

Central Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



please ask for Miss H Bell
direct line 0300 300 4040
date 13 October 2009

NOTICE OF MEETING

DEVELOPMENT MANAGEMENT COMMITTEE

Date & Time

Wednesday, 21 October 2009 2.00 p.m.*

Venue at

Council Chamber, Priory House, Chicksands

Edwina Grant
**Acting Chief Executive/
Deputy Chief Executive &
Director of Children,
Families & Learning**

To: The Chairman and Members of the DEVELOPMENT MANAGEMENT COMMITTEE:

Cllrs P F Vickers (Chairman), A Shadbolt (Vice-Chairman), P N Aldis, A R Bastable, R D Berry, A D Brown, Mrs C F Chapman MBE, D J Gale, Mrs R B Gammons, K Janes, D Jones, H J Lockey, K C Matthews, Ms C Maudlin, A Northwood, A A J Rogers, Mrs C Turner and J N Young

[Named Substitutes:

R A Baker, D Bowater, I Dalgarno, P A Duckett, M Gibson, R W Johnstone, P Snelling, B J Spurr, J Street and G Summerfield

All other Members of the Council - on request

**MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS
MEETING**

****As there are no Strategic Planning or Minerals and Waste Matters to be considered
the meeting will start at 2.00p.m.***

AGENDA

1. **APOLOGIES FOR ABSENCE**

Apologies for absence and notification of substitute members.

2. **CHAIRMAN'S ANNOUNCEMENTS**

If any.

3. **MINUTES**

To approve as a correct record, the Minutes of the meeting of the Development Management Committee held on 23 September 2009.
(previously circulated)

4. **MEMBERS' INTERESTS**

To receive from Members declarations and the **nature** in relation to:-

- (a) Personal Interests in any Agenda item
- (b) Personal and Prejudicial Interests in any Agenda item
- (c) Membership of Parish/Town Council consulted upon during the application process and the way in which any Member has cast his/her vote.

5. **PETITIONS**

To receive Petitions in accordance with the scheme of public participation set out in Annex 2 in Part 4 of the Constitution.

6. **DISCLOSURE OF EXEMPT INFORMATION**

To consider proposals, if any, to deal with any item likely to involve disclosure of exempt information as defined in the relevant paragraph(s) of Part I of Schedule 12A of the Local Government Act 1972 prior to the exclusion of the press and public.

REPORT

Item	Subject	Page Nos.
7	Approval of making of a Definitive Map Modification Order in Silsoe To approve the making of a Definitive Map Modification Order to add a footpath to the Definitive Map and Statement in the Parish of Silsoe as directed by the Secretary of State for the Environment, Food and Rural Affairs.	1 - 12
8	To determine an application to extinguish a cross-field section of footpath and recreation of field edge footpath and bridleway To determine whether to extinguish a cross-field section of Silsoe Footpath No.16 and Bridleway No.18 and to create an alternative field-edge Footpath and bridleway and Public Path Orders subsequently made under sections 26 and 118 of the Highways Act 1980.	13 - 22
9	Confirmation of Tree Preservation Order No6/2009 - Land at Upper Tithe Farm, Hockliffe Road, Tebworth To consider the unresolved objection made following the making of Tree Preservation Order No. 6/2009 and to confirm the Order without modification.	23 - 40
10	Planning Enforcement Cases Where Formal Action Has Been Taken To consider the report of the Director of Sustainable Communities providing a monthly update of planning enforcement cases where action has been taken covering the North, South and Minerals and Waste.	41 - 48

Planning and Related Applications

To consider the planning applications contained in the following schedules:

Schedule A - Applications recommended for Refusal
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Item	Subject	Page Nos.
11	Planning Application No. CB/09/05710/FULL Address: 64 Wallace Drive, Eaton Bray, Dunstable Demolition of bungalow and erection of replacement two storey dwelling with attached garage and erection of new detached two storey dwelling with detached double garage Applicant: Mr A Barber	49 - 54

Schedule B - Applications recommended for Approval

Item	Subject	Page Nos.
12	Planning Application No. CB/09/05512/FULL Address: Land to the rear of 65 Shefford Road, Clifton Erection of 3 no. four bedroom dwellings and associated access Applicant: Mr D Eldridge	55 - 68
13	Planning Application No. CB/09/05708/REG3 Address: Land adjacent 94 Ampthill Road, Flitwick Regulation 3: Change of use of land to football pitches with associated changing pavilion and external landscaping Applicant: Flitwick Town Council	69 - 82

14 **Planning Application No. MB/09/00337/DC3** 83 - 96

Address: Land to the side of Flitwick Leisure Centre,
Steppingley Road, Flitwick

DC3: New leisure facilities to include swimming
pool, squash courts and health suites

Applicant: Central Bedfordshire Council

15 **Planning Application No. CB/09/00830/FULL** 97 -
112

Address: 129 Clophill Road, Maulden

Demolition of existing building and erection of four
new dwellings.

Applicant: Mr Rayner

16 **Planning Application No. CB/09/01212/FULL** 113 -
124

Address: Land to rear of 61-63 Arthur Street, Ampthill

Full: Erection of Detached dwelling

Applicant: Mr Knowles

Schedule C - Other Applications
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Item Subject Page Nos.

17 **Planning Application No. CB/09/00707/FULL** 125 -
130

Address : 9 Cherrytree way, Ampthill

Full: Demolition of garage and utility room to
provide driveways to front and single storey
extension to side and conservatory to rear

Applicant : Mrs Morton

18 **Planning Application No. CB/09/05425/FULL** 131 -
136

Address: 193 Poynters Road, Dunstable

Construction of vehicular crossover and formation
of parking area.

Applicant: Ms J Miles

19 **Planning Application No. CB/09/05647/FULL**

137 -
144

Address: Hadrian Lower School, Hadrian Avenue,
Dunstable

Erection of single storey extension with canopy to increase size of existing classrooms. Provision of landscaping to play area

Applicant: C Hewitt, 2C Design Consultants

20 **Site Inspection Appointment(s)**

In the event of any decision having been taken during the meeting requiring the inspection of a site or sites, the Committee is invited to appoint Members to conduct the site inspection immediately preceding the next meeting of this Committee to be held on 18 November 2009 having regard to the guidelines contained in the Code of Conduct for Planning Procedures.

In the event of there being no decision to refer any site for inspection the Committee is nevertheless requested to make a contingency appointment in the event of any Member wishing to exercise his or her right to request a site inspection under the provisions of the Members Planning Code of Good Practice.

Meeting: Development Management Committee

Date: 21 October 2009

Subject: The determination of an application to extinguish parts of Silsoe Footpath No. 16 and Bridleway No. 18 and to create an alternative footpath and bridleway in the parish of Silsoe.

Report of: Roy Waterfield - Assistant Director of Leisure and Cultural, Adult and Community Learning

Summary: Members are asked to determine whether an application to extinguish a cross-field section of Silsoe Footpath No. 16 and Bridleway No. 18 and to create an alternative field-edge footpath and bridleway should be refused or approved and Public Path Orders subsequently made under Sections 26 and 118 of the Highways Act 1980.

Contact Officer: Adam Maciejewski - Definitive Map Officer - Countryside Access Service 0300 300 6530 x44069

Public/Exempt: Public

Wards Affected: Silsoe & Shillington

Function of: Council

RECOMMENDATIONS:

1. That the application to extinguish parts of Silsoe Footpath No. 16 and Bridleway No. 18 and to create new sections of Footpath No. 16 and Bridleway No. 18 under Sections 26 and 118 of the Highways Act 1980 should be refused on the ground that the extinguishment and creation of the footpath does not meet the required legislative tests.

Introduction

1. Mr Gill of Fielden House applied in late 2005 to divert parts of Footpath No. 16 and Bridleway No. 18 in the parish of Silsoe close to Fielden House where he lives. Mr Gill's application underwent significant revision before eventually being sent out to consultation in the form shown at Appendix 1.
2. The part of Footpath No. 16 to be extinguished runs across an arable field and two paddocks between points A-B-C on the plan at Appendix 1. The part of Bridleway No. 18 to be extinguished runs along the private driveway to Fielden House between points D-B. The bridleway is a dead-end for riders at point B where it has a junction with Footpath No. 16.

3. The footpath to be created would start at point A and run as a 2 metre wide field-edge path parallel to Fielden Lane to point F on the plan at Appendix 1 where it would have a junction with the new bridleway. The new bridleway to be created would start at point E on Fielden Lane and cross over a culvert into the arable field to then run around the edge of the field with a width of 4 metres to point C where it would have a junction with the adjoining Bridleway No. 15.
4. The orders, if made and confirmed, would create a continuous highly elongated bridleway route from point E on Fielden Lane to point C and then back along Bridleway No. 15 to rejoin Fielden Lane some 195 metres to the north-east of point D. Connecting bridleways on the north side of Fielden Lane provide access to Silsoe village.

Legal and Policy Considerations

5. The Highways Act 1980 empowers Central Bedfordshire Council to make legal orders to create, extinguish and divert public rights of way (footpaths, bridleways, and restricted byways) shown on the Definitive Map which is the Council's legal record of such rights. Sections 26 and 118 of the 1980 Act relate respectively to the creation and extinguishment of such rights.
6. The Development Management Committee under the Central Bedfordshire Council's Constitution (E2 at Annex C) is the appropriate body to determine an application requesting that the Council, as highway authority, make an order under the Highways Act 1980 to create, divert, or extinguish a public right of way.
7. It is the normal practice to move a public right of way by diverting it using Section 119 of the 1980 Act. However, Bridleway No. 18 terminates on a footpath at point B making this is dead-end path for riders and cyclists. Consequently it is my opinion that a diversion could not meet the legislative tests of Section 119 and could not be diverted (see Appendix A section A.3.). Furthermore, it is my opinion that Footpath No. 16 could also not be diverted as the new termination point F is not currently on a public right of way. In such situations it is sometimes possible to extinguish the existing paths and to create new alternatives.

The Extinguishments

8. The legislative tests for creating and extinguishing public rights of way are detailed in Appendix A. Essentially a path can only be extinguished if it is not needed for public use and a new path can only be created if there is a need for it. It is possible, however, to link a creation and extinguishment together so that an alternative route can be created to compensate for the route being extinguished. However, both creation and extinguishment orders should be capable of being made and confirmed as stand-alone orders.
9. Bridleway No. 18 is currently a dead-end to horse riders and cyclists who legally have no right of way beyond point B. Walkers though may travel westwards back to Fielden Lane or eastwards to join either Bridleway No. 15 which leads back to Fielden Lane or along a number of footpaths to Higham

Gobion. There are alternative rights of way providing access to the Fielden House area (Bridleway No. 15 and Footpath No. 16). Consequently it is my opinion that Bridleway No. 18 is unlikely to be needed for public use in its current position - especially if consideration is given to the proposed alternative bridleway which would provide a useable through-route for riders and cyclists. It is therefore my opinion that it would be expedient for the Council to make an order to extinguish the bridleway.

10. Before an extinguishment order can be confirmed any future use of the path has to be considered - as detailed in Appendix A Section A2(2). It is likely that if the extinguishment order was not confirmed, riders and cyclists would use the alternative new bridleway to facilitate their onwards travel. Walkers, however, are likely to continue to use the existing bridleway between D-B and then onwards to point C - though in my opinion this use would not be extensive as there are already two alternative routes available.
11. Footpath No. 16 runs due west from point C to the A6 - walkers can then continue westwards to Pulloxhill some 3 km away. To the east of point C walkers can either walk north-westwards to Fielden Lane or south-westwards to Higham Gobion about 1.6 km to the south-east. Although Bridleway No. 15 can be used instead of the footpath this is a less direct route being some 250 metres longer and uses some 480 metres of Fielden Lane which is quite narrow. The proposed creation of a new footpath and bridleway, in my opinion, would not provide a suitable alternative to the current footpath and so I consider that the current footpath is needed for public use - although this level of use might be quite low. In my opinion it would not be expedient to make an order - even when taking into consideration the proposed alternative route to be created.
12. Before the extinguishment order can be confirmed any future use of the path has to be considered - as detailed in Appendix A Section A2(2). It is likely that if the extinguishment order was not confirmed, walkers would continue to use the existing footpath in preference to the footpath and bridleway proposed to be created. The extinguishment of the footpath would benefit the local farmer, Mr. Chris Rogers, as it would remove his obligation to restore the cross-field footpath after ploughing and to mow or spray out any crop obstructing the footpath. In my opinion it would not be expedient for the Council to confirm an order to extinguish the footpath.

The Creations

13. The current routes of Bridleway Nos. 15 and 18 are dead ends - being separated by approximately 125 metres of footpath. The proposal to create a new bridleway from point E on Fielden Lane to link with Bridleway No. 15 at point C would benefit the local bridleway network and allow circular rides to be extended from Silsoe to include the south side of Fielden Lane. The new bridleway would have a width of 4 metres and run as a field-edge path around what is currently an arable field. Although "desirable" for a small number of local horseriders I am unsure whether the bridleway would add significantly to the "*convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area*" which is the test of the Act (see Section A.1.) on its own. However, when combined with the proposed bridleway extinguishment, I consider that it would be expedient make an order

to create the bridleway.

14. The creation of a new 2 metre wide footpath would provide an off-road route between point A and the new bridleway at point F. This section of footpath is unlikely to be used if the section of Footpath No. 16 between points A-B-C remains. If this section was extinguished the provision of a new off-road link between points A and E would be beneficial but not in my opinion to the extent required to satisfy the tests of the Act (see Section A.1.). In my opinion it would not be expedient for the Council to make an order to create the footpath.

Consultations

15. The arable field through which Footpath No. 16 and Bridleway No. 18 run is owned by Mr. Rogers of Shillington Manor. In a telephone conversation in late August 2009, Mrs. Rogers stated that whilst agreeing in principle to the aims of the proposal, she could not give her consent to the application owing to a number of unresolved issues that existed between the applicant and Mr. and Mrs. Rogers.
16. Silsoe and Gravenhurst Parish Councils were consulted on the proposal. Silsoe Parish Council has stated "*...the reasons for the Parish Council's objection are that (a) the estimated length of footpath / bridleway between Points A, F & C is 770m, compared to 530m along the present route between Points A, B & C (an increase of 45%); (b) the diversion creates a significant 'dog-leg' on what is currently a direct line from FP13 to New Inn Farm by the A6; and (c) it is also inconvenient for walkers to share with horses because of the damage that horses create, particularly on soft ground...*"
17. The Bedfordshire Rights of Way Association was consulted and has stated that "*...The existing route of the footpath offers a direct and open pedestrian only route between A and C 520 metres in length. The proposed route A-F-C takes walkers out of their way along an indirect route 760 metres in length (240 metres longer) which has views restricted by hedges. Half of it runs adjacent to Fielden Lane. The section F-C would be shared with horse riders and cyclists. The views of the pond close to point C would be lost... ..The proposal would resolve the problem of the dead-end [bridleway] section D-B. However, we feel a better solution would be to extend the section D-B through to C. This would provide a more direct and open route, offer views of the pond and remove the need of users to pass by the proposed electric fence close to point C...*".
18. Ramblers was consulted and has stated that it "*...unanimously voted to object to the part extinguishment of footpath No.16 namely ABC and part bridleway No. 18... ..the proposed footpath is longer and the right angled turn makes it less convenient ...Walkers would find the created footpath ABC is much less pleasurable than the existing footpath No.16 ABC...*".
19. Mr. Dicker of Gravenhurst P3 Group has stated in a telephone conversation that he supports the connection of the two bridleways and that the footpath to be extinguished is not really used.
20. The British Horse Society was written to state that "*...This sounds a good idea*

to me, especially having the stile removed so riders could continue along bw 15 back to Fielden Lane...”

21. British Telecom (BT), National Grid, Geodesys, and EDF Energy were consulted as statutory undertakers. BT, National Grid, and EDF Energy have all responded stating that they have no objections to the proposals. Geodesys has not responded to date (24th July 2009).

Conclusions

22. The combined extinguishment and creation orders would effectively divert a cross-field footpath and driveway bridleway to form a field-edge path - part footpath and part bridleway. Whereas I consider the concurrent extinguishment and creation of the bridleway to be of benefit to the public I do not consider that the concurrent extinguishment and creation of the footpath to be beneficial to the public - although it would aid the farmer by removing his obligation to keep the footpath clear of crops.
23. Responses to consultations are mixed - with the British Horse Society welcoming the joining up of Bridleway Nos. 15 and 18 - and walking groups and local Parish Council rejecting the proposals due to the increased inconvenience for walkers.
24. In my opinion the negative responses when combined with the failure of the proposal to meet the legislative tests for the extinguishment of the existing footpath and the creation of an alternative route means that the application as a whole should be rejected.

CORPORATE IMPLICATIONS

Council Priorities:

The proposal would compliment parts of the Council's Outdoor Access Improvement Plan by increasing bridleway connectivity.

Financial:

All costs relating to the application, if successful and unopposed, would be paid by the applicant. However, if objections to any orders made were received and not withdrawn the Council would have to consider whether to forward the orders to the Secretary of State for the Environment, Food and Rural Affairs for confirmation. If the Council decided not to forward the case, any costs incurred up to that point would be borne by the Council. Any costs associated with forwarding the case to the Secretary of State would also be borne by the Council.

Legal:

If extinguishment and creation orders are made, notice of these is advertised and posted on-site. There then follows a statutory objection period of not less than 28 days. If any objections are received and not withdrawn the Council cannot confirm the orders - at which point they have legal effect - and must decide whether or not to forward them to the Secretary of State for the Environment, Food and Rural Affairs who appoints an independent Inspector to determine whether the orders should be confirmed or not.

Risk Management:

No risk issues in my opinion.

Staffing (including Trades Unions):

No staffing issues in my opinion.

Equalities/Human Rights:

The connection of the two bridleways would necessitate the removal of a stile at point C which would open up the route to mobility impaired users.

Community Safety:

Horses and walkers would have to travel slightly further along Fielden Lane thus marginally increasing risks of accidents with vehicles.

Sustainability:

No sustainability issues in my opinion.

Appendices:

Appendix A – Legal and Policy Considerations

Appendix 1 – Map showing the proposal

Appendix A

Legal and Policy Considerations in relation to:

The determination of an application to extinguish parts of Silsoe Footpath No. 16 and Bridleway No. 18 and to create an alternative footpath and bridleway in the parish of Silsoe.

A 1. Section 26 of the Highways Act 1980 enables the Highway Authority to create public footpaths, bridleways and restricted byways and is paraphrased below:

- (1) *Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-*
 - (a) *The extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and*
 - (b) *The effect that the creation of the path or way would have on the rights of persons interested in the land...*

It is expedient that the path or way should be created, the authority may by order made by them... ..create a footpath, bridleway or restricted byway over the land.

A 2. Section 118 of the Highways Act 1980 enables the Highway Authority to extinguish public footpaths, bridleways, and restricted byways and is paraphrased below:

- (1) *Where it appears to a council as respects a footpath, bridleway, or restricted byway in their area... ..that it is expedient that the path or way should be stopped up on the ground that it is no longer needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, extinguish the public right of way over the path or way...*
- (2) *The Secretary of State shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient to do so having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way...*
- (3) - (4) *(omitted)*
- (5) *Where... ..proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with*

proceedings preliminary to the confirmation of a... public path diversion order... then, in considering-

- (a) under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or*
- (b) under subsection (2) above to what extent (if any) that the path or way would apart from the order be likely to be used by the public;*

the council or secretary of state, as the case may be, may have regard to the extent to which the... public path diversion order... would provide an alternative path or way.

- (6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of the path or way by the public shall be disregarded.*

A 3. Section 119 of the Highways Act 1980 enables the Highway Authority to divert public footpaths, bridleways, and restricted byways. Section 119(2) states that:

(2) A public path diversion order shall not alter a point of termination of the path or way-

- (a) If that point is not on a highway; or*
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.*

A 4. In the situation where a bridleway terminates on a footpath, horse-riders and cyclists have no highway to legally continue over (the bridleway being a dead-end path for their class of user) and consequently the termination point of the bridleway cannot be altered under Section 119 of the 1980 Act in my opinion. The only recourse is to effect a concurrent extinguishment and creation under Sections 118 and 26 of the 1980 Act.

A 5. The case of *Hertfordshire County Council, R (on the application of) v Department of Environment Food & Rural Affairs [2005] EWHC 2363 (Admin)* addressed the use of concurrent extinguishments and creations to effect a diversion. Sullivan J. stated that Section 118 of the Highways Act 1980 was to be used to extinguish paths that were no longer needed and that Section 119 was to be used to extinguish paths that were needed but on a different alignment and that, accordingly, Sections 26 and 118 should not be combined to effect a diversion. Sullivan J. did recognise, however, that some paths which did not start on a highway *could* be moved by means of Sections 26 and 118 as the new path was not a direct replacement for the extinguished path.

