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access from its junction with the channel of the public highway and 25.0m measured from the centre line of the proposed access along the line of the channel of the public highway. The required vision splays shall, on land in the applicant's control, be kept free of any obstruction to visibility exceeding a height of 600mm above the adjoining carriageway level.

Reason: To provide adequate visibility between the existing highway and the proposed access and to make the access safe and convenient for the traffic that is likely to use it in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 12 The dwellings hereby permitted shall not exceed one and a half storeys in height.

Reason: In order to provide an appropriate form of development in the

interests of visual and residential amenity in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009).

- 13 Notwithstanding the provisions of Part 1 Classes, A, B, C, D and F of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order with or without modification) no extensions or alterations, including further new windows to the buildings hereby permitted shall be carried out without the grant of further specific planning permission from the Local Planning Authority.

Reason: To control the external appearance of the buildings in the interests of the amenities of the area and protect the amenities of occupiers of neighbouring properties and safeguard the trees on the site in accordance with policies DM3 and DM14 of the Core Strategy and Development Management Policies (2009).

- 14 Notwithstanding the provisions of Part 1 Class E of Schedule 2 to the Town and Country (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings or other structures shall be erected or constructed within the curtilages of the dwellings hereby approved without the grant of further specific planning permission from the Local Planning Authority.

Reason: To control the development in the interests of the visual amenity of the area and protect the amenities of occupiers of neighbouring properties and safeguard the trees on the site in accordance with policies DM3 and DM14 of the Core Strategy and Development Management Policies (2009).

- 15 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 106-02-1000 location plan, CBC/001 indicative site layout plan, Arboricultural Impact Assessment January 2016 (including drg no 8839 TPP 01), BS5837:2005 Tree Schedule, 2258/ORC1 (locations of grassland outside of RPAs), Design and Access Statement October 2015, Planning Statement 2015.

Reason: To identify the approved plan/s and to avoid doubt.

## **INFORMATIVE NOTES TO APPLICANT**

1. Please note that the unnumbered drawings submitted in connection with this application have been given unique numbers by the Local Planning Authority. The numbers can be sourced by examining the plans on the View a Planning Application pages of the Council's website [www.centralbedfordshire.gov.uk](http://www.centralbedfordshire.gov.uk).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
3. The applicant is strongly advised to seek pre application advice prior to issuing any reserved matters application, with regards to appearance, scale,

layout, landscaping and access.

**Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35**

The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**DECISION**

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