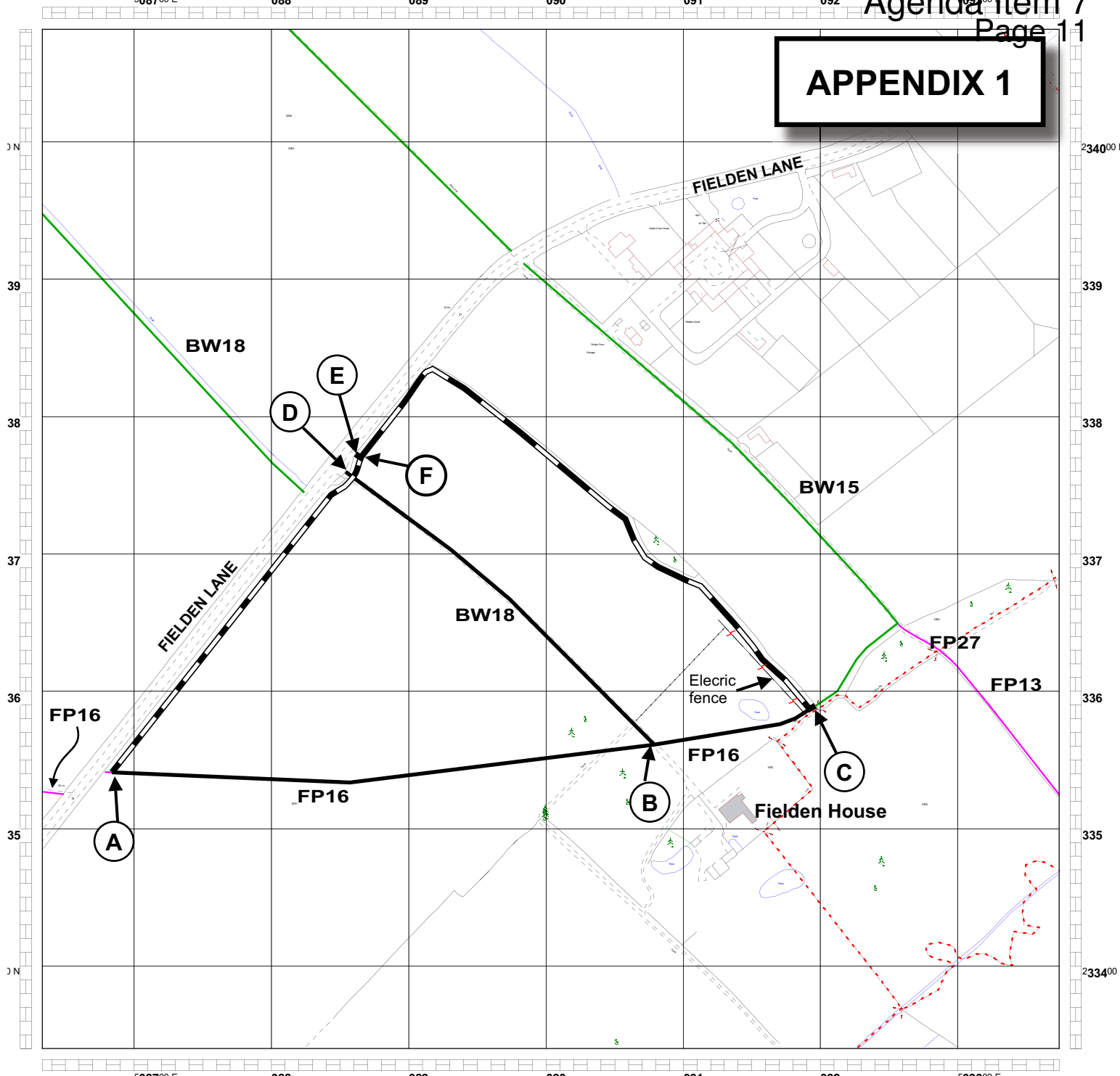
A 6. Section 26(3A) of the Highways Act 1980 imposes a duty on Central Bedfordshire Council to have regard to any material provisions within a Rights of Way Improvement Plan when determining whether or not to confirm an unopposed creation, diversion or extinguishment order. The proposals do not conflict with the aims of the Council's Outdoor Access

Improvement Plan and, indeed, meet Objectives 5.5 and 5.6 which seek to identify and increase bridleway/cycleway network connectivity.

- A 7. Section 29 of the 1980 Act imposes a duty on the County Council to have regard to the needs of agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiographical features when determining whether to make and confirm creation, extinguishment and diversion orders. The combined effect of the extinguishments and creation would extinguish a cross-field footpath - thus reducing the farmer's work in keeping paths clear of crops.

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APPENDIX 1



This Map does not constitute an Official copy of the Definitive Map

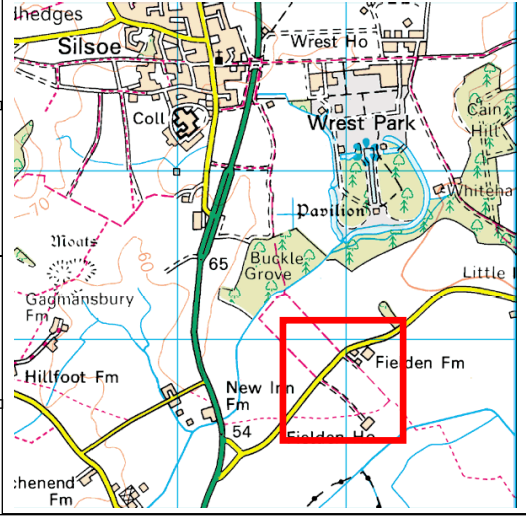
Key:

PROPOSED EXTINGUISHMENT OF PARTS OF SILSOE FOOTPATH NO. 16 AND BRIDLEWAY NO. 18 AND THE CREATION OF A NEW PART OF FOOTPATH NO. 16 AND BRIDLEWAY NO. 18

Footpath No. 16 to be stopped-up	A	B	C
Bridleway No. 18 to be stopped-up	D		B
Footpath No. 16 to be created	A		F
Bridleway No. 18 to be created	E	F	C

Unaffected Public Footpath
Unaffected Public Bridleway

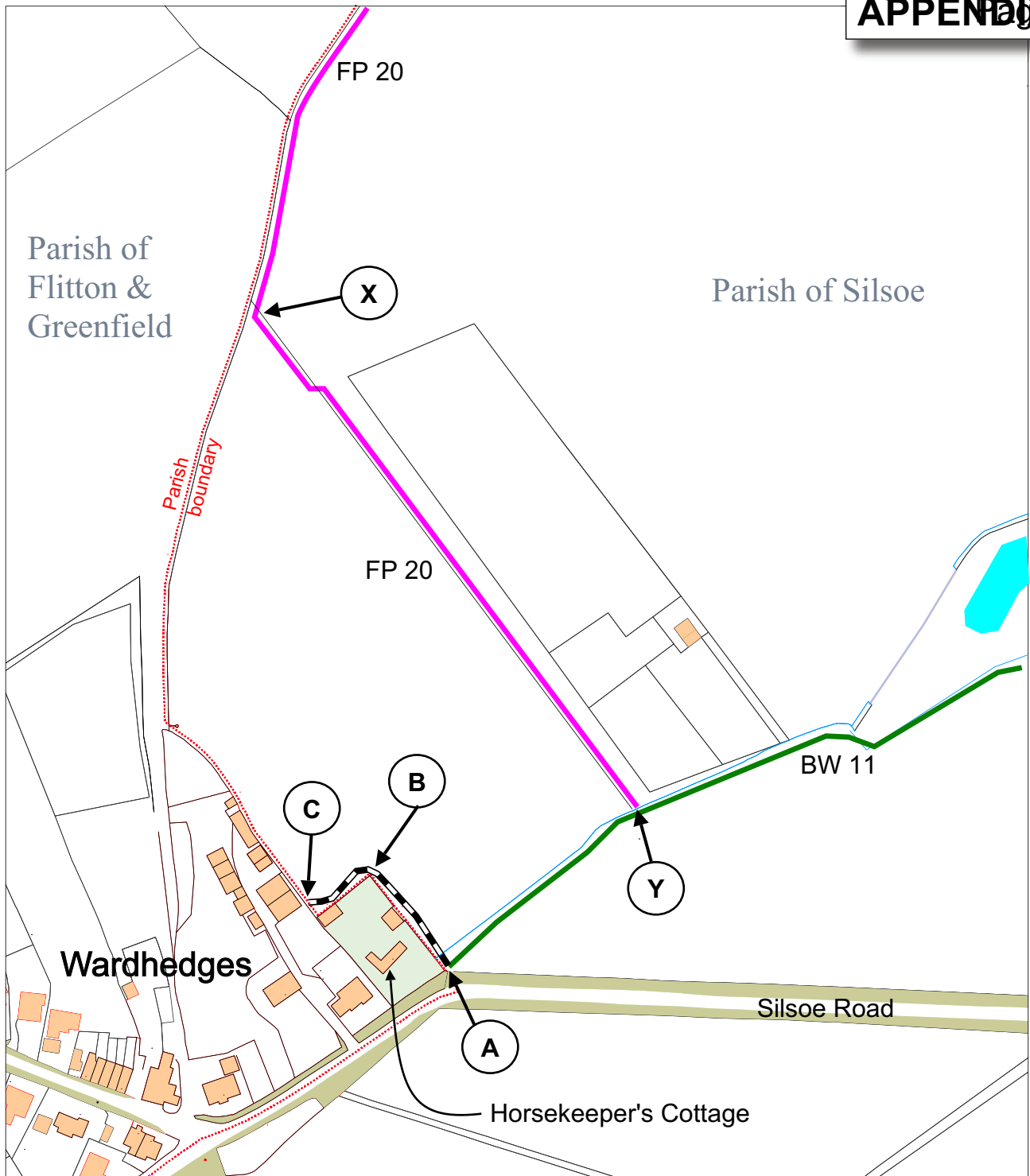
Date	North	Ref	Scale
APR 09	▲	SIL/4/AM	1:4000



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Key

**CLAIMED ADDITION
 OF PART OF SILSOE
 FOOTPATH No. 20**

Footpath No. 20 to be added

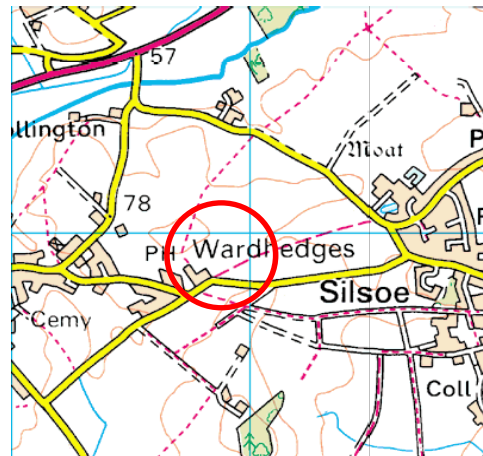


Unaffected Public Footpath

Unaffected Public Bridleway

Date	North	Ref	Scale
AUG 09	▲	SIL/9/AM	12500

LOCATION PLAN



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Meeting: Development Management Committee

Date: 21st October 2009

Subject: The Direction by the Secretary of State for the Environment, Food and Rural Affairs for Central Bedfordshire Council to make a Definitive Map Modification Order to add a footpath to the Definitive Map and Statement in Silsoe

Report of: Roy Waterfield - Assistant Director of Leisure and Cultural, Adult and Community Learning

Summary: Members are asked to approve the making of a Definitive Map Modification Order to add a footpath to the Definitive Map and Statement in the parish of Silsoe as Directed by the Secretary of State for the Environment, Food and Rural Affairs

Contact Officer: Adam Maciejewski - Definitive Map Officer - Countryside Access Service 0300 300 6530 x44069

Public/Exempt: Public

Wards Affected: Silsoe & Shillington - Cllrs. Rita Drinkwater and Alison Graham

Function of: Council

RECOMMENDATIONS:

1. That the Committee approve the making of an order under Section 53(2) of the Wildlife and Countryside Act 1981 to add a section of Silsoe Footpath No. 20 to the Definitive Map and Statement. The making of the order is consequent to a Direction by the Secretary of State for the Environment, Food and Rural Affairs under Section 4(2) of Schedule 14 of the 1981 Act. This is because he considers that there has been a discovery of evidence under Section 53(3)(c)(i) of the Act which, when considered with all other relevant evidence available to the Council, shows that “...*a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates...*”. The part of Silsoe Footpath No. 20 to be added would have a width of 1.8 metres between points A-B-C.
2. That the Committee support the proposition that Central Bedfordshire Council formally objects to the recommended Definitive Map Modification Order on the ground that it cannot be demonstrated on the balance of probability that a public right of way has been dedicated between points A-B-C.

1. Silsoe Footpath No. 20 used to run through the garden of Horsekeeper's Cottage in Wardhedges in the parish of Flitton and Greenfield. In the 1960s and 1970s, extensions to the cottage and the erection of a barn blocked the legal line of the footpath.
2. For reasons unknown, in the early-mid 1990s the County Council mistakenly asserted that the legal line of Footpath No. 20 ran around the outside of the cottage's garden and even threatened enforcement action against the farmer of the field adjacent to the cottage.
3. In the late 1990s, the County Council realised that a number of features within the grounds of Horsekeeper's Cottage obstructed the legal line of the footpath and embarked on a protracted effort to divert the footpath.
4. As a consequence of consultations with user-groups over the proposed diversion of the footpath, the Bedfordshire Rights of Way Association (hereafter "BRoWA") applied to the County Council in June 2006 for a Definitive Map Modification Order to add a footpath to the Map and Statement around the outside of the garden of Horsekeeper's Cottage. The Definitive Map and Statement are the Council's legal record of public rights of way. BRoWA provided two user evidence forms to support its allegation that the route A-B-C on the plan at Appendix 1 subsisted.
5. The County Council eventually made a Public Path Diversion Order in July 2006 to divert the section of footpath between points X-C-B-A to a new line between points X-Y as shown on the plan at Appendix 1. A number of organisations including the local parish and district councils and BRoWA objected to the Diversion Order as it was not going to use the claimed footpath.
6. In November 2007 the County Council's Development Control Committee refused the application by BRoWA for the making of an order to add a footpath around the edge of Horsekeeper's Cottage to the Definitive Map on the ground that there was insufficient evidence of public user for the prescribed period of 20 years to deem that a highway had been dedicated by the landowner.
7. In November 2007 a public inquiry was held into the 2006 Diversion Order. The Diversion Order was subsequently confirmed in December 2007 and the section of Footpath No. 20 between points X-C-B-A was stopped-up and the new route X-Y created.
8. BRoWA appealed against the County Council's decision not to make a Definitive Map Modification Order to the Secretary of State for the Environment, Food and Rural Affairs under Schedule 14 of the Wildlife and Countryside Act 1981.
9. In late March 2009 the Secretary of State Directed the County Council to make a Definitive Map Modification Order to add the alleged section footpath to the Definitive Map and Statement. The ground for making a Definitive Map Modification Order was that it could be "*reasonably alleged*" that a public right of way had been dedicated over the claimed route. The requirement to make an order passed to Central Bedfordshire Council as the Surveying Authority for

Central Bedfordshire on 1st April 2009.

10. Legal advice indicates that under the current Central Bedfordshire Council's Constitution the Secretary of State for the Environment, Food and Rural Affairs is not a valid authority for the sealing of an Order made by the Council. The Development Management Committee is therefore requested to consider whether to approve the making of a Definitive Map Modification Order in accordance with the Secretary of State's Direction.
11. The landowners affected by the proposed Order: Mr. MacDougall, the owner of Horsekeeper's Cottage; and Mr. Bull, the farmer of the adjoining field, have both expressed their opposition to the addition of any public footpath over the land in question and their intention to object to any Modification Order made.
12. Although the Council has been Directed to make a Definitive Map Modification Order on the ground that a footpath can be *reasonably alleged* to subsist, it is my opinion that there is insufficient evidence to demonstrate, on the *balance of probability*, that a public right of way has been dedicated along the route A-B-C. The evidential test of "*balance of probability*" is the evidential test that would be applied by an Inspector appointed by the Secretary of State to hear an opposed Modification Order.
13. The County Council refused BRoWA's application to add the claimed footpath between points A-B-C, because it considered that there was insufficient evidence of public user for the prescribed period of 20 years to deem that a highway has been dedicated by the landowner. No further evidence has been adduced by BRoWA that suggests, in my opinion, that the County Council's original decision was incorrect. Consequently, it is my opinion that Central Bedfordshire Council should therefore object to any Modification Order it has been Directed to make.

Legal and Policy Considerations

14. The Wildlife and Countryside Act 1981 empowers Central Bedfordshire Council, as the Surveying Authority for the Definitive Map and Statement, to make legal orders to add, delete, or modify any particulars of rights of way (footpaths, bridleways, restricted byways, and byways) shown on the Definitive Map which is the Council's legal record of such rights.
15. Section 53(5) of the Wildlife and Countryside Act 1981 allows any person to apply to the County Council to modify the Definitive Map and Statement by order if they believe it to be wrong.
16. Section 53(2)(b) of the 1981 Act imposes a duty on the Surveying Authority to keep the Definitive Map and Statement under continuous review and as soon as reasonably practicable after the occurrence of any of a number of specified events modify the Definitive Map and Statement appropriately.
17. Section 53(3) of the 1981 Act specifies some of these events as:

"(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public

path...;

(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path..."

18. Section 4 of Schedule 14 of the Wildlife and Countryside Act 1981 states:

"Appeal against a decision not to make an order.

(a) Where the authority decide not to make an order, the applicant may, at any time within 28 days after service on him of notice of the decision, serve notice of appeal against the decision on the Secretary of State and the authority.

(b) If on considering the appeal the Secretary of State considers that an order should be made, he shall give the authority such directions as appear to him necessary for the purpose..."

19. The Development Management Committee under the Central Bedfordshire Council's Constitution (E2 at Annex A) is the appropriate body to determine an application requesting that the Council, as Surveying Authority, make a Modification Order under the Wildlife and Countryside Act 1981 to add a public footpath to the Definitive Map and Statement.

20. This agenda item cannot be determined by powers delegated to the Assistant Director - Leisure and Culture, Libraries, Adult and Community Learning under Section 4.4.15 of Appendix H3 of the Constitution as the representations of the landowners constitute "*significant objection*" - the absence of significant objection being a pre-condition of the Assistant Director's power to authorise the making of orders.

21. Defra guidance issued in its Circular 1/09 at Section 4.16 requires that all Modification Orders include a description of the width of the paths. The Countryside Access Service does not consider that there is sufficient evidence to show that a public right of way subsists. Similarly, there is little evidence to indicate what width the path to be included in the Modification Order should have. The Defra National Rights of Way Casework Team at the Government Office for the North-East of England has suggested that the alleged footpath should have a width of 1.8 metres. This width concurs with the estimated width of a lighter strip of grass shown on a 2002 aerial photograph. The lighter colouration may indicate that the grass has been either trampled or mown.

Consultations

22. Mr. and Mrs. MacDougall, the owners of Horsekeeper's Cottage, have been informed of the Secretary of State's Direction and have expressed their opposition to the proposed Modification Order.

23. Mr. and Mrs. Bull, the owners of the pastureland next to the cottage have also been informed of the Secretary of State's Direction and have expressed their opposition to the proposed Modification Order.

24. Silsoe Parish Council and Flitton & Greenfield Parish Council have been informed of the Secretary of State's direction.

Conclusions

25. The Secretary of State for the Environment, Food and Rural Affairs has Directed the old County Council - and thus Central Bedfordshire Council as the successor Surveying Authority - to make a Definitive Map Modification Order to add part of Silsoe Footpath No.20 to the Definitive Map and Statement around the edge of Horsekeeper's Cottage in Wardhedges in Flitton.
26. The Direction is the result of a successful appeal against the decision by Bedfordshire County Council to refuse an application by the Bedfordshire Rights of Way Association to add the claimed footpath.
27. As the Central Bedfordshire Council Constitution does not recognise the Secretary of State for the Environment, Food and Rural Affairs as an authority for the sealing of orders, the Development Management Committee is asked to ratify the Secretary of State's Direction. The Development Management Committee will therefore become the authority for sealing for the Directed Definitive Map Modification Order.

CORPORATE IMPLICATIONS

Council Priorities:

Statutory Duty / Direction by Secretary of State for the Environment, Food and Rural Affairs

Financial:

The Council, as Surveying Authority, has a statutory duty to investigate and make Definitive Map Modification Orders where appropriate. Central Government consequently provides some degree of funding for this purpose.

The Council will have to advertise a Modification Order in the local press and, as the Order is going to receive objections, will have to advertise the date and location of a probable Public Hearing or Public Inquiry plus pay for the hire of an appropriate venue. In opposing the Modification Order the Council will have some administrative costs but these will be less than if it was supporting the Order. As long as the Council acts in a reasonable manner, it is unlikely to find costs awarded against it.

Legal:

Bedfordshire County Council received its Direction to make a Definitive Map Modification Order in March 2009. If the Central Bedfordshire Council does not make a Modification Order it is unclear what sanctions the Secretary of State can impose to compel the Council to make the Order as Directed. It may be possible for the applicant to lodge a complaint with the Local Government Ombudsman if the Council does not make an Order

If the Committee resolves that a Modification Order should be made there is nothing preventing the Council either taking a neutral stance or objecting to its own Order.

Risk Management:

No risk issues in my opinion.

Staffing (including Trades Unions):

No staffing issues in my opinion.

Equalities/Human Rights:

No equalities issues in my opinion.

Community Safety:

No safety issues in my opinion.

Sustainability:

No sustainability issues in my opinion.

Appendices:

Appendix 1 – Map showing the proposed Modification Order

Background Papers:

- 1) Bedfordshire County Council' Development Control Committee Agenda Item 22nd November 2007 entitled "*The determination of an application under Section 53 of the Wildlife and Countryside Act 1981 to add a footpath to the Definitive Map in the Parish of Silsoe*". (internally available at <P:\Countryside Access Service shared folder\DMC Reports and Background Papers\Silsoe FP 20>)
- 2) Department for Environment, Food and Rural Affairs letter dated 27th March 2009 Directing Bedfordshire County Council to make a Definitive Map Modification Order. (http://www.gos.gov.uk/nestore/docs/transport/rightsofway/2009/wardhedges_ltr.pdf)
- 3) Report to the Secretary of State for the Environment, Food and Rural Affairs dated 29th August 2008 detailing why a Definitive Map Modification Order should be made. (http://www.gos.gov.uk/nestore/docs/transport/rightsofway/2009/wardhedges_rep.pdf)

Location of background papers: the Countryside Access Service, Borough Hall, Cauldwell Street, Bedford and also via *MyApps* and the Internet.

Meeting: Development Management Committee
Date: 21 October 2009
Subject: Confirmation of Tree Preservation Order No. 6/2009 (Land at Upper Tithe Farm, Hockliffe Road, Tebworth)
Report of: Background to Tree Preservation Order and outline of unresolved objection from Mr M White & Mrs P Taylor of Angelus Belle, Upper Tithe Farm, Hockliffe Road, Tebworth
Summary: To request that the Committee consider the unresolved objection made following the making of Tree Preservation Order No. 6/2009 and to confirm the Order without modification.

Contact Officer: Andy Jones X 75161

Public/Exempt:

Wards Affected: Toddington

Function of:

CORPORATE IMPLICATIONS

None

RECOMMENDATIONS:

that the Committee confirms the Tree Preservation Order, which was provisionally made for 6 months, and is due to expire on the 5 November 2009.

Background

- | |
|--|
| <ol style="list-style-type: none">1. The Tree Preservation Order was instigated by a call being made to the Council offices to report that the owner of the property of Angelus Belle, Hockliffe Road, Tebworth wished to fell Poplar trees situated in a prominent position on the approach to Tebworth. The neighbour had been informed by the owner of the trees that felling would occur the following day. Following protests from neighbours and the intervention of a Local Councillor, the tree owner was dissuaded by the Local Councillor not to go ahead with the felling. However, the neighbour remained concerned that the trees were an important feature in the landscape and that any future removal would disrupt the avenue effect provided by the trees. |
|--|

A subsequent site visit was made on the 28th April 2009 to inspect the trees, which were found to make a valuable contribution to the visual amenity and character of the area. The trees formed an avenue, clearly visible on the skyline, which ran alongside the driveway entrance of what the site of a previous working farm. 6 Hybrid black poplars were found within a grass verge under the joint ownership of four residents of Upper Tithe Farm. A further 4 Hybrid Black Poplar trees were found to be situated within the grounds of the property of Angelus Belle. The trees were clearly visible from the public highway of Hockliffe Road and the adjacent footpath FP24, which ran alongside the avenue of trees.

2. A TPO was then made on two groups of Poplar trees for the reasons that:-

- The trees are adjacent to a Conservation Area, being situated just outside the boundary; yet still make a significant contribution to the rural character of the area.
- The trees have a strong collective value, contributing as a group that forms an important avenue feature.
- The trees provide a visually important boundary that marks the south-western limit of the village with the surrounding countryside.
- The trees are prominent in long distance views from both the approach to the village along Hockliffe Road and within the village itself.
- The trees are visible from the surrounding public highway and public footpaths and make a positive contribution to the visual amenity and character of the area.

3. Following the serving of the TPO, an objection was received from Mr M White and Mrs P Taylor of Angelus Belle on the 29 May 2009. Their grounds for objections were based on the following:-

- The trees are jointly owned and the groups of trees do relate to specific owners.
- The trees in question are Hybrid Black Poplar trees, not even native, and are very fast growing.
- The trees are only about 25 years old and have already become unmanageable.
- Large, quick growing trees such as these should be planted in a plantation away from housing.
- The trees were initially planted for a windbreak and not for aesthetic purposes.
- Trees are planted on an exposed high ridge and are a danger to an adjacent public footpath.

- Trees have grown too large and now shade the garden, drawing all the moisture from the vegetable plot.
- Would like to cut down and replace 2 trees.

Would like to know if a fair points system was used when determining the merits of the TPO.

4. The Tree & Landscape Officer's reply to these points in respect of the objection were:-

- The description of the two groups of trees relates to easily identifiable positions on the ground. They are not intended to relate specifically to ownership and therefore it is not considered that this should be changed.
- The fact that the trees are non-native should not preclude a TPO to be made. Many non-native trees are the subject of TPO's and make a significant contribution to the amenity and character of an area.
- It is accepted that Poplars are quick growing trees, but it is not recognised that the trees are unmanageable or constitute a danger to the adjacent public footpath.
- It is not normal practice to allow protected trees to be felled because they extract moisture from gardens. This will set a precedent that will allow an unacceptable level of protected trees to be felled from garden areas.
- The TPO was instigated by concerns to fell certain trees in the garden, and it was recognised that the felling of 2 of the trees would disrupt the natural avenue effect and make the line of trees visually disjointed.
- The Poplar trees were assessed under TEMPO ("Tree Evaluation Method for Preservation Orders"), which is a nationally recognised system, produced by an independent arboricultural consultant, where scores are allocated towards meeting certain criteria needed required to justify a TPO. The scoring produced by the valuation method indicates that any score between 11 to 14 points merits a "*defensible TPO*" and that any score over 15 points "*Definitely merits a TPO*". Following a survey on the 28th April 2009, it was found that the Poplar trees had a score allocation of 17 Points, based on the fact that they were:-
 - In good condition
 - Had a retention span of between 20 to 40 years
 - They are large or medium trees clearly visible to the public
 - The trees are part of a group that are important for their cohesion
 - There is a perceived threat to one or more of the trees.

5. Following the response from the Tree & Landscape Officer, there was further correspondence received from the owners, who continued to refute many of the points justifying the TPO, and the objection therefore remains unresolved.

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Dated 06 May 2009

TOWN AND COUNTRY PLANNING ACT 1990

CENTRAL BEDFORDSHIRE COUNCIL

Land at Upper Tithe Farm, Hockliffe Road, Tebworth

Tree Preservation Order No. 6/2009

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees)(Amendment)(England)
Regulations 2008**

TREE PRESERVATION ORDER

Town and Country Planning Act 1990

**CENTRAL BEDFORDSHIRE COUNCIL
Land at Upper Tithe Farm, Hockliffe Road, Tebworth
TREE PRESERVATION ORDER (No. 6/2009)**

The Central Bedfordshire Council, in exercise of the powers conferred on them by sections 198, [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order -

CITATION

1. This Order may be cited as the

**CENTRAL BEDFORDSHIRE COUNCIL
Land at Upper Tithe Farm, Hockliffe Road, Tebworth
TREE PRESERVATION ORDER (No. 6/2009)**

INTERPRETATION

2. In this Order "the authority" means The Central Bedfordshire Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

APPLICATION OF SECTION 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 06 May 2009.

PROHIBITED ACTS IN RELATION TO TREES

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall-

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

EXEMPTIONS

5. (1) Nothing in article 4 shall prevent-
- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
 - (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development Order) 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1), "statutory undertaker" means any of the following
- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
 - a relevant airport operator (within the meaning of Part V of the Airports Act 1986),

- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

6. PLEASE NOTE: ARTICLE 6 HAS BEEN DELETED BY THE 2008 REGULATIONS

APPLICATION OF PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990

7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

DIRECTIONS AS TO REPLANTING

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
- (3) A direction under paragraph (1) may include requirements as to -
- (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

COMPENSATION

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of -
- (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,
- he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article-

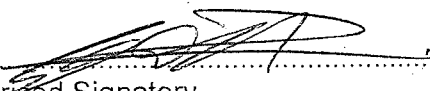
- (a) if more than 12 months has elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person-
- (a) for loss of development value or other diminution in the value of the land;
 - (b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
 - (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.
- (6) In this article-
- "development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and
- "owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition

[10.] In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

Dated this Sixth day of May 2009

The Common Seal of The Central Bedfordshire Council
was hereunto affixed in the presence of -


.....
Authorised Signatory

CONFIRMATION OF ORDER

This Order was confirmed by The Central Bedfordshire Council without modification on this
day of

OR

This Order was confirmed by The Central Bedfordshire Council, subject to the modifications indicated
by on this day of

.....
Authorised Signatory

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by The Central Bedfordshire Council on this
day of

.....
Authorised Signatory

VARIATION OF ORDER

This Order was varied by The Central Bedfordshire Council on this
day of under the reference number 6/2009

.....
Authorised Signatory

REVOCAION OF ORDER

This Order was revoked by The Central Bedfordshire Council on this
day of under the reference number 6/2009

.....
Authorised Signatory

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on Map Description Situation

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on Map Description Situation

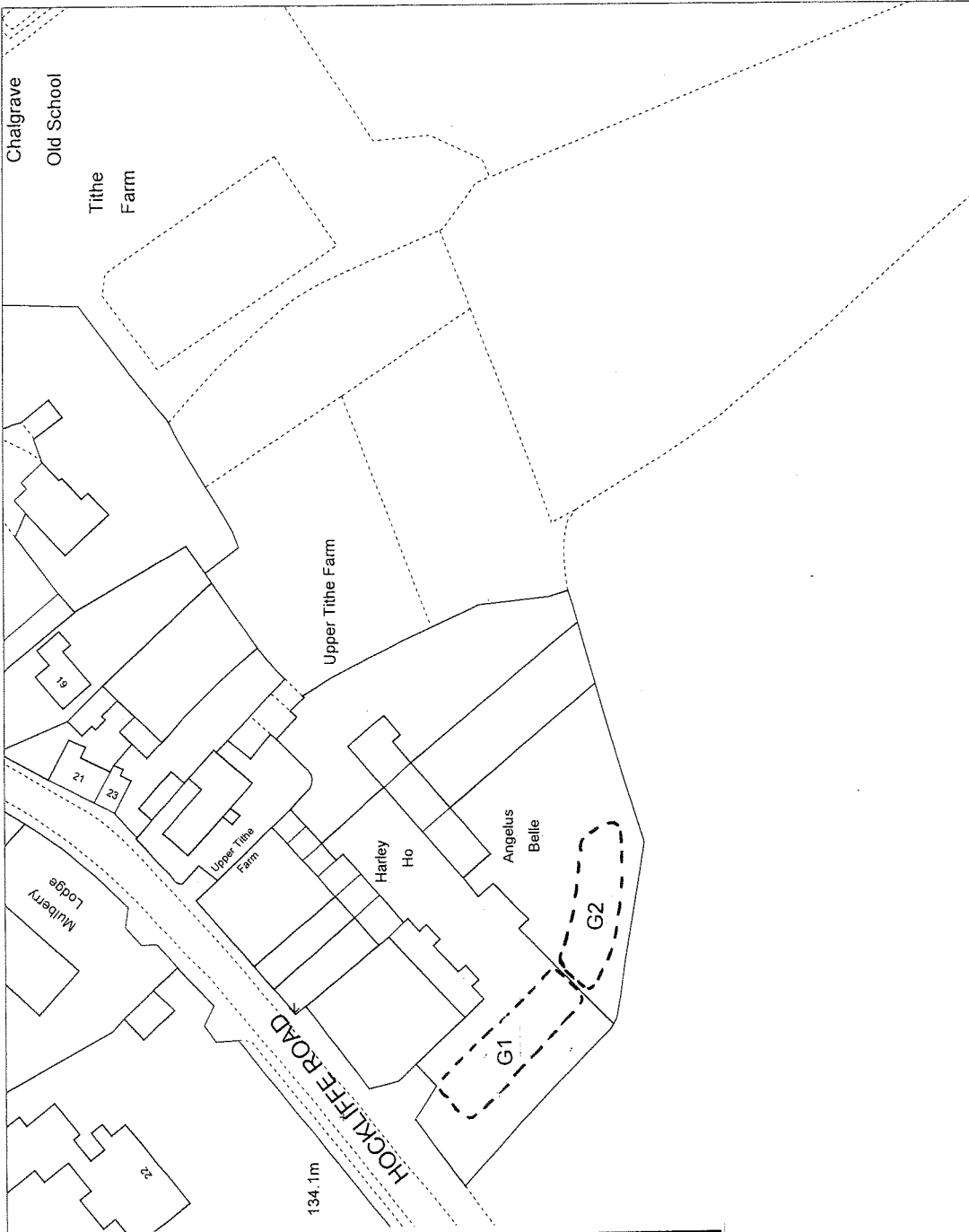
Groups of trees
(within a broken black line on the map)

Reference on Map	Description	Situation
G1	Group consisting of 6 Hybrid Black Poplar trees	Located adjacent to the south western gable end of the property of The Squirrels, Upper Tithe Farm, being situated on the south western side of the shared driveway, up to the boundary with the property of Angelus Belle.
G2	Group consisting of 4 Hybrid Black Poplar trees	Located within the garden and along the south western and southern boundary of the property of Angelus Belle, Upper Tithe Farm, alongside Footpath No. FP24

Woodlands

(within a continuous black line on the map)

Reference on Map Description Situation



CENTRAL BEDFORDSHIRE COUNCIL
 Development Control
 Council District Offices, High Street North,
 Dunstable, Bedfordshire. LU6 1LF
 Tel: 0300 300 8000

TREE PRESERVATION ORDER

Map referred to in Central Bedfordshire Council
 Tree Preservation Order:

No. 6/2009

Group of trees shown thus G1

**SITE: Land at Upper Tithe Farm, Hockliffe Road,
 Tebworth**

Date: 6th May 2009 Scale: 1 : 1250

Gary Allinson
 Director of Sustainable Communities

	© Crown Copyright. All rights reserved. Central Bedfordshire Council Licence No. 100049029 (2009)	CASE NO: 5.82.11 T5/4 6/2009
	Date: 6:May:2009 Map Sheet No	Land at Upper Tithe Farm Hockliffe Road, Tebworth
	Scale: 1:1250	

PART I
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH
ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1)-</p> <ul style="list-style-type: none"> (i) omit- ", in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed"; and (ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission". <p>(b) In subsection (2)-</p> <ul style="list-style-type: none"> (i) after "contain" insert ", as regards each such order"; and (ii) for paragraphs (a) and (b) substitute- <ul style="list-style-type: none"> (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it." <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1)-</p> <ul style="list-style-type: none"> (i) substitute- "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority"; "consent under a tree preservation order" for "planning permission" where those words first appear; and "consent under the order" for "planning

	<p>permission" in both of the other places where those words appear;</p> <p>(ii) after "think fit", insert-</p> <p>"(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and</p> <p>(iii) omit "subject to sections 91 and 92,".</p> <p>(b) After subsection (1) insert-</p> <p>"(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)."</p> <p>(c) Omit subsections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<p>(a) In subsection (1) substitute-</p> <p>(i) "Any" for the words from "Without" to "any";</p> <p>(ii) "consent under a tree preservation order" for "planning permission to develop land";</p> <p>(iii) "the consent" for "the permission"; and</p> <p>(iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) In subsection (1) substitute-</p> <p>(i) "the authority" for "a local planning authority";</p> <p>(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;</p> <p>(iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute-</p> <p>"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that</p>

authority required by such a direction; or

- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,"

(b) Omit subsection (2).

(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute-

"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant."

(d) For subsection (4), substitute-

"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)."

(e) For subsection (5), substitute-

"(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question."

Section 79 (determination of appeals)

(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".

(b) Omit subsection (3).

(c) In subsection (4), substitute-

- (i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";
- (ii) "consent under a tree preservation order" for "planning permission"; and

(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71."

(d) Omit subsections (6) and (6A).

(e) In subsection (7), omit the words after "section 78".

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS ADAPTED AND
MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

.....

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

.....

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority-
 - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that authority required

by a condition imposed on a grant of consent under such an order or grant if subject to the following conditions;

- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

.....

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

.....

Section 79

(1) On an appeal under section 78 the Secretary of State may-

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

.....

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

.....

(7) Schedule 6 applies to appeals under section 78.

Agenda Item:

Meeting: Development Management Committee

Date: 21st September 2009

Subject: **Planning Enforcement cases where formal action has been taken**

Report of: Director of Sustainable Communities

Summary: The report provides a monthly update of planning enforcement cases where formal action has been taken

Contact Officer: Sue Cawthra (Tel: 01462 611369)

Public/Exempt: Public

Wards Affected: All

Function of: Council

RECOMMENDATIONS:

- 1. To receive the monthly update of Planning Enforcement cases where formal action has been taken**

Background

- (a)** This is the update of planning enforcement cases where Enforcement Notices and other formal notices have been served and there is action outstanding. The list does not include closed cases where members have already been notified that the notices have been complied with or withdrawn.
- (b)** The list briefly describes the breach of planning control, dates of action and further action proposed.
- (c)** Members will be automatically notified by e-mail of planning enforcement cases within their Wards. For further details of particular cases please contact Sue Cawthra on 01462 611369.

CORPORATE IMPLICATIONS

Council Priorities:

This is a report for noting ongoing enforcement action.

Financial:

None

Legal:

None

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Safety:

None

Sustainability:

None

Appendices:

- Appendix A – (Planning Enforcement Formal Action Spreadsheet - North)
- Appendix B – (Planning Enforcement Formal Action - South)
- Appendix C – (Planning Enforcement Formal Action – Minerals & Waste)

Planning Enforcement formal action (DM Committee 21st October 2009)

NORTH	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
1	ENC/04/0282	Land at Etonbury Farm, A507, Arlesey	Unauthorised dwelling. Enforcement Notice not complied with.	6-Dec-06	10-Jan-07	10-Apr-07	12-Dec-06	5-Dec-07	Appeal dismissed. High Court upheld Inspectors decision	Enforcement Notice has not been complied with. Full assessment made of alternative further action. Judicial review Council decision to decline to determine further planning application
2	ENC/05/0178	Land at Maulden Garden Centre, Water End, Maulden	Enforcement Notice - change of use from nursery to garden centre, café and outdoor storage, construction of 6 buildings, siting of mobile home.	9-Apr-09	9-May-09	9-Nov-09	Appeal received 7-May-09			Await outcome of Inquiry, 12-Nov-09.
3	ENC/06/0078	Tythe Barn, Wood End, Tingrith	Change of use of land to retail sales & 2 timber showrooms	19-May-08	19-Jun-08	20-May-09	Appeal withdrawn 3/9/08, extension agreed to compliance period		Planning permission for barn extension, currently being built. 1 cabin removed, 2nd cabin to be removed when extn complete.	Check October 09 that both cabins removed
4	ENC/06/0244	Land at The Green Man, Broom Road, Stanford	Enforcement Notice - Kitchen extractor fan duct, & 2 masts supporting security cameras and flood lighting.	9-Dec-08	9-Jan-09		Appeal received 4/2/09	26-Nov-09	Appeal dismissed & uphold enforcement notice	Further discussions on compliance, check compliance after 26-Nov-09.
5	ENC/06/0313	Land at Hope Farm, Cobblers Lane, Ridgmont	Change of use to storage of vehicles and vehicle equipment & waste. Enforcement Notice	2-Jan-08	2-Feb-08	2-May-08	Appeal received. Hearing 22-Jul-08	30-Apr-09	Appeal dismissed & uphold enforcement notice	08/02063/full granted for extension to storage building, currently under construction. Vehicles to be stored only to rear where barn extension permitted, remainder to be removed from site.
6	ENC/06/0325	Land to rear of 197 Hitchin Road, Arlesey	Enforcement Notices - Change of use of rear field for the siting of three residential caravans and the storage of waste materials, and the laying of hardsurfacing & Temporary Stop Notice	4-Sep-09	2-Oct-09	30-Oct-09			Planning application 09/05914/full received for change of use of land for residential caravan site.	Await outcome of planning application.

Planning Enforcement formal action (DM Committee 21st October 2009)

NORTH	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
7	ENC/07/0085	Woodview Nurseries, Shefford Rd, Meppershall	Mobile home & conservatory	21-Jan-08	19-Feb-08	19-Aug-08	Appeal received. Hearing 14-Oct-08	29-Apr-09	Appeal dismissed & uphold enforcement notice	Planning application 09/00545 to retain mobile home, declined to determine 3-Jul-09. Await result of Ombudsman complaint.
8	ENC/07/0125	Land at Chestnut Barn, Northfield Farm, Great Lane, Clophill	Enforcement Notice - Change of use of barn to use as self-contained residential dwelling.	3-Apr-09	3-May-09	3-Nov-09	Appeal received. Written reps.			Await outcome of appeal
9	ENC/08/0214	Land & Buildings at Lower Wood Farm, Sundon Rd, Harlington	Breach of conditions to Permissions 02/00553 & 06/00152. Enforcement Notice - outside storage & portacabins	15-Dec-08	12-Jan-09	12-Feb-09			Land now cleared of vehicles awaiting repair. Enforcement Notice complied.	Awaiting further planning application for earth bund, hard surface, unit extension, and named occupants of units, pre-app received.
10	ENC/08/0373	Land at Silver Lake Farm, Stanfield Lane, Clifton	Enforcement Notice-change of use to residential and change of use as self contained dwelling.	9-Feb-09	9-Mar-09	9-Sep-09	Appeal received 25-Feb-09	21-Jan-10	Appeals dismissed, Enforcement notice upheld	Check compliance after 21-Jan-10
11	ENC/08/0381	Land and Buildings on the West side of Foundry Lane, Biggleswade	Enforcement Notice - change of use to hand car wash	22-Dec-08	22-Jan-09	22-Feb-09	Late appeal not accepted by PINS		New planning application received 09/06135/full	Await outcome of planning application.
12	ENC/08/0404	Land at Harlington Post Office, 8 Lincoln Way, Harlington	Enforcement Notice - change of use of part of the shop premises for keeping privately owned birds and pets	4-Mar-09	4-Apr-09	4-May-09	Appeal received 1-May-09	28-Oct-09	Appeal dismissed & uphold enforcement notice	Check compliance after 28-Oct-09
13	ENC/08/0408 Case closed	Asda, Church St, Biggleswade	Breach of condition delivery hours. Breach of Cond. Notice	17-May-07	17-May-07	14-Jun-07			Prosecution dismissed in Court	If further breaches consider serving new Notice
14	ENC/09/1046	Land at 63 Hitchin Road, Stotfold	Enforcement Notice - The keeping of ponies without planning permission.	30-Sep-09	28-Oct-09	25-Nov-09	Appeal received			Await outcome of appeal

Planning Enforcement formal action (DM Committee 21st October 2009)

SOUTH	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
1	ENF/04/0002	Land at Stanbridge Road, Billington, Leighton Buzzard	Change of Use of land for stationing of caravans and mobile homes	10-Feb-04	12-Mar-04	12-Jun-04	Appeal received 30/03/2004	31-Aug-05	Appeal dismissed & enforcement notice upheld	Section C appeal dismissed, Plot 7 appeal dismissed - Further action to be discussed
2	ENF/04/0003	Land at Stanbridge Road, Billington, Leighton Buzzard	Laying of Hardcore and tarmac, erection of fencing and installation of services	10-Feb-04	12-Mar-04	12-Jun-04	Appeal received 30/03/2004	31-Aug-05	Appeal dismissed & enforcement notice upheld	Section C appeal dismissed, Plot 7 appeal decision dismissed - Further action to be discussed
3	ENF/04/0004	Land at Stanbridge Road, Billington, Leighton Buzzard	Change of Use of land for stationing of caravans and mobile homes	10-Feb-04	12-Mar-04	12-Jun-04	Appeal received 30/03/2004	31-Aug-05	Appeal dismissed & enforcement notice upheld	Section C appeal dismissed, Plot 7 appeal dismissed - Further action to be discussed
4	ENF/04/0005	Land at Stanbridge Road, Billington, Leighton Buzzard	Laying of Hardcore and tarmac, erection of fencing and installation of services	10-Feb-04	12-Mar-04	12-Jun-04	Appeal received 30/03/2004	31-Aug-05	Appeal dismissed & enforcement notice upheld	Section C appeal dismissed, Plot 7 appeal decision dismissed - Further action to be discussed
5	ENF/04/0007	Land rear of Fancott Cottages, Luton Road, Toddington	Erection of Timber Clad Building for residential purposes & laying of hardcore surface	8-Sep-04	08-Oct-04	08-Jan-05	Appeal received 01 Nov 2004	No Change	Appeal withdrawn 02 Oct 2006	SB/TP/05/1217 & Section 106 Agreement approved 11 Aug 2006 allowing 2 years for compliance
6	ENF/04/0008	Land rear of Fancott Cottages, Luton Road, Toddington	Change of Use from agricultural for stationing of mobile home & storage of machinery/building materials	8-Sep-04	08-Oct-04	08-Jan-05	Appeal received 01 Nov 2004	No Change	Appeal withdrawn 02 Oct 2006	SB/TP/05/1217 & Section 106 Agreement approved 11 Aug 2006 allowing 2 years for compliance
7	ENF/05/0004	Anacapri, Harlington Road, Toddington	Construction of a roof to building on land	9-Feb-05	11-Mar-05	11-May-05	None	No change	Not applicable	SB/TP/06/1400 approved 01 Feb 2007 requiring completion of works within 2 months. Property since repossessed
8	ENF/05/0005	215 Common Road, Kensworth	Erection of a double garage and storeroom	16-Mar-05	18-Apr-05	18-Jul-05	6-May-05	6-Aug-05	Appeal dismissed & enforcement notice upheld	No compliance, to assess for further action
9	ENF/05/0007	Long Yard, Dunstable Road, Studham	Unauthorised stationing of mobile home for residential use	29-Jul-05	1-Sep-05	1-Dec-05	28-Sep-05	28-Dec-05	Appeal dismissed & enforcement notice upheld	Prosecution 2008, no compliance. To assess for further action.
10	ENF/06/0001	Land at 34 The Rye, Eaton Bray	Construction of an area of hardstanding	4-May-06	6-Jun-06	6-Sep-06	25-Jun-06	.	Appeal dismissed but period of compliance extended	Site visit to check full compliance

Planning Enforcement formal action (DM Committee 21st October 2009)

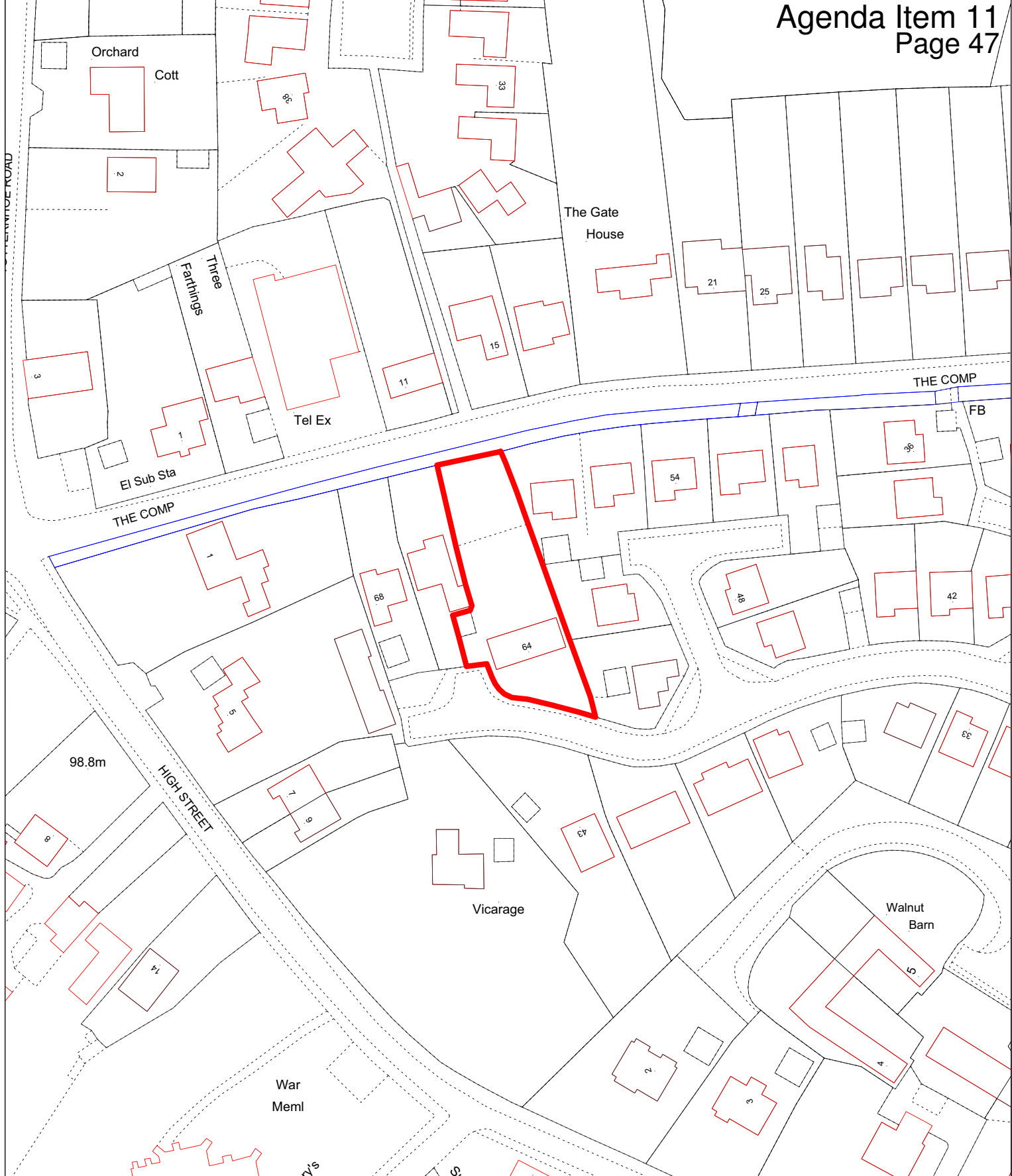
SOUTH	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
11	ENF/07/0006	Dunedin, Harlington Road, Toddington	Change of use of buildings to bedsit accommodation	10-Aug-07	12-Sep-07	4-Dec-07	27-Sep-07	9-Jan-09	Appeal dismissed but period of compliance extended to 9/1/09	Discussed with Legal further action.
12	ENF/07/0007	Dunedin, Harlington Road, Toddington	Erection of building and alteration and extension of two other buildings	10-Aug-07	12-Sep-07	4-Dec-07	27-Sep-07	9-Jan-09	Appeal dismissed but period of compliance extended to 9/1/09	Discussed with Legal further action.
13	ENF/07/0008	Dunedin, Harlington Road, Toddington	Failure to comply with Condition 2 of Planning Permission SB/TP/98/0838 issued 31 December 1998	10-Aug-07	12-Sep-07	4-Dec-07	27-Sep-07	9-Jan-09	Appeal dismissed but period of compliance extended to 9/1/09	Discussed with Legal further action.
14	ENF/07/0009	12-14 North Street, Leighton Buzzard	Installation of Shopfront on front elevation of premises	17-Aug-07	19-Sep-07	11-Dec-07		Not complied	Planning permission refused to retain	Discussions with Officers to achieve acceptable shopfront
15	ENF/07/0012	Land rear of Packhorse Place, Watling Street, Kensworth	Change of use of land for the parking of vehicles	5-Nov-07	5-Dec-07	01 Jan 2008 & 26 Feb 2008	21-Jan-08	28 Jul 2009 & 28 Sep 2009	Appeal dismissed but compliance periods extended	Check compliance after Sept 09
16	ENF/07/0014	Rear of 129 High Street North, Dunstable	Change of Use of garage building to a use for residential purposes	10-Dec-07	15-Jan-08	11-Feb-08	Invalid	Not complied		Assess for further action for non compliance
17	SB/ENC/07/0059	Land at 2A Mardle Road, Linslade, LU7 2UT.	Enforcement Notice, unauthorised erection of fence exceeding 1M in height adjacent to the highway.	20-Aug-09	17-Sep-09	15-Oct-09	21-Sep-09			Await outcome of appeals against refusal of planning permission and Enforcement Notice.
18	ENF/08/0003	Bury Spinney, Thorn Road, Houghton Regis	Use of offices for residential purposes	3-Mar-08	4-Apr-08	2-May-09	7-May-08	22-Jul-09	Appeal dismissed but compliance period extended to 6 months	Not complied, referred to Legal for further action.
19	ENF/08/0006	Land adjacent Hillside, The Green, Whipsnade	Change of Use from amenity land to private residential & enclosure of land by fence and hedge	9-Apr-08	9-May-08	5-Jun-08	13-Nov-08	13-Feb-09	Appeal dismissed but compliance periods extended	Substantial progress in compliance. Case Officer dealing with outstanding issues
20	ENF/08/0007	Land adjacent Hillside, The Green, Whipsnade	Enclosure of land and laying of hedge & construction of gravel topped hardsurfacing	9-Apr-08	9-May-08	5-Jun-08	13-Nov-08	13-Feb-09	Appeal dismissed but compliance periods extended	Awaiting planning application

Planning Enforcement formal action (DM Committee 21st October 2009)

SOUTH	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
21	ENF/08/0008 Case closed	Lavang Indian Cuisine, High Street, Eggington	Change of use from restaurant to mixed use of restaurant and hot food take-away	14-Mar-08	16-Apr-08	13-May-08				Currently no breach, premises closed but Notice remains in force
22	ENF/08/0009	21 Emu Close, Heath & Reach	Construction of single storey front and side extensions and loft conversion	14-Apr-08	14-May-08	14-Aug-08	20-Jun-08	4-Sep-09	Appeal part dismissed - Compliance 3 months. Not complied	Discussed with Legal for further action
23	ENF/08/0012	Valley View, Hemel Hempstead Road, Dagnall	Change of Use of building from use for storage purposes to use for residential purposes	25-Jul-08	25-Aug-08	5-Oct-08	12-Aug-08	18-May-09		To assess for compliance
24	ENF/08/0013 Case closed	24 Church Road, Studham	Erection of fence and brick piers	30-Jul-08	29-Aug-08	25-Sep-08	25-Aug-08	26-Jun-09	Complied with Notice	Case closed, no further action
25	ENF/08/0020	5 Albion Street, Dunstable	Change of use of ground floor unit from retail to use for a taxi business	1-Dec-08	7-Jan-09	3-Feb-09	28-Jan-09			Appeal dismissed - Premises closed down as at 5/6/09
26	ENQ/08/0190	112 Manor Road, Barton-le-Clay	Enforcement Notice, garden wall and gates	16-Jul-09	13-Aug-09	12-Oct-09				check compliance after 12-Oct-09
27	ENF/09/0001	7 Fisher Close, Barton-le-Clay	Change of use of amenity land to private residential garden, enclosure of land by removal of hedge, and erection of fence	11-Feb-09	13-Mar-09	7-May-09	Appeal received	20-Oct-09	Appeal dismissed	check compliance after 20-Oct-09
28	ENF/09/0002	8 Fisher Close, Barton-le-Clay	Change of use of amenity land to private residential garden, enclosure of land by removal of hedge, and erection of fence	2-Feb-09	4-Mar-09	29-Apr-09	Appeal received	20-Oct-09	Appeal dismissed	check compliance after 20-Oct-09
29	ENF/09/0555	Setco Plastic Ltd, Setco House, Unit 7 Argan park, Foster Avenue, Dunstable	Breach of Condition Notice, condition 7 SB/TP/04/00818, change of use to B2	22-Jul-09	22-Jul-09	21-Aug-09				Planning application received 09/05770/full, await decision

Planning Enforcement formal action (DM Committee 21st October 2009)

Minerals & waste	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
1	07/09	Land at Kiln Farm, Steppingley	Enforcement Notice - material change of use of land involving deposit of waste.	29-Sep-08	10-Nov-08	10-Aug-09		10-Oct-09	Imported rubble and planings fully removed.	Short extension of time granted under section 173A(1)(b) of the Town and Country Planning Act 1990. Land needs to be ripped and grass seeded by 10th October 2009 in order to ensure full compliance with notice.
2	08/13	Land rear of 3 - 9 The Causeway, Clophill	Enforcement Notice - failure to remove soils & brick rubble & reinstate ground to its previous condition in breach of a condition	13-Mar-09	20-Apr-09	20-Oct-09			Imported soils and brick rubble fully removed and land returned to its former level.	Ripping and grass seeding completed at end of September 2009. All steps of the notice complied with.
3	07/40	Former BR Goods Yard, Chiltern Green Road, East Hyde	Enforcement Notice - timber fence at waste transfer station premises.	18-Mar-09	24-Apr-09	24-Jun-09	Appeal received	23-Nov-09	Appeal dismissed and enforcement notice upheld.	Monitoring to be carried out to check for compliance
4	08/22	Land at Totternhoe Lime Works / Totternhoe Quarry	Importation of wood waste. Two Temporary Stop Notices	29-Oct-08 & 10 Nov 08	Immediate	8-Dec-08			Not initially complied with. Activities stopped on 17 Nov 2008	Trial in Luton Magistrates Court set for 9th November 2009.
5	06/67	Former Fullers Earth Quarry, Clophill	Enforcement Notice - failure to complete the approved restoration scheme for the site and permit public access	2-May-07	6-Jun-07	6-Oct-07	Appeal received		Awaiting Inspector's decision	Planning Inspector dismissed appeal on 12th June 2008 but appellants challenged the decision by application to the High Court. The Court ordered that the appeals be re-determined afresh. A further public inquiry was held from 15th to 18th September 2009 and a decision is expected shortly.



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	Date: 06:October:2009	
	Map Sheet No	
Scale: 1:1250		

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SCHEDULE A

APPLICATION NUMBER	CB/09/05710/FULL
LOCATION	64 Wallace Drive, Eaton Bray, Dunstable, LU6 2DF
PROPOSAL	Demolition of bungalow and erection of replacement two storey dwelling with attached garage and erection of new detached two storey dwelling with detached double garage.
PARISH	Eaton Bray
WARD	South West Bedfordshire
WARD COUNCILLORS	Cllr Ken Janes & Cllr Marion Mustoe
CASE OFFICER	Simon Barnett
DATE REGISTERED	21 August 2009
EXPIRY DATE	16 October 2009
APPLICANT	Mr A Barber
REASON FOR COMMITTEE TO DETERMINE	Called in by Cllr Janes at the request of the Parish Council
RECOMMENDED DECISION	Refuse Planning Permission

Site Location:

The application site comprises the curtilage of number 64 Wallace Drive, a detached single storey dwelling, and an additional parcel of land to the north. The site is flanked to the east by the flank of number 58, the rear of number 60 and the flank and rear of number 62 Wallace Drive. To the west is number 66 Wallace Drive and to the north an open brook running alongside The Comp.

The site has an irregularly shaped frontage of 33 metres, an average width of 17 metres, an average depth of 56 metres and an overall area of approximately 1100 square metres.

The Application:

Planning permission is sought to redevelop the site by the erection of two, two-storey four bedroom detached dwellinghouses, one to replace the existing bungalow and the second to the rear of the site.

To the front of the site, the existing bungalow would be demolished and replaced by a dwelling with an 'L-shaped' footprint with two floors of accommodation. Since originally submitted the design of this dwelling has been altered to reduce the bulk of the building adjacent to the common boundary with numbers 60 and 62 Wallace Drive. The proposed dwelling would sit beneath a pitched roof rising to a ridge height of 8.0 metres with part hipped features to the gables and subordinate hipped front projections.

The dwelling proposed for the rear of the site would be located adjacent to number 58 and rearward of number 66. The proposed dwelling would have a rectangular footprint with two-storey front and rear projections and sit beneath a pitched roof with half-hip details with a maximum height of 8.6 metres.

Each dwelling would have a double garage with further off street driveway parking being provided for two more cars.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development
PPS3 - Housing
PPG13 - Transport
PPS25 - Development and Flood Risk

Regional Spatial Strategy

East of England Plan (May 2008)

ENV7 - Quality in the Built Environment

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

South Bedfordshire Local Plan Review Policies

H2 - Fall-In Sites
BE8 - Design Considerations
T10 - Parking - New Developments

Planning History:

Application Site

SB/TP/79/0042 - Permission for detached bungalow and double garage
SB/TP/07/0953 - Withdrawn application for erection of two detached dwellings following demolition of bungalow and garage.
SB/TP/08/0375 - Refusal for erection of two detached dwellings following demolition of bungalow and garage (Revised Application SB/TP/07/0953).

Land adj 64 Wallace Drive

SB/TP/88/0710 - Permission for erection of one detached dwelling.
SB/TP/93/0843 - Refusal for erection of three detached dwellings (outline).
SB/TP/93/0885 - Permission for erection of two detached dwellinghouses with garages.

Representations:

(Parish & Neighbours)

Parish Council	Recommend Refusal: (1) Impact on neighbouring properties; (2) Over development of site; and (3) Setting a precedent.
Neighbours	22, 27, 29, 33, 37, 41, 43, 46, 58, 60, 62, 66 & 68 Wallace Drive: Object on some or all of the following grounds: <ul style="list-style-type: none">• design not in keeping;• cramped development;• loss of privacy;• loss of light;• loss of trees;• increased noise and disturbance;• increased risk of flooding;• increased traffic and impact on highway safety;• precedent;• use of private sewer;

- development for commercial gain;
- affect on existing low water pressure;
- loss of bungalow and more affordable housing unit; and
- Council should compulsory purchase bungalow.

Any additional responses received as a result of the re-consultation on the revised drawings will be reported at the meeting.

Consultations/Publicity responses

Highways	Recommends conditions and informative's.
Tree & Landscape	No objection.
Buck & R Ouzel IDB	Advise contents of Flood Risk Assessment (FRA) is acceptable. Recommends planning permission should contain conditions based on FRA.
Environmental Health	Recommends informative.

Determining Issues

The main issues considered relevant in the determination of this application are:

1. Principle of Development;
2. Design and Appearance;
3. Affect on Residential Amenity;
4. Access and Parking;
5. Flooding; and
6. Other Issues.

Considerations

1. Principle of Development

The application site is located within the built envelope of Eaton Bray, excluded from the Green Belt. Accordingly there can be no objection to the principle of redevelopment to a higher density, which would be in accordance with local and national planning policies. Furthermore the site of the proposed dwelling would reflect the existing layout and character of Wallace Drive in this locality. Representations have been received relating to the loss of a bungalow, however having regard to the suitability of the site for the proposal its loss is considered acceptable.

2. Design and Appearance

The design of the proposed dwellings is similar to that of existing dwellings in Wallace Drive such that they would sit comfortably within the contextual streetscene. The proposed dwellings would not appear as unduly prominent features or appear out of character with the locality. The proposed plot and dwelling sizes are comparable to that of the existing properties in Wallace Drive and would not appear cramped or overdeveloped.

3. Affect on Residential Amenity

The proposed dwellings have been amended since originally submitted with side facing windows being removed from both dwellings and the design of the 'front' dwelling being altered to reduce its bulk adjacent to the common boundary with numbers 60 and 62 Wallace Drive.

The proposal would result in the siting of a two-storey wall approximately 10 metres from the rear elevation of number 60 Wallace Drive and as such be likely to have an

overbearing relationship with that property harmful to the living conditions of the occupiers.

It is considered that, with the exception of the issue discussed above, the siting and revised design of the proposed dwellings is such that the proposal would not result in a significant impact on the residential amenities of the occupiers of other adjacent dwellings.

4. Access and Parking

The Council's Highway Officer raises no objection to this application and recommends planning conditions be imposed to ensure that the access and parking arrangements are satisfactory. We concur with this view and consider that the proposed access and parking arrangements are acceptable and unlikely to prejudice highway safety.

5. Flooding

The application site is within a floodplain and the application is accompanied by a flood risk assessment, the contents of which have been accepted by the IDB who are responsible body for the nearby brook.

6. Other Issues

A number of representations have been received relating to the existing bungalow (and estate) being served by a private sewer with a history of problems. The status and capability of the existing sewerage system is not an issue that can be used to justify a reason for refusal and should be addressed through the provisions of the Building Regulations and by those responsible for the use and maintenance of the existing sewer. In planning terms the proposed use of the existing foul water drainage system to serve the proposed development is acceptable.

Further issues such as precedent, the potential affect on utility supplies, the fact that the existing dwelling is in good order and that the development is solely for commercial gain are not material planning considerations and can be given little weight in the determination of this application.

Recommendation: that Planning Permission be REFUSED for the following:

- 1 The proposed development would, by virtue of its scale, massing and siting, have an overbearing relationship with number 60 Wallace Drive harmful to the residential amenity of the occupiers of that property. The proposal is therefore contrary to the principles of good design as set out in Planning Policy Statement 1: 'Delivering Sustainable Development' and Policies H2 and BE8 of the South Bedfordshire Local Plan Review.

DECISION

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Date: 09 September 2009

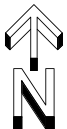
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ITEM NO. 10

APPLICATION NO. CB/09/05512/FULL

Land to rear of 65 Shefford Road, Clifton



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APPLICATION NUMBER	CB/09/05512/FULL
LOCATION	LAND TO THE REAR OF 65, SHEFFORD ROAD, CLIFTON
PROPOSAL	FULL: ERECTION OF 3 NO. FOUR BEDROOM DWELLINGS AND ASSOCIATED ACCESS
PARISH	Clifton
WARD	Langford & Henlow Village
WARD COUNCILLORS	Cllr Clarke & Cllr Rogers
CASE OFFICER	Dee Walker
DATE REGISTERED	30 July 2009
EXPIRY DATE	24 September 2009
APPLICANT	Mr D Eldridge
AGENT	Eades Hotwani Partnership
REASON FOR COMMITTEE TO DETERMINE	The application was first referred to the Development Management Committee by Cllr Rogers. It was considered at the Committee on 23 September where it was deferred to enable a Members site visit.
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

The site to which this development relates is located in a residential area within the settlement envelope of Clifton, occupying a site area of approximately 0.21 hectares. The main part of the site comprises a rectangular shaped parcel of land within the southernmost half of the extensive 130m+ rear garden serving 65 Shefford Road. To the rear (south) of the site and beyond the settlement boundary are open fields, whilst to the west are the gardens of properties in Bunyan Close and Alexander Close. To the east of the site is the rear part of the garden serving 61 Clifton Road.

Shefford Road, in the vicinity of the application site, is generally characterised by detached dwellings set back from the road frontage. Whilst No's.65 and 61 have very long gardens other properties close to the site, including Bunyan Close and Alexander Close, have modest plots, some with relatively short gardens.

The land slopes gently from 65 Shefford Road to the rear of the application site, generally enclosed by mature trees and hedgerow of varying quality. The site contains a number of prominent trees protected by a Tree Preservation Order, mostly located along the boundary with No.61 Shefford Road, alongside the existing driveway serving No.65.

The Application:

This application seeks planning permission to construct three No. 4 bed two-storey detached dwellings and garages, utilising the existing second access serving No.65 Shefford Road. The access would extend parallel to the existing eastern boundary of No.65.

The proposed houses would have pitched roofs with a ridge height of 7.6 metres, and with gable projections on the front and rear elevations. Each property would have a rear garden extending to a depth of approximately 10 metres.

The application has been submitted together with a Design and Access statement, noise report, a tree survey and a landscape plan.

PPS:

PPS1 Delivering Sustainable Development
PPS 3 Housing

**Policy + SPG:
(Mid Beds Local Plan)**

Mid Beds Local Plan First Review – Policies LPS2, H06, DPS1, DPS5, DPS9, DPS11, DPS16.

Design Guide for Residential Areas in Mid Beds

Relevant Planning History

06/00121/FULL	Erection of 7 dwellings with associated garages. Refused 31/03/06.
06/01486/FULL	Erection of 7 dwellings with associated garages. Refused 25/01/07. Appeal dismissed 27/11/07 (appeal decision attached as Appendix to this report).
07/01032/FULL	Erection of 2 dwellings. Refused. 14/08/07.

**Representations:
(Parish & Neighbours)**

Clifton Parish Council	Object to the application: - Undesirable form of piecemeal development. - Parking and garaging inadequate. - The matter of mature trees on the boundary has not been addressed. - The access road appears to encroach on the occupants of 61 Sheppard Road.
Adjacent Occupiers	20 letters of objections have been received. The main comments are summarised as follows:

– The application site boundary intrudes on

adjoining properties.

- Impact on the boundary trees and hedging to the rear of 16 Alexander Close from the proposed house and garage of plot 1.
- Loss of amenity to neighbouring properties.
- Loss of security and increase in light pollution to Alexander Close and Bunyan Close.
- Increased flooding risk to Alexander Close.
- Out of keeping with its surroundings and will result in overlooking.
- Lack of community involvement.
- Impact on trees and local wildlife.
- The entrance would be out of keeping with its surroundings.
- Will exacerbate parking problems for No.65.
- Increased noise pollution to 74 Shefford Road.
- Inadequate access.
- Represents piecemeal development and fails to take account of the possibility of developing to the rear of 65 Shefford Road.
- Impact on existing education facilities.
- Information supplied with the application in respect of trees is considered insufficient.

Consultations

Highways	No objection subject to conditions.
Tree Officer	No objection subject to conditions to ensure protection of trees within and adjacent to the site. The additional landscaping details and submitted tree protection measures are acceptable.
Bedfordshire and River Ivel IDB	Recommend a suitably worded condition be included to ensure adequate disposal of surface water.

Determining Issues

The main considerations of the application are;

1. The principle of development
2. Design of development and impact on the character of the surrounding area.
3. Impact on the amenities of neighbouring residential properties.
4. Access, parking.

Considerations

1. Principle of development

The application site is located within the village settlement of Clifton, surrounded by housing, wherein residential development is acceptable in principle (Policy HO6). The same policy states that tandem development is acceptable, provided that there is no adverse effect on the amenity of adjoining dwellings and the character of the area, and that a satisfactory access can be provided.

2. Impact on character of the area.

Residential development to the rear of properties in Shefford Road has occurred in close proximity to the application site, including at Alexander Close/Bunyan Close, and as such a narrow tandem development would not be out of character with the area. This point was acknowledged by the Inspector in his appeal decision (para 5), in respect of a previous application on the site for seven dwellings.

The proposed houses would be of a modest scale and height (7.6m), and given their significant set back (100m+) from Shefford Road would not appear unduly prominent within the streetscene. Furthermore, the development would be largely screened by the existing house, No.65.

Unlike the previous appeal proposal, a tree and shrub survey has been carried out with details given of the amenity value of existing trees and details of those to be retained. The site contains a number of prominent trees adjacent to the access, and along the boundary with No.61, which are important within the streetscene. The access drive has been moved further away from the protected trees than previously was the case. In addition, the landscape proposals provide for a landscape corridor 1-1.5m wide comprising trees, shrubs and hedges on either side of the access, along much of its length, whereas the appeal proposal had no space for such new landscaping.

It is noted that there is an existing driveway serving No.65 with a garage (now demolished) and an outbuilding with a concrete hardstanding, in close proximity to the protected trees along the boundary and along the line of the proposed access road. As such it is considered that with appropriate construction methods an access drive could be constructed without prejudicing the future survival of the TPO trees along the boundary. Indeed further information was submitted by the applicants, and reported as an update at the previous committee. A Tree Constrains/protection plan was submitted, detailing a line of 2.1m high protective fencing to run along the driveway inside the tree line along the boundary with No.61 Shefford Road. In addition the plan indicates the area of no dig construction for the driveway adjacent to the protected trees. Furthermore the location of the service trench has also been shown, on the opposite side of the access drive to the trees. The Tree Officer considers that submitted details in respect of tree protection to be acceptable and has raised no objections to the application.

There are no significant trees at the rear part of the site close to the

proposed houses and garages, a number having been recently removed. The previous appeal proposal, as referred to by the Inspector in his decision letter (para 10), included a layout plan indicating how the neighbouring property (No.61) could be developed. The plan showed an access road running adjacent to the east elevation of No.61 and then extending parallel to the proposed access road at the rear of No.65. The Inspector was concerned that the proposed development would result in large areas of hardstanding, and that the layout of development at the rear of 65 would restrict the extent of development possible to the rear of No.61. It is however considered that this proposal would not prejudice any future development of land to the rear of No.61.

It is also necessary to consider the Council's refusal of application 07/01032, being for two houses between the current application site and the rear of No.65. The application was refused on the grounds that it represented piecemeal tandem development. being one of the reasons for the Council refusing the 2006 appeal application. However the application was determined prior to the issue of the appeal decision, in which the principle of such backland development was not disputed by the Inspector. As such it is not considered that a refusal on such grounds could be substantiated in this case,

It is concluded that the proposal would not harm the character of the area and would comply with policies H06, DPS5, DPS11 and DPS16 of the Local Plan.

3. Amenity of adjoining properties

The application site adjoins the gardens of properties in Shefford Road, Bunyan Close and Alexander Close.

The siting of plots 1 and 2 is shown in almost the same location as the 2006 appealed application, whilst the proposed garage has been moved further from the boundary. Furthermore a dwelling previously shown adjacent to the rear boundary of 11 Bunyan Close has been replaced by proposed landscaping. The Inspector (Para 15) in considering the impact of the proposal on properties in Alexander Close and Bunyan Close, concluded that due to their relatively long rear gardens (20m+) the outlook amenity and privacy of the neighbouring properties would not be unreasonably affected. It is considered that the same applies, notwithstanding the recent loss of planting along the boundary.

The inspector (para 12) also concluded that the relationship of the access, the dwellings and gardens proposed, would not adversely impact on amenities of the occupiers of No.61 Shefford Road. It is considered that the same applies to this proposal, where the siting of dwellings is no more intrusive and the access has been moved further from the boundary. Similarly, as previously, it is considered that no loss of outlook, privacy or amenity would result to the occupiers of Nos.61, 65 & 67, all of which would be located in excess of 70m from the closest part of the proposed development, being the front elevation of plot 3.

Whilst the proposed dwellings would have relatively short gardens they

would nevertheless have a depth of 10m, and being wide plots with south facing gardens, would provide a reasonable level of amenity provision for future occupants.

As such it is concluded that the proposal would not adversely affect the living conditions of neighbouring occupiers and as such is in accordance with policies DPS5 and DPS9 of the Local Plan.

4. Highway and parking Considerations

Parking would be provided for 3-4 cars per dwelling which is considered acceptable for such a development in this location.

The Highways section consider the proposed new access to be acceptable in terms of highway safety and have raised no objection to the proposal subject to conditions. They have also confirmed that the turning head proposed in front of plot three would provide an adequate turning facility for emergency and refuse vehicles.

As such the proposal complies with Policy DPS5 of the Local Plan.

5. Other Issues

A number of other issues have been raised by neighbours in respect of this application:

Site boundary – The applicants have confirmed that the site is within their ownership or the ownership of the occupier of No.65, upon whom notice has been served. Such matters, as noted by the Inspector in the previous appeal (Para 6), are not material in respect of the planning considerations of this application.

Impact on wildlife – The site is currently the garden of 65 Shefford Road and is located within the Clifton settlement envelope surrounded by residential properties. There has been no evidence provided of any protected wildlife habitat within the site and as such it is not considered that there would be any impact to justify a refusal in relation to biodiversity issues.

Flooding around the site – The site does not lie with the flood plain and as such, subject to appropriate surface water drainage it is not considered that any objection on such grounds could be substantiated.

Impact on existing education facilities - The development, by virtue of the recently adopted Planning Obligations Supplementary Planning Document would require the developer to make contributions towards infrastructure provision, including towards lower and middle schools in the vicinity. A satisfactory completed unilateral undertaking in respect of these requirements has been received.

Conclusion

In light of the above the proposal is considered acceptable, having regard to the relevant policy considerations.

Reasons for Granting

Residential development is acceptable in principle and the form of tandem development proposed, incorporating adequate retention of existing trees and additional landscaping would result in a form of layout of development which would be in keeping with the character of the surrounding area.

In addition, the privacy and amenities of neighbouring properties would not be adversely affected, whilst adequate parking and a safe access would be provided. As such the proposal is in conformity with policies LPS2, H06, DPS1, DPS5, DPS9, DPS11, DPS16 of the Mid Bedfordshire Local Plan First Review 2005; Planning Policy Guidance: PPS3 Housing.

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.

- 2 **Prior to commencement of development details of materials to be used for the external finishes of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance therewith.**

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing building(s) and the visual amenities of the locality.

- 3 **Prior to the development hereby approved commencing on site details of the final ground and slab levels of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.**

Reason: To ensure that a satisfactory relationship results between the new development and adjacent buildings and public areas.

- 4 **Prior to commencement of development, full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:-**

- **proposed finished levels or contours;**
- **materials to be used for any hard surfacing;**

- minor structures (e.g. furniture, play equipment, signs, etc);
- proposed and existing functional services above and below ground level;
- planting plans, including schedule of size, species, positions, density and times of planting;
- cultivation details including operations required to establish new planting;
- details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during development works.

The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the landscaping is carried out within a reasonable period in the interest of the visual amenities of the area.

- 5 **Prior to the commencement of development the tree protection plan shown on drawing PL106 shall be implemented. The fencing shall be maintained during the course of the works on the site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.**

Reason: To safeguard the existing trees on the site in the interests of visual amenity.

- 6 Notwithstanding any provision of the Town and Country Planning (General Permitted Development Order) 1995 (or any Order revoking or re-enacting that Order with or without modification) no works shall be commenced for the extension of any dwelling until detailed plans and elevations have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of occupiers of neighbouring properties.

- 7 **Development shall not begin until details of the junction of the proposed vehicular access with the highway have been approved by the Local Planning Authority and no building 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.

- 8 **No development shall commence until a wheel cleaning facility has been provided at all site exits in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The wheel cleaner(s) shall be removed from the site once the roadworks necessary to provide adequate access from the public highway have been completed (apart from final surfacing) to the satisfaction of the Local Planning Authority.**

Reason: In the interests of the amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period.

- 9 **Development shall not commence until a scheme detailing provision for on site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.**

Reason: To ensure adequate off street parking during construction in the interests of road safety.

- 10 Before the access is first brought into use a triangular vision splay shall be provided on each side of the new access and shall measure 1.8m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 1.8m measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway 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 which is likely to use it

- 11 Visibility splays shall be provided at the junction of the access with the public highway before the development is brought into use. 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 43.0m 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.

Reason: To provide adequate visibility between the existing highway and the proposed access, and to make the access safe and convenient for the traffic which is likely to use it

- 12 The proposed vehicular access shall be constructed and surfaced in a durable material to be approved in writing by the Local Planning Authority for a distance of 10.0m into the site, measured from the highway boundary, before the premises are occupied. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: To avoid the carriage of mud or other extraneous material or surface water from the site into the highway so as to safeguard the interest of highway safety

- 13 Before the premises are occupied all on site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

- 14 The turning space for vehicles illustrated on the approved plan shall be constructed before the development is first brought into use.

Reason: To enable vehicles to draw off, park and turn outside the highway limits thereby avoiding the reversing of vehicles on to the highway.

- 15 Details of bin storage/collection point shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling.

Reason: In the interest of highway safety.

- 16 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years of 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 unless the Local Planning Authority give written consent to any variation.

Reason: In the interests of the visual amenities of the site and the area generally.

- 17 The access driveway shall be constructed using a "no-dig" method of construction in accordance with that shown on drawing PL106, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees and hedgerows to be retained, and in particular to avoid unnecessary damage to their root systems.

- 18 **Details of the method of disposal of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority including any land drainage system, before the development is commenced. Thereafter no part of the development shall be brought into use until the approved drainage system has been implemented.**

Reason: To ensure that surface water drainage is provided and future land drainage needs are protected.

Notes to Applicant

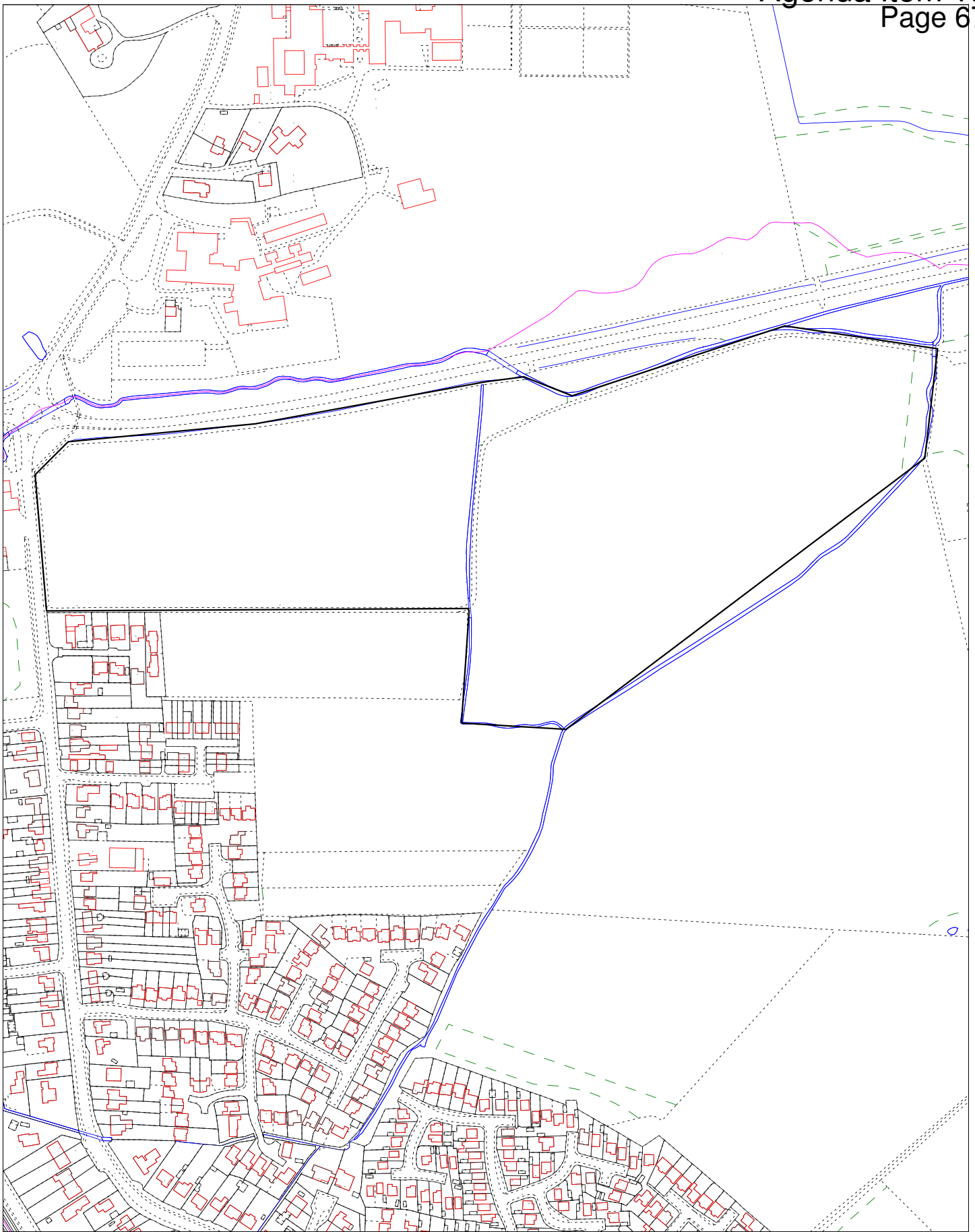
1. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire Council's, Highways Help Desk P.O.Box 1395, Bedford, MK42 5AN quoting the Planning Application number and supplying a copy of the Decision Notice and a copy of the approved plan. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

2. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management group Highways and Transportation Division, Central Bedfordshire Council, P.O. Box 1395 Bedford, MK42 5AN.

DECISION

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Date: 07 October 2009

ITEM NO. 11

Scale: 1:4000

APPLICATION NO. CB/09/05708/REG3



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Land adjacent 94 Amphill Road, Flitwick

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SCHEDULE B

APPLICATION NUMBER	CB/09/05708/REG3
LOCATION	Land Adjacent 94, Ampthill Road, Flitwick
PROPOSAL	Regulation 3: Change of use of land to football pitches with associated changing pavilion and external landscaping.
PARISH	Flitwick
WARD	Flitwick East
WARD COUNCILLORS	Cllrs J Jamieson & Cllr A Turner
CASE OFFICER	Hannah Pattinson
DATE REGISTERED	07 August 2009
EXPIRY DATE	06 November 2009
APPLICANT	Central Bedfordshire Council
AGENT	B3 Architects
REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION	Major development not in accordance with the Development Plan
	Grant Planning Permission

Site Location:

The site comprises 12.51 Hectares of agricultural land. The site lies to the north of Flitwick and is adjacent to both Ampthill Road and the A507. The site is located within both open countryside and the South Bedfordshire Green Belt. The western part of the southern side of the site is adjacent to existing residential properties.

The Application:

The application site proposes a new football pitch facility. (It is a new facility for Flitwick and a number of the pitches could be used as a replacement for the existing pitches at the Flitwick Leisure Centre). The scheme proposes 1 senior football pitch with a fenced perimeter, 5 further senior/junior sized football pitches, 6 mini football pitches, car parking and a six team changing pavilion with officials changing, toilets, classrooms and other ancillary facilities including car parking.

Access to the site would be directly off Ampthill Road.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1	Delivering Sustainable Development
PPG2	Green Belts
PPS9	Biodiversity and Geological Conservation
PPG13	Transport
PPG17	Recreation and Open Space

Regional Spatial Strategy

East of England Plan (May 2008)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

Bedfordshire Structure Plan 2011

There are no relevant policies

Mid Bedfordshire Local Plan First Review 2005 Policies

Policy LPS1	Selected Settlements
Policy LPS4	Settlement Envelopes
Policy CS19	Development in the Countryside
Policy DPS6	The Built Environment - New Buildings
Policy DPS10	The Built Environment - Highways
Policy DPS11	The Built Environment - Landscaping
Policy SR2	Formal Built Sports and Leisure Facilities
Policy SR8	Formal Sport and Recreation in the Countryside
Policy TP1	Walking and Cycling
Policy TP1A	Travel Assessment

Supplementary Planning Guidance

Technical Guidance: Planning Recreation Open Space Strategy to the Local Plan

Planning History

There is no relevant planning history.

Representations: (Parish & Neighbours)

Flitwick Town Council Support the application. It was commented that a construction traffic management plan would be beneficial. In particular access/egress to the site by vehicles and plant during the period in the morning and afternoon when school children would be passing the site on their journey to / from school. Members also felt that the landscaping to the frontage and the perimeter of the site would create a more pleasant exterior view as this was an entrance to Flitwick.

Neighbours An objection due to the proposed opening hours of the football pitches, the noise it would create and the loss of privacy.

Three objections as the proposal would result in unacceptable noise levels for nearby residents and lack of mitigation measures.

An objection raising concern as to differences between the Design and Access Statement and the submitted plans. (The Design and Access Statement was updated to reflect the anomalies and the all neighbours were re consulted).

An objection in relation to increased traffic movements, noise levels, opening hours and flood pollution.

Consultations/Publicity responses

Disabled Access Officer Highways	No comments with regard to disabled access No objection subject to conditions to ensure highway safety.
Environment Agency Archaeological Officer	No objection subject to a relevant condition. The application site is archaeologically sensitive. It contains a complex of cropmark features. These are undated but are likely to be of later prehistoric or Roman date. The surrounding area contains a range of important archaeological sites and features of prehistoric, Roman and medieval date, including remains of a Roman ritual sites.
	The proposed development will involve significant earthmoving to create level ground for the pitches which will impact on archaeological remains. Building the pavilion and car park will also be likely to impact on archaeological remains.
	At the moment there is not enough information available to be able to assess the impact of the proposed development on the archaeology of the site and work out an appropriate mitigation strategy. This information would be obtained through an archaeological field evaluation commissioned by the applicant.
IDB	No comments received
Sport England	No objection
Waste Officer	No comments.

Determining Issues

The main considerations of the application are;

1. The Principle
2. The visual impact of the development and the impact upon the Green Belt
3. Impact on the amenities of neighbours
4. Other Considerations including access and parking

Considerations

1. The Principle

The application site lies outside the Settlement Envelope for Flitwick in open Countryside and within the Green Belt. Policy SR2 encourages the provision of formal multi purpose sports facilities within the built up area of Selected Settlements so that they are in a highly sustainable location. Edge of settlement / fringe locations will only be permitted where it can be shown that no suitable sites exist in the built up area.

It is acknowledged that this proposal is not of the same scale of development that Policy SR2 is intended to address but there is no other planning policy within the Mid Bedfordshire Local Plan, First Review 2005 which could be considered as directly relevant to the provision of a formal football facility such as this. Policy SR8 considers sporting facilities in the open countryside but this policy is aimed at developments such as water sports and golf and therefore is not considered to be directly relevant.

Policy CS19 states that development will only be permitted exceptionally in the countryside unless provided for in the Local Plan. In this instance, there is no policy within the Local Plan to directly support this proposal and therefore this planning application is considered as a departure from the Local Plan and has been advertised as a Major Departure (being also a site in excess of 1 Hectare).

The provision of this site would allow the re location of the football pitches adjacent to the existing Flitwick Leisure Centre where it is proposed to provide a new Leisure Centre. This site has been proposed as it is in close proximity to the edge of the town. The site has been considered at both pre planning application stage and it is considered that this site may enable the way forward for the proposed new Leisure Centre. As such this would justify the use of arable land within the Green Belt for such a development.

2. The Visual Impact of the Development and the Impact upon the Green Belt

The site currently lays fallow. The land is relatively flat and the site would have the ability to be relatively well contained by the use of sensitive landscaping and therefore it is felt that if developed the visual impact could be controlled satisfactorily.

The parking area and pavilion has been designed to be in relatively close proximity to Ampthill Road. Landscaping shall be provided to mitigate the visual impact of these facilities from the road and the nearby residential properties. In addition to the car parking it would be necessary for the applicant to provide suitable cycle parking facilities in close proximity to the pavilion.

The proposed pavilion would be a single storey building and has been designed to reflect its sensitive location, taking design cues to reflect its location within the South Bedfordshire Green Belt. In addition the applicant has proposed to use appropriate materials for the location. The majority of the fenestration is proposed on the eastern elevation facing towards the proposed football pitches with minimal fenestration facing towards Ampthill Road (the western elevation).

To the east of the proposed car parking and pavilion is to be the six large grass football pitches and six mini pitches. The pitch adjacent to the pavilion would

also have the benefit of suitable fencing as it is in close proximity to the A507.

PPG2 provides the national policy guidance for development within a Green Belt. PPG 2 states that the use of the land in them has a positive role to play provided that it fulfils the following objective:

- to provide opportunities for outdoor sport and outdoor recreation near urban areas.

In addition paragraph 3.4 states that the new buildings in the Green Belt are appropriate provided that they are providing essential facilities for outdoor sport and outdoor recreation amongst other specific types of buildings. As the proposed pavilion meets the minimum requirements it is considered to fall within the remit of paragraph 3.4.

Taking all of the above into consideration it is felt that the proposal would have a minimal impact upon the character and appearance of the area and falls within the policy requirements of new development within the Green Belt.

3. Impact on the amenities of neighbours

Due to the orientation and distance of the car parking and pavilion from the adjacent residential properties it is considered that by the use of suitable conditions that there would be sufficient separation from the development to mitigate any potential detrimental impact. For example a condition would be added to provide a bund on the southern boundary of the site in close proximity to the existing residential properties along The Birches to ensure that neighbouring amenity is retained.

Nuisance from this nature of development can be caused by lighting, hours of use and amplified equipment including the use of tannoys. These matters are usually controlled by condition and hence would not themselves justify the withholding of planning permission.

The layout of the site has been designed to minimise disturbance on neighbours by locating the main building and car parking away from these properties. In addition the use of extensive landscaping on the boundaries where residents could be affected will be used to reduce any potential impact.

A condition has been included requiring details to be submitted for any illumination to the site to ensure that it is designed to have as minimal impact as possible upon neighbouring amenity.

4. Other Considerations including access and parking

The site generally benefits from good access being located on Ampthill Road which is a relatively straight road in this location.

The site has a number of accesses onto Ampthill Road and these will need to be closed off prior to the site being brought into use. A condition would be added to any planning permission to this effect.

A condition relating to landscaping would also be attached to any planning permission. Concern has been raised as the site is adjacent to both the A507

and the A5120 (Amphill Road) and it will be necessary to ensure that no footballs fly onto either of these roads.

Finally cycle parking currently is not shown on the current scheme and as such a relevant condition will be added.

It is not considered that sufficient archaeological information has been submitted to ensure that the site is protected from the development. As such a relevant condition would be added to ensure that this is carried out prior to the commencement of development.

Reasons for Granting

The development is in accordance with both regional and national planning policy and has been designed to reflect the specific location and constraints of the site. In addition the application would not result in a detrimental impact upon neighbouring amenity, the visual impact on the site, the surrounding area or the South Bedfordshire Green Belt. As such it is considered that planning permission should be granted subject to relevant conditions.

Recommendation

That Planning Permission be granted subject to the following:

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.

- 2 **Prior to commencement of the development a scheme for a soil bund, to include details of the source and type of material, height, length and width, to be constructed on the southern boundary of the site adjacent to the existing residential properties shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of appropriate landscaping and shall be implemented in full prior to the occupation of development hereby permitted.**

Reason: In order to protect the amenities of nearby residents.

- 3 **Details of a scheme of archaeological investigation of the site shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The said development shall only be implemented in accordance with the scheme thereby approved.**

Reason: To safeguard any material of archaeological interest which exists on the site.

- 4 **Prior to commencement details and samples of the materials to be**

used for the external finishes of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance therewith.

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing building(s) and the visual amenities of the locality.

- 5 Prior to the commencement of development, a scheme for the provision and implementation of pollution control of the water environment shall be submitted and agreed in writing with the Local Planning Authority. The works included within the approved scheme shall be constructed solely in accordance with the approved plans.

Reason: To prevent the increased risk of pollution to the water environment.

- 6 Prior to the commencement of development the following shall be submitted to and approved in writing by the Local Planning Authority:

- (i) A detailed assessment of ground conditions of the playing field shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
- (ii) Based on the results of this assessment to be carried out pursuant to (i) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality shall be submitted to and approved in writing by the Local Planning Authority in consultation with Sport England.

The approved scheme shall be complied with in full prior to the completion of the development unless otherwise agreed with the Local Planning Authority (in consultation with Sport England).

Reason: To ensure that site surveys are undertaken for replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field.

- 7 Prior to the commencement of development details of the relocated pedestrian crossing shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented prior to the proposal being first brought into use.

Reason: In the interest of highway safety.

- 8 No development shall commence until a wheel cleaning facility has been provided at all site exits in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The wheel cleaner(s) shall be removed from the site once the roadworks necessary to provide adequate access from the public highway have been completed (apart from final surfacing) to the satisfaction of the Local Planning Authority.

Reason: In the interests of the amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period.

- 9 **Prior to the commencement of development, a scheme for the secure and sheltered parking of cycles on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented solely in accordance with the approved details and prior to the first occupation of the development or prior to the development first being brought into use. The works approved for the parking of cycles shall thereafter be retained for this purpose.**

Reason: To ensure the provision of adequate cycle parking to meet the needs of occupiers of the proposed development in the interests of encouraging the use of sustainable modes of transport.

- 10 **Development shall not commence until a scheme detailing access provision to and from the site for construction traffic, which details shall include what arrangements are to be made to restrict such vehicles solely to the approved points of access and egress, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be operated throughout the period of construction work.**

Reason: To ensure the safe operation of the surrounding road network in the interests of road safety.

- 11 **Visibility splays shall be provided at the junction of the access with the public highway before the development is brought into use. The minimum dimensions to provide the required splay lines shall be 2.4 m measured along the centre line of the proposed access from its junction with the channel of the public highway and 43.0 m 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.**

Reason: To provide adequate visibility between the existing highway and the proposed access, and to make the access safe and convenient for the traffic which is likely to use it.

- 12 **Before the new access is first brought into use, any existing access within the frontage of the land to be developed, not incorporated in the access hereby approved shall be closed in a manner to the Local Planning Authority's written approval.**

Reason: In the interest of road safety and to reduce the number of points at which traffic will enter and leave the public highway.

- 13 **Before the premises are occupied all on site vehicular areas shall be**

surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

- 14 Before the premises hereby permitted are occupied a scheme indicating the proposed means of illumination shall be submitted to and approved by the Local Planning Authority. The scheme submitted shall include details and mitigation methods to ensure that no glare or dazzle occurs to drivers of vehicles using the public highway or to adjacent residential properties, through illumination on the site and details of hours of usage and appearance of the units. The development shall be implemented prior to the first use of the development hereby permitted in accordance with the approved scheme and shall be retained thereafter.

Reason: In the interest of road safety.

- 15 Prior to the bringing into use of the development a Management and Maintenance Scheme for a period of 5 years to include measures to ensure, management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the development.

Reason: To ensure that new facility is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (PPG17 Par 14).

- 16 Full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:-
- proposed finished levels or contours;
 - materials to be used for any hard surfacing;
 - minor structures (e.g. furniture, play equipment, signs, etc);
 - proposed and existing functional services above and below ground level;
 - planting plans, including schedule of size, species, positions, density and times of planting;
 - cultivation details including operations required to establish new planting;
 - details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during development works.

The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the landscaping is carried out within a reasonable period in the interest of the visual amenities of the area.

- 17 All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: In order to ensure that the planting is carried out within a reasonable period in the interest of the visual amenities of the area.

- 18 No sound reproduction or amplification equipment (including public address systems, loudspeakers, tannoys etc) which is audible from the site boundary shall be installed without the prior written consent of the Local Planning Authority.

Reason: In order to protect the amenities of nearby residents.

- 19 The premises shall not be used except between the hours of 0800 to 2200 Monday to Saturday and 0800 to 1600 Sundays, Bank or Public Holidays, without the prior agreement in writing of the Local Planning Authority.

Reason: In order to protect the amenities of nearby residents.

- 20 The development hereby permitted shall be undertaken in accordance with the approved Waste Audit Ref CBC002.

Reason: To ensure that the development conforms with the waste audit requirements.

Notes to Applicant

1. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire Council, Highways Help Desk, P.O. Box 1395, Bedford MK42 5AN quoting the planning application number and supplying a copy of the Decision Notice and a copy of the approved plans. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc) then the applicant will be required to bear the cost of such removal or alteration.
2. The applicant is advised that in order to comply with condition 7 of this permission it will be necessary for the developer of the site to enter into an agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. Further details can be obtained from the Highway Engineer, Central Bedfordshire Council, PO Box 1395, Bedford, MK42 5AN

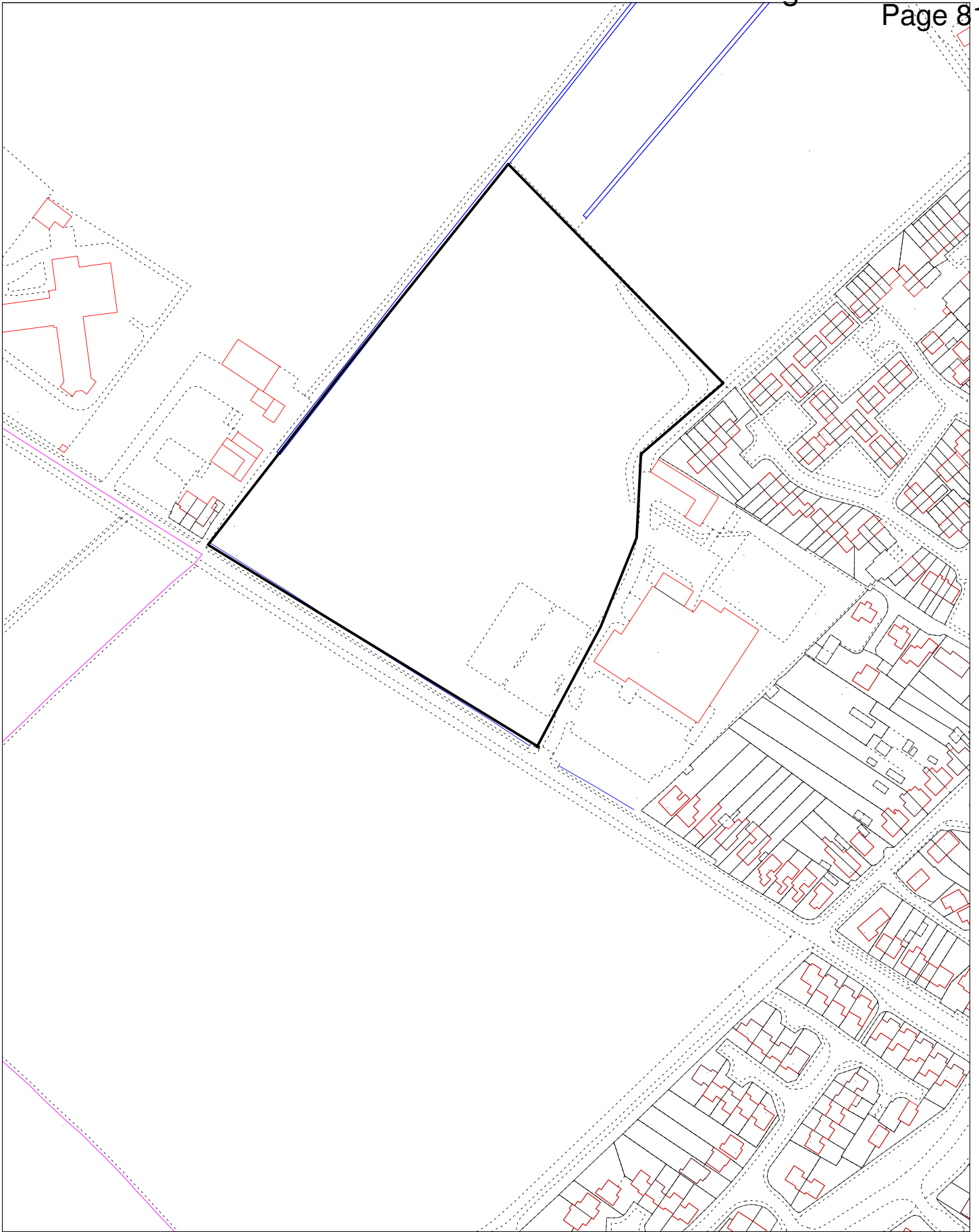
3. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management Group, Highways Transport Division, Central Bedfordshire Council, P.O. Box 1395, Bedford MK42 5AN.

4. The applicant is advised that the closure of the existing accesses shall include the reinstatement of the highway to include any footway, verge and kerbing in a manner to be agreed in writing with Central Bedfordshire Council, Highways Help Desk, P.O. Box 1395, Bedford MK42 5AN. No work shall be carried out within the confines of the public highway without prior consent. The applicant will also be expected to bear all costs involved in closing the accesses.

DECISION

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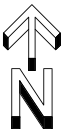
Date: 07 October 2009

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ITEM NO. 12

APPLICATION NO. CB/09/00377/REG3

Land to the side of Flitwick Leisure Centre,
Steppingley Road , Flitwick



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SCHEDULE B

APPLICATION NUMBER	MB/09/00377/REG3
LOCATION	Land to the North West of Flitwick Leisure Centre, Steppingley Road, Flitwick
PROPOSAL	REG3: New leisure facilities to include swimming pool, squash courts and health suites - Outline with all matters reserved.
PARISH	Flitwick
WARD	Flitwick West
WARD COUNCILLORS	Cllr Dennis Gale & Cllr Steve Male
CASE OFFICER	Hannah Pattinson
DATE REGISTERED	20 March 2009
EXPIRY DATE	19 June 2009
APPLICANT	Central Bedfordshire Council
AGENT	B3 Architects
REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION	Regulation 3 application- Major development
	Outline Permission

Site Location:

The site is currently a grass playing field to the north west of the existing Flitwick Leisure Centre. The site is within the settlement envelope for Flitwick and is defined as 'Important Open Space'. The site is bounded by the Steppingley Road to the south east, the existing Flitwick Leisure Centre to the East and Green Belt safeguarded land around the other two sides of the site. The site is owned by the Council and is part of the Leisure Centre Site.

The Application:

The application seeks outline planning permission for a New Leisure Facility to include swimming pool, squash courts and health suites. This includes the following:

- an 8-lane, 25 metre swimming pool with separate learner pool providing spectator accommodation for galas including seating for participants around the main pool;
- 'village' and group changing complete with family accommodation;
- 4 badminton court sports hall;
- 100-120 station fitness suite;
- dojo, capable of adaptation for use by young children (martial arts)
- 2 squash courts, complete with moveable central wall to provide multi-purpose activity room;
- 3 further dance/multi-purpose activity rooms;
- health suite;
- meeting room; and
- cafeteria.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1	Delivering Sustainable Development
PPS6	Planning for Town Centres
PPS7	Sustainable Development in Rural Areas
PPG16	Archaeology
PPG17	Planning for open space, sport & recreation
PPS22	Renewable Energy
PPS25	Flooding

Regional Spatial Strategy

East of England Plan (May 2008)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

Mid Bedfordshire Local Plan First Review 2005 Policies

LPS1	Selected Settlements
LPS4	Settlement Envelopes
SR2	Formal Built Sports and Leisure Facilities
DPS5	Character & Appearance
DPS11	Appropriate Landscaping
DPS15	Important Open Space
DPS17	Floodplains and Drainage
DPS19	Encouraging Public Transport
DPS20	Encouraging Energy Conservation
DPS23	Encouraging Crime Prevention
DPS27	Public Art
PHS5	External Lighting
TP1A	Travel Assessment
TP1	Walking and Cycling

Planning History

There is no relevant planning history.

**Representations:
(Parish & Neighbours)**

Flitwick Town Council	Support Members would also like to obtain more details of the types of building materials to be used in the building of the new Centre.
Neighbours	No letters of objection have been received.

Consultations/Publicity responses

Disability Discrimination Officer	Commented that all facilities must be accessible to people with disabilities.
EHO	Do not object to the proposal subject to relevant conditions.
IDB	No comments received
Sport England	No objection.
Highways	Object as require further clarification than the information submitted.

Determining Issues

The main considerations of the application are;

1. The principle
2. Design and impact on the character and appearance of the area
3. Impact upon residential amenity
4. Highway Issues
5. Other Issues

Considerations

1. The Principle

The key consideration is to whether the proposal would be in accordance with Policies SR2 & DPS15 of the Mid Bedfordshire Local Plan, First Review (2005).

It is considered as this proposal is to replace an existing facility which has become outdated and in addition is not able to provide the necessary facilities for the current demand that provided that the design and appearance of the proposal is appropriate to its surroundings; access is suitable; there would be no unacceptable detriment to neighbouring amenity; suitable landscaping and open space is provided and the facilities are designed to meet the needs of disable people then the principle of development is accepted.

As the proposal is not considered to result in an unacceptable adverse impact upon the value of the land either in visual or functional terms as the land would still be used for recreational and sporting facilities this proposal is considered to be acceptable in this location, and to comply with Policy DPS15.

2. Design and impact of the character and appearance of the area

The proposal has been designed to have regard to the site location at the edge of the Settlement Envelope for Flitwick and the potential proximity to neighbouring residential properties. The main leisure centre is set within close proximity to Steppingley Road to ensure that the main built frontage remains in a similar line to that of the adjacent Rufus Centre.

The highest focal point of the building would be the sports hall, which is approximately 11.8 m in height and is set back to the elevation of the building furthest from Steppingley Road. The remainder of the building is formed through a series of rectangular cubes which through the use of fenestration would provide a contemporary style of building.

No details have been submitted in relation to proposed materials for the built form and as such conditions would be added to any planning permission to ensure that these and more detailed elevations are agreed by the Local Planning Authority as a subsequent reserved matters application.

It is considered that the design of the building is an appropriate choice in this location particularly taking into consideration that there is a need to provide a functional, modern facility which still takes into consideration the character and appearance of the area.

The visual impact of the building can be further mitigated through the use of a suitable landscaping scheme. The proposal for all of the parking area to be behind the building, hence not visible from Steppingley Road has also ensured that this would not have a detrimental impact upon the character and appearance of the area.

As such conditions shall be added to secure the provision of a detailed landscaping scheme, including implementation timetable, along with perimeter fencing as appropriate.

3. Impact upon Residential Amenity

Currently the impact on residential amenity of nearby residents is minimal as the proposed location is not in within close proximity to existing residential properties. The existing Leisure Centre site would subsequently be redeveloped and as such it is essential to have consideration as to whether there may be residential properties adjacent to the site into the future.

The key issues to considered in regards to this possibility into the future relate to vehicle movements and general disturbance from vehicle users, such as glare from headlights, doors slamming etc.

The layout of the site has been designed to ensure that minimal disturbance is created through the car parking arrangements and design of the overall site. In addition landscaping would be used to mitigate any potential detrimental impact.

EHO have no objection subject to relevant conditions and these would be attached to any planning permission. These conditions would ensure that any proposed external lighting, the use of any food premises, issues relating to noise and potential construction issues could be mitigated.

4. Highway Issues

Highways are currently objecting to the application due to lack of information submitted with the planning application. It is considered that in this situation that conditions would be able to ensure an acceptable development at this stage as further details would be submitted with the subsequent reserved matters applications.

The site generally benefits from good visibility being located on Steppingley Road which is a relatively straight road with footpath adjacent to the proposed leisure centre.

The access which currently serves the existing leisure centre is proposed to be

used for the new leisure centre. As such it is considered that as the existing access has served the existing leisure centre adequately it is considered that its reuse for the new centre will be acceptable. In addition if further works were required if the existing site was to be developed in the long term for residential use the applicant would be able to ensure that any improvements to the access could be undertaken.

The scheme proposes a 260 car parking spaces, and a number of these spaces, close to the built form will need to be designated as disabled spaces. In addition the site has been designed with a bus drop off point.

As such it is considered that all issues can be dealt with by way of condition.

5. Other Issues

Flooding/Drainage

The application has been accompanied by a Flood Risk Assessment (FRA) provided in accordance with PPS25, Development and Flood Risk. The site is located within Flood Zone 1 and therefore the site has a risk of flooding of less than 0.1% per year. As such the main flood risk issues relate to the management of surface water run off to reduce the risk of flooding elsewhere.

The FRA proposed a sustainable drainage system for surface water drainage and acknowledges that such a scheme will be agreed with the Local Planning Authority when the detailed scheme is submitted.

As such a detailed scheme will be secured by means of condition and determined in consultation with the Environment Agency and Internal Drainage Board, who have not objected to the development.

Cycling

No information has been submitted in relation to safe cycle parking. As such a condition would be attached to this effect.

Access for people with disabilities

The development by the nature of the facility will need to be designed to be accessible for people with disabilities, and hence be compliant with the Disability and Discrimination Act 1995, the relevant Building Regulations and Sport England Design Guidance.

A condition would be added requiring the submission and approval of further information to the layout and surfacing of the car park, to include details of the precision location of the disabled parking spaces.

Public Art

This proposal by its very nature of scale and form will become one of the key buildings providing an entrance into Flitwick. As this development is being brought forward by Central Bedfordshire Council no legal agreement is being entered into but a condition would be added to ensure the provision of public art on the site.

Sport England

The proposed new leisure centre would result in significant improvements to the quantity and quality of the existing facilities. Normally a condition would be required that development could not start on the proposed new leisure centre until the pitches have been replaced and are ready for use on the land known as 'land adjacent to 94 Ampthill Road'.

As both planning applications, namely this planning application and the planning application for football pitches and associated facilities on land adjacent to 94 Ampthill Road, are Central Bedfordshire Council planning applications it is not considered to be appropriate in this situation to enter into a legal agreement to ensure that facilities are not temporarily lost during the implementation phase.

Conclusion

In conclusion, it is considered that the proposal will provide an excellent facility and an enhanced leisure centre for both Flitwick and the surrounding settlements. This proposal would replace the existing outdated leisure centre which is not able to meet the current needs of the growing population. Further more this application would not be able to take place unless the Football Pitches development was granted planning permission adjacent to 94 Ampthill Road, Flitwick which in itself will provide a fit for purpose site.

The design concept for the building is considered to be appropriate for its location and along with appropriate landscaping will help to assimilate the development into the surrounding area.

It is acknowledged that the proposed access could have an impact upon future residential development and due to the nature of the proposal some of the activities on site could affect neighbouring residential amenity, it is not considered that this impact would be sufficient to warrant refusal of the application. As such relevant conditions would be attached to protect neighbouring amenity.

It is considered that concerns relating to access, cycling and flooding can be dealt with by means of attaching relevant conditions to any planning permission.

Finally, it is not considered that there are any other material considerations which would warrant the refusal of this planning application.

Reasons for Granting

It is considered that the planning application is in accordance with Policies SR2 and DPS15 of the Mid Bedfordshire Local Plan, First Review 2005. In addition it is not considered that the proposal would result in a detrimental impact upon either existing residential development or potential future residential development. In addition it would not result in a detrimental impact to the character or appearance of the area and would not result in an adverse impact in functional terms of important open space.

Finally as this is an Outline planning application further details can be considered at reserved matters stage and any outstanding issues that still require further consideration have been conditioned.

Recommendation

That Planning Permission be granted subject to the following:

- 1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with the provisions of Sections 92 (2) (b) and (4) of the Town and Country Planning Act 1990.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 92 (2) (a) and (4) of the Town and Country Planning Act 1990.

- 3 **Approval of the details of:-**

- (a) the layout of the building(s);**
- (b) the scale of the building(s);**
- (c) the appearance of the building(s);**
- (d) the means of access of the site;**
- (e) the landscaping of the site;**

(hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced. Plans and particulars of all of the reserved matters referred to above shall be submitted in writing to the Local Planning Authority and the development shall be implemented as approved.

Reason: To enable the Local Planning Authority to exercise control over the said matters which are not particularised in the application for planning permission in accordance with Section 92 of the Town and Country Planning Act 1990 and Town and Country Planning (General Development Procedure) Order 1995.

- 4 **Prior to the commencement of development details of the car park, to include the bus drop off point, layout, secure cycle parking, surfacing and details of spaces for disabled users shall be submitted to and approved in writing by the Local Planning Authority. The car park shall be constructed and operated solely in accordance with the approved details unless agreed otherwise in writing by the Local Planning Authority and shall be available for use prior to the development hereby permitted coming into use.**

Reason: To ensure a satisfactory development and for the avoidance of

doubt.

- 5 **Details of the method of disposal of foul and surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority including any land drainage system, before the development is commenced. Thereafter no part of the development shall be brought into use until the approved drainage scheme has been implemented.**

Reason: To ensure that adequate foul and surface water drainage is provided and that existing and future land drainage needs are protected.

- 6 **Prior to the commencement of development full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:-**

- **proposed finished levels or contours;**
- **materials to be used for any hard surfacing;**
- **materials to be used for any fencing including details of proposed locations;**
- **public art;**
- **minor structures (e.g. furniture, play equipment, signs, etc);**
- **proposed and existing functional services above and below ground level;**
- **planting plans, including schedule of size, species, positions, density and times of planting;**
- **cultivation details including operations required to establish new planting;**
- **details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during development works.**

The development shall be carried out solely in accordance with the approved details.

Reason: In order to ensure that the landscaping is carried out within a reasonable period in the interest of the visual amenities of the area.

- 7 **Prior to the commencement of development, details of CCTV cameras to be provided on the site, including their position, and coverage, shall be submitted to and approved in writing by the Local Planning Authority. The cameras shall be provided and available for use prior to the development hereby permitted first coming into use in accordance with the approved details.**

Reason: To ensure the amenity of both existing and future residents and to ensure site security.

- 8 **Prior to the commencement of development the two senior football pitches and one junior football pitch which will be lost at this development site shall be completed and open for use on the site at 94 Ampthill Road, Flitwick.**

Reason: To ensure the continued provision of football pitches in Flitwick

- 9 **Prior to the commencement of development details of any external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include any supporting structure and the extent of the area to be illuminated. The development shall be implemented solely in accordance with the approved details.**

Reason: To ensure the amenity of both existing residential amenity and future residential amenity.

- 10 **No development shall commence until a wheel cleaning facility has been provided at all site exits in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The wheel cleaner(s) shall be removed from the once the built form development and any works to highways in connection with the development hereby permitted has been completed to the satisfaction of the Local Planning Authority.**

Reason: In the interests of amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period.

- 11 **Prior to the commencement of development details of noise mitigation measures to reduce noise levels to existing residential properties and to potential future residential properties from the proposed car park shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be implemented solely in accordance with the approved details and prior to the development hereby permitted first being brought into use.**

Reason: To protect the amenity of both existing and future residents.

- 12 **Prior to commencement of development a scheme detailing the provision of on site parking for construction workers for the duration of the construction period shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented solely in accordance with the approved details and for the duration of the construction period.**

Reason: To ensure adequate off street parking during construction in the interests of road safety.

- 13 **Prior to the commencement of development a Code of Construction Practice shall be submitted to and approved in writing by the Local Planning Authority. The Code of Construction Practice shall detail methods that all developers, contractors and sub contractors will employ at all times during demolition, construction and other engineering operations on site. The Code of Construction Practice shall include:**

- (i) **Details of traffic routes and points of access/egress to be used for construction purposes;**
- (ii) **Measures to be used to control and suppress dust;**
- (iii) **Measures to be used to reduce the impact of noise and vibration arising from noise generating activities on the site, in accordance with the best practice set out in BS:5228:1997 "Noise and vibration control on construction and open sites".**
- (iv) **The siting and appearance of works compounds**

The implementation of development shall only be undertaken in accordance with the approved Code of Construction Practice.

Reason: To safeguard the amenities of adjoining occupiers and to protect the surrounding countryside.

- 14 Before the premises are occupied all on site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the premises.

- 15 Prior to the occupation of the development hereby permitted a Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The recommendations of the approved Green Travel Plan shall be implemented within 6 months of the development being first brought into use.

Reason: For the avoidance of doubt and to reduce reliance on the private car in the interests of sustainability of the development.

- 16 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years of 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 unless the Local Planning Authority give written consent to any variation.

Reason: In the interests of the visual amenities of the site and the area generally.

- 17 No equipment, goods, waste or other materials shall be deposited or stored in the open outside the buildings on the site.

Reason: To safeguard the character and appearance of the site and the surrounding area.

- 18 All plant, machinery and equipment installed or operated in connection with this permission shall be so enclosed, operated and/or attenuated that noise arising from such plant shall not exceed a level of 5dBA below existing background level (or 10dBA below if there is tonal quality) when measured or calculated in accordance with BS4142:1997, at the boundary of any neighbouring residential dwelling.

Reason: To protect the amenity of neighbouring residents.

- 19 Equipment shall be installed to effectively suppress and disperse fumes and/or odours produced by cooking and food preparation in the cafe, and the equipment shall be effectively operated for so long as the commercial food use continues. Full details of the method of odour abatement and all odour abatement equipment to be used, including predicted noise levels of the equipment in operation, shall be submitted to and approved by the Local Planning Authority prior to the installation of the equipment. The equipment shall be installed solely in accordance with the approved details and prior to the use hereby permitted commencing.

Reason: In order to prevent the adverse impact of odours arising from cooking activities on the amenity of nearby residents.

- 20 All works of demolition, construction or other engineering operations, including the use of plant, vehicles and machinery necessary for the implementation of this consent, shall only take place (other than as specifically approved by the Local Planning Authority prior to any works being undertaken) between 0800 hours and 1800 hours on Monday to Friday inclusive, and 0800 hours to 1300 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

- 21 This permission shall be implemented by and for the benefit of Central Bedfordshire Council only.

Reason: In accordance with Regulation 9 of the Town and Country Planning General Regulations 1992.

Notes to Applicant

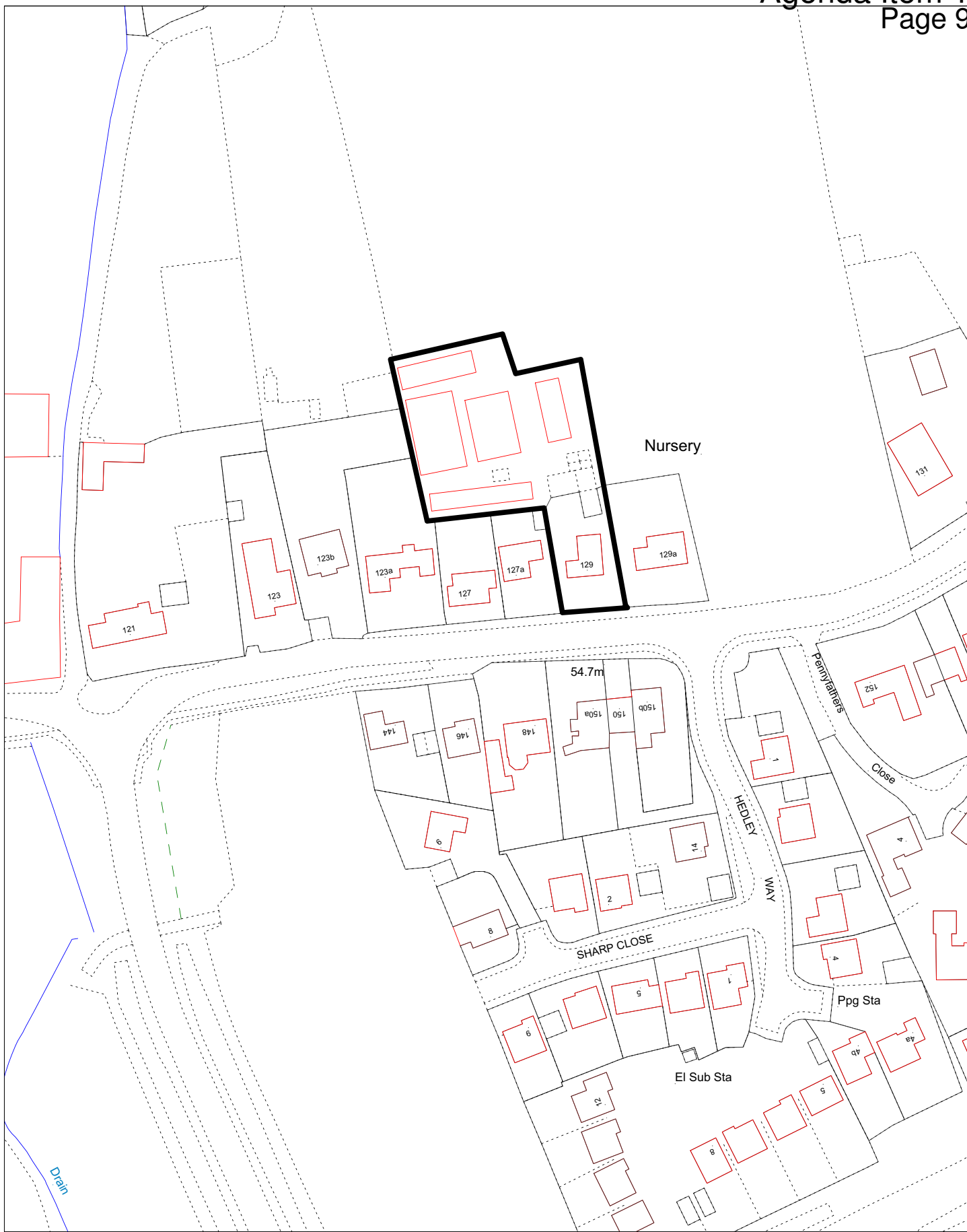
1. The applicants are advised that the premises may require registration as a commercial food business under the Food Premises (Registration) Regulations 1991 and will need to comply with the standards contained in the relevant Food Hygiene Directives and Regulations. Further information may be obtained from the Public Protection Food Safety Team on 0300 300 8000.
2. No works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to write to Central Bedfordshire

Council's Customer Contact Centre, 6th Floor, Borough Hall, Bedford, MK42 9AP quoting the Planning Application number and supplying a copy of the Decision Notice and a copy of the approved plan. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

3. The requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Central Bedfordshire Highways, Streetworks Co-ordination Unit, Borough Hall, Bedford. MK42 9AP.

DECISION

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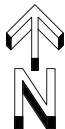
Date: 07 October 2009

Scale: 1:1250

ITEM NO. 13

APPLICATION NO. CB/09/00830/FULL

129 Clophill Road, Maulden, Bedford, MK45 2AE



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APPLICATION NUMBER	CB/09/00830/FULL
LOCATION	129 CLOPHILL ROAD, MAULDEN, BEDFORD, MK45 2AE
PROPOSAL	FULL: DEMOLITION OF EXISTING BUILDING AND ERECTION OF FOUR NEW DWELLINGS.
PARISH	MAULDEN
WARD	MAULDEN AND HOUGHTON CONQUEST
WARD COUNCILLORS	Cllr A Barker and Cllr H Lockety
CASE OFFICER	Julia Ward
DATE REGISTERED	22 May 2009
EXPIRY DATE	17 July 2009
APPLICANT	Mr Rayner
AGENT	Aragon Land & Planning UK LLP
REASON FOR COMMITTEE TO DETERMINE	CLLR LOCKEY REQUEST IN RESPONSE TO RESIDENTS' CONCERNS ABOUT NEW DRIVEWAY AND IMPACT OF NEW HOUSE ON ADJACENT BUNGALOW
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

The application site lies on the northern side of Clophill Road within the large Village Settlement of Clophill (including Hall End, Maulden). The site currently comprises a detached two storey dwelling set within a frontage of other dwellings of mixed sizes, ages and designs. The adjacent property to the west is a bungalow (no. 127a) and there is an existing access running between the application property and no. 127a leading to land at the rear of the site occupied by redundant glass houses in a poor state of repair. The existing property to the east is a two storey house (no. 129a). There is an increase in levels towards the rear of the site with land to the north of the site sloping up towards an Area of Great Landscape Value, Site of Special Scientific Interest and County Wildlife Site.

The immediate area fronting Clophill Road is residential in character comprising a mix of dwelling types, sizes and designs.

The Application:

The applicant is seeking planning permission for the demolition of the existing house fronting Clophill Road and its replacement with a two storey dwelling together with the erection of three single storey dwellings to the rear. Vehicular access to the proposed properties to the rear would be taken from Clophill Road along the boundary with no. 129a. The site is 0.23ha in size.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development
PPS3 - Housing

Regional Spatial Strategy

East of England Plan (May 2008)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

Mid Bedfordshire Local Plan First Review 2005 Policies

LPS2 - Large Villages
LPS4 - Settlement Envelopes
DPS5 - Protection of Amenity
DPS9 - Open Space for New Dwellings
DPS10 - Highways Provision for New Developments
HO5 - Housing Density
HO6 - Location of New Residential Development

Supplementary Planning Guidance

Design Guide for Residential Areas in Mid Bedfordshire (adopted 2004)

Planning History

MB/06/00169/FULL Erection of detached 3 bed dwelling following demolition of existing dwelling - Refused 25/05/06 due to overbearing impact of proposal on adjacent bungalow at 127a Clophill Road.

MB/06/00171/FULL Erection of 3 no. detached dwellings, associated garages and parking, and formation of vehicular access following demolition of existing nursery greenhouses - Withdrawn 23/03/06

Representations: (Parish & Neighbours)

Maulden Parish Council No objection to the proposal provided it remains in the development envelope of the village. However, issues that need to be considered are:

1. The site rises from Clophill Road and the Parish Council prefers that the development is bungalows only;
2. Concerns about the width of the entrance roadway;
3. No vision splays are provided and there is a big bend very near the entrance and visibility should be a priority;
4. Plot 1 indicates a four bedroomed house with only one parking space provided - a property this size would have

at least 2 vehicles and parking will be forced onto Clophill Road.

Following receipt of revised plans, the Parish Council support the application.

Neighbours

5 letters of objection have been received raising the following concerns:

150B Clophill Road:

1. The submitted plans are inaccurate in terms of land ownership and only indicate 7 car parking spaces for 3 houses;
2. Part of the site lies outside the Settlement Envelope;
3. The new houses will generate more traffic and cause highway safety issues. There would not be enough room for delivery vehicles to enter and exit the site;
4. Parking for the proposed house on Clophill Road should be at the rear of the dwelling;
5. Development would be too dense - the dwellings have been squeezed onto the site;
6. Proposal would result in overlooking and loss of privacy to adjoining occupiers;
7. The proposal would dominate the streetscene;
8. The application does not include adequate boundary planting;
9. Maulden does not have enough capacity in its local services to cope with additional population;
10. Insufficient parking would be provided.

123A Clophill Road:

1. The submitted plans are inaccurate in terms of land ownership;
2. Part of the site falls outside the Settlement Envelope;
3. Plot 4 overlooks the garden of 123A Clophill Road;
4. Plot 1 would have a detrimental impact on the occupiers of 127A Clophill Road;
5. Unsafe and inadequate width of access onto Clophill Road;
6. Proposed houses would be visually intrusive and detrimental to the character of the area;
7. Proposed layout is cramped and not large enough for dwellings;
8. Lack of adequate landscaping.

150 Clophill Road:

1. Impact of the proposal on wildlife in the area

127A Clophill Road:

1. Proposal would block light to windows;
2. Additional noise of traffic generated by proposal

129A Clophill Road:

1. Loss of privacy and security to property;
2. Additional traffic would increase noise levels;
3. Inaccurate plans submitted in terms of land ownership;
4. Housing density too great for site;
5. Why is location of entrance road into the site being moved from its current position?
6. Proposed tree screen along boundary would overhang property;
7. If plans are approved, a condition should be attached for the developer to erect a 2 metre high boundary brick wall in keeping with the surrounding properties and any overlooking bathroom windows should have obscure glazing.

Consultations/Publicity responses

Waste officer A Waste Audit is required to be submitted, a Site Waste Management Plan is required and the bin storage location and proposed collection points are required to be clarified by the applicant.

Wildlife Trust The verified records held by the Bedfordshire and Luton Biodiversity and Recording Centre include a recent Slow Worm record from close to 129 Clophill Road. The derelict greenhouses on the site would probably contain suitable habitats for Slow Worms. Slow Worms are legally protected under the Wildlife and Countryside Act 1981. The submitted Reptile Assessment states that "it was highly likely that reptile would be present in the proposed development site and may be at risk of harm due to development works on the site". It is therefore advised that the recommendations in the Assessment are followed in order to prevent harm to the protected species. Further survey works should be tied by condition to any approval. Work should not start until mitigation measures have been agreed and implemented.

Natural England It is noted that the ecological report recommends further surveys for the application site. However, the detailed mitigation measures appear to cover a "worse case scenario" position and provided the detailed surveys and appropriate mitigation measures are undertaken as outlined in the report, there are no objections to the proposal in respect of impact on protected species. Conditions related to further reptile surveys, a detailed mitigation plan and a long term management plan for

enhancement of the site should be attached to a planning approval.

- Marston Vale Trust Application is relevant for a contribution to the delivery of the Forest of Marston Vale as set out within the Mid Bedfordshire Planning Obligations Strategy 2008
- Environment Agency The application site falls within Cell F2 of the Environment Agency's PPS25 Flood Zone Standing Advice Matrix Version 2 (February 2009). In line with current government guidance on Standing Advice, it is not necessary, in this instance, for the Council to respond on behalf of the Agency in respect of land drainage/ flood defence issues using the matrix. The applicant suggests that the disposal of foul sewage is unknown. In the eventuality of a connection to a public foul sewer not being available, the suitability of any non-mains sewerage system must be demonstrated by the applicant to the satisfaction of the Local Planning Authority. Any non-mains foul water drainage system will require the prior written consent of the Environment Agency.
- Internal Drainage Board The Board notes that the proposed method of storm water disposal is by way of soakaways. It is essential that ground conditions are investigated and if found satisfactory the soakaways are constructed in accordance with the latest Building Research Establishment Digest (365).
- Highways A revised plan (1090/09/4C) has been submitted addressing previous issues raised including parking areas, turning circles for large and emergency vehicles and cycle parking. Although the plan indicates cycle parking for each dwelling, it is not detailed enough and it is considered that cycle parking within the garage would not provide adequate parking for both cars and cycles. A condition is therefore suggested to ensure adequate cycle parking. As a fire appliance cannot reach the furthest dwelling and cannot turn and leave in a forward gear, the applicant has provided evidence from the fire service that a sprinkler system will be acceptable in this instance for the dwellings. Other conditions are suggested relating to the surfacing of on-site vehicular areas, garage accommodation to be retained as such, and details of on site car parking for construction workers during the construction period.

Determining Issues

The main considerations of the application are;

1. Principle of residential development in this location;

2. Impact of proposal on the visual amenities of the area;
3. Impact of proposal on residential amenities of neighbouring occupiers;
4. Highways issues;
5. Other material planning considerations.

Considerations

1. Principle of residential development in this location

Revised plans have been submitted indicating that the application site is wholly located within the Settlement Envelope of Clophill (including Hall End, Maulden) as defined in the Mid Bedfordshire Local Plan (adopted 2005). Clophill is defined as a "Large Village" in the Local Plan. The principle of residential development in such areas is usually considered acceptable, subject to various other criteria being satisfied.

The recent Local Development Framework Inquiry considered the new Core Strategy for the old Mid Bedfordshire area. The final report and conclusions are awaited but may include the removal of the application site from the Settlement Envelope. It is considered that as the Inspector's report has not been adopted for Development Management purposes, this application must be determined on the current policies for the development within the adopted Mid Bedfordshire Local Plan.

2. Impact of the proposal on the visual amenities of the area

The site is slightly elevated in relation to the houses facing Clophill Road and is visible from Clophill Road itself. Following pre-application discussions and amendments received during the planning application process, the applicant is proposing to replace the existing two storey dwelling at 129 Clophill Road with a two storey dwelling moved closer to the boundary with 127a Clophill Road. Three single storey bungalows are proposed to the rear of this dwelling with access from Clophill Road along the boundary with 129a Clophill Road.

The design of the dwelling facing Clophill Road is simple and reflects that of the existing dwelling with a pitched roof with gable ends. Bay windows are proposed to the front of the dwelling. The proposed house would be located on the same building line as the neighbouring houses.

The three single storey dwellings to the rear would be arranged in a courtyard style and would be constructed in a timber cladding and brick appearance. Plot 2 has been reduced in footprint to allow greater open space around this property and a more acceptable layout. It is considered that single storey dwellings would be appropriate in this location given the rise in levels towards the rear of the site. A condition requiring full details of existing and proposed levels is considered appropriate in this instance.

It is considered that the scale, design and form of the development is acceptable and would appear in keeping with the streetscene in this part of Clophill Road.

3. Impact of the proposal on the residential amenities of neighbouring occupiers

Planning permission has previously been refused for a two storey replacement dwelling at 129 Clophill Road due to the overbearing impact of the proposal on the occupiers of 127a Clophill Road (ref: MB/06/00169/FULL, refused 25/05/06). 127a Clophill Road has three windows in its gable end facing the application site - one of the windows at ground level is a habitable room with a first floor habitable room window at first floor level. Whilst this application also proposes a two storey dwelling onto Clophill Road, the proposed dwelling has been moved 2.5 metres away from the boundary with 127a Clophill Road and set 1.5m deeper into the site (the previously refused property was located on the boundary). On balance, given the current outlook of the occupiers of 127a Clophill Road into the existing gable end of 129, it is considered that this revised siting would not have so significant an overbearing impact on the occupiers of 127a Clophill Road to warrant refusal of the application.

The orientation of the single storey dwellings to the rear would not result in any direct overlooking to adjacent properties on Clophill Road. In addition, the proposed dwellings would not have any windows in the roof. It is considered that the proposal would not result in any undue loss of privacy or overlooking to adjoining properties, but that a condition would be appropriate if planning permission is granted to require planning permission for any subsequent material alterations to the roofs of these three units.

The depths of the proposed rear gardens do not meet the 10.5 metre guidance as advised in the Design Guidance (adopted 2004). However, given the orientation of the dwellings in relation to surrounding properties and the total amount of garden space for each dwelling, the layout is considered appropriate in this instance.

Access to the proposed development would be taken along the side boundary with 129a Clophill Road. It is considered that the development of 3 no. dwellings in this location would not have any undue impact in terms of noise and disturbance from vehicles entering and leaving the site. However, it is considered appropriate to attach a condition to any approval requiring full details of boundary treatment along this boundary to be submitted and agreed.

On balance, it is considered that provided suitable conditions are attached to any approval as discussed above, the proposal would not have such a significant impact on the residential amenities of adjoining occupiers to warrant refusal of the application.

4. Highways issues

Revised plans have been submitted by the applicant which address concerns raised by highways including location and number of parking spaces, cycle parking and turning areas for large and emergency vehicles. It is considered that appropriate conditions can be attached to any approval relating to on-site vehicular surfacing, adequate sprinkler systems within the properties and cycle parking.

5. **Other material planning considerations**

Ecological impacts

The application site is located in close proximity to an Area of Great Landscape Value, Site of Special Scientific Interest and County Wildlife Site.

Following concerns raised by the Wildlife Trust that the application site and the adjacent sites may be populated by Slow-worms (a protected species) and other reptiles, the applicant has submitted a Reptile Survey in support of the application (Adonis Ecology, 13/07/09). The report states that although no reptiles were observed within the boundaries of the site, habitats such as rough grassland and scrub were considered to be suitable foraging, basking and refuge habitat for reptile species. Furthermore, three slow-worm and two common lizards were observed within land to the north of the application site. Given that habitats on the site were considered suitable for reptiles, two species of reptile were observed on land adjacent to the site and past records indicate that reptiles were present within 30 metres of the site, it is considered highly likely that reptiles would be present within the proposed development site and may be at risk of harm due to development works on the site. It is therefore recommended that further surveys are undertaken to design appropriate impact avoidance and/or mitigation measures for reptiles.

Suggested mitigation measures include reptile fencing and artificial refuges prior, during and after construction works.

The applicant's site location plan indicates that the applicant controls land immediately to the north of the site that would be required to undertake any proposed mitigation measures.

Having regard to the conclusions of the above report and advice from Natural England and the Wildlife Trust, it is considered appropriate to attach conditions to any approval requiring further survey works and mitigation measures to be carried out and implemented in accordance with the recommendations of the submitted survey.

Waste Audit and Site Waste Management Plan

The applicant has confirmed that a Waste Audit and Site Waste Management plan is being prepared. Further details will be reported at Committee. The applicant has indicated on the submitted drawings that a waste collection point would be located at the front of the site with a waste storage area at the side of each property. These locations are considered acceptable.

Planning Obligation Strategy

Supplementary Planning Guidance relating to Planning Obligations came into effect on 1st May 2008. This requires planning applications relating to one or more dwellings to provide contributions towards infrastructure as set out in the Planning Obligations Strategy.

In accordance with national planning policy contained in PPS1, Local Planning

Authorities are required to ensure that new development is planned to be sustainable. Where communities continue to grow, many require additional infrastructure, in the form of services and health care, for example.

Accordingly, the level of contribution required for this scheme has been calculated in relation to the impact the development would have on the local infrastructure and the contribution that would be required to offset this.

The total contributions required for this scheme come to £57, 025.

The applicant has submitted a draft Planning Obligation to be agreed with the Local Planning Authority. A further update on this will be presented to committee.

Reasons for Granting

The proposal, by reason of its scale, appearance, location, layout and mitigation measures related to reptiles, would not have an adverse impact on the character or appearance of the streetscene or the amenities of adjoining occupiers, nor on the ecological interests of the area. The proposal is therefore in conformity with policies LPS2, LPS4, DPS5, DPS6, DPS9, DPS10, HO5 and HO6 of the Mid Bedfordshire Local Plan First Review (adopted 2005), Supplementary Planning Guidance: Design Guide for Residential Areas in Mid Bedfordshire, PPS1: Delivering Sustainable Development, PPS3: Housing.

Recommendation

That Planning Permission be granted subject to the following conditions:

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.

- 2 **Notwithstanding the approved plans, no development shall be undertaken until a scheme has been submitted to and approved in writing by the Local Planning Authority setting out the details of the materials to be used for the external walls and roofs. The development shall be carried out in accordance with the approved scheme.**

Reason: To protect the visual amenities of the building and of the area generally.

- 3 **No development shall be undertaken on site until full details of both hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall include:-**

- proposed finished levels or contours;

- materials to be used for any hard surfacing;
- proposed and existing functional services above and below ground level;
- planting plans, including schedule of size, species, positions, density and times of planting;
- cultivation details including operations required to establish new planting;
- details of existing trees and hedgerows on the site, indicating those to be retained and the method of their protection during development works.

The development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the landscaping is carried out within a reasonable period in the interest of the visual amenities of the area.

- 4 No development shall be undertaken on site until a scheme has been submitted to and agreed 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.

Reason: To safeguard the appearance of the completed development and the visual amenities of the locality.

- 5 Before development is undertaken on site, details of the final ground and slab levels of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. Such details shall be sufficient to clearly identify the completed height of the development in relation to the adjacent development. Thereafter the site shall be developed in full accordance with the approved details.

Reason: To ensure that a satisfactory relationship results between the new development and adjacent buildings and public areas.

- 6 Details of the method of disposal of foul and surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority including any land drainage system, before the development is commenced. Thereafter no part of the development shall be brought into use until the approved drainage scheme has been implemented.

Reason: To ensure that adequate foul and surface water drainage is provided and that existing and future land drainage needs are protected.

- 7 Before development is undertaken on site, further reptile surveys of the

site, as recommended in the submitted Reptile Assessment (Adonis Ecology, 13/07/09), shall be undertaken and the results submitted to the Local Planning Authority for approval. A long term management plan for the wildlife enhancement of the site shall be submitted to and approved in writing by the Local Planning Authority. If any protected species are found to exist the details of mitigation measures to be undertaken to safeguard these protected species, as stated in the submitted Reptile Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The habitat protection measures and long term management plan shall be implemented to the satisfaction of the Local Planning Authority and in accordance with a timetable agreed in writing by the Local Planning Authority.

Reason: To enable proper consideration of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

- 8 Before development is undertaken on site, full details of the proposed sprinkler system to be installed within the dwellings at plots 2, 3 & 4 shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: The development does not allow a fire appliance to turn and leave in a forward gear and therefore to ensure adequate fire protection.

- 9 Before development is undertaken on site, a scheme for the parking of cycles on site (calculated at one space per bedroom), and access thereto, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure the provision of adequate cycle parking to meet the needs of occupiers of the proposed development in the interests of encouraging the use of sustainable modes of transport.

- 10 Before development is undertaken on site, a scheme for on site parking provision for construction workers during the construction period shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure adequate off-street parking during construction in the interests of road safety.

- 11 Before the dwellings hereby approved are occupied, the proposed vehicular access and on site vehicular areas shall be surfaced in a stable and durable manner be approved in writing by the Local Planning Authority for a distance of 8 metres into the site, measured from the highway boundary, before the premises are occupied. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: To avoid the carriage of mud or other extraneous material or surface water from the site into the highway so as to safeguard the interest of highway safety and reduce the risk of flooding and to minimise inconvenience to users of the premises and ensure satisfactory parking of vehicles outside highway limits.

- 12 Before the new access is first brought into use, any existing access within the frontage of the land to be developed, not incorporated in the access hereby approved shall be closed in a manner to the Local Planning Authority's written approval.

Reason: In the interest of road safety and to reduce the number of points at which traffic will enter and leave the public highway.

- 13 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.

Reason: To retain off-street parking provision and thereby minimise the potential for on-street parking which could adversely affect the convenience of road users.

- 14 The turning space for vehicles illustrated on the approved drawing no. 1090/09/4C shall be constructed before the development is first brought into use.

Reason: To enable vehicles to draw off, park and turn outside the highway limits thereby avoiding the reversing of vehicles onto the highway.

- 15 Notwithstanding Schedule 1 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no further window or other opening shall be formed on the flank elevations of Plot 1 without the grant of express planning permission from the Local Planning Authority.

Reason: To protect the amenities of occupiers of neighbouring properties.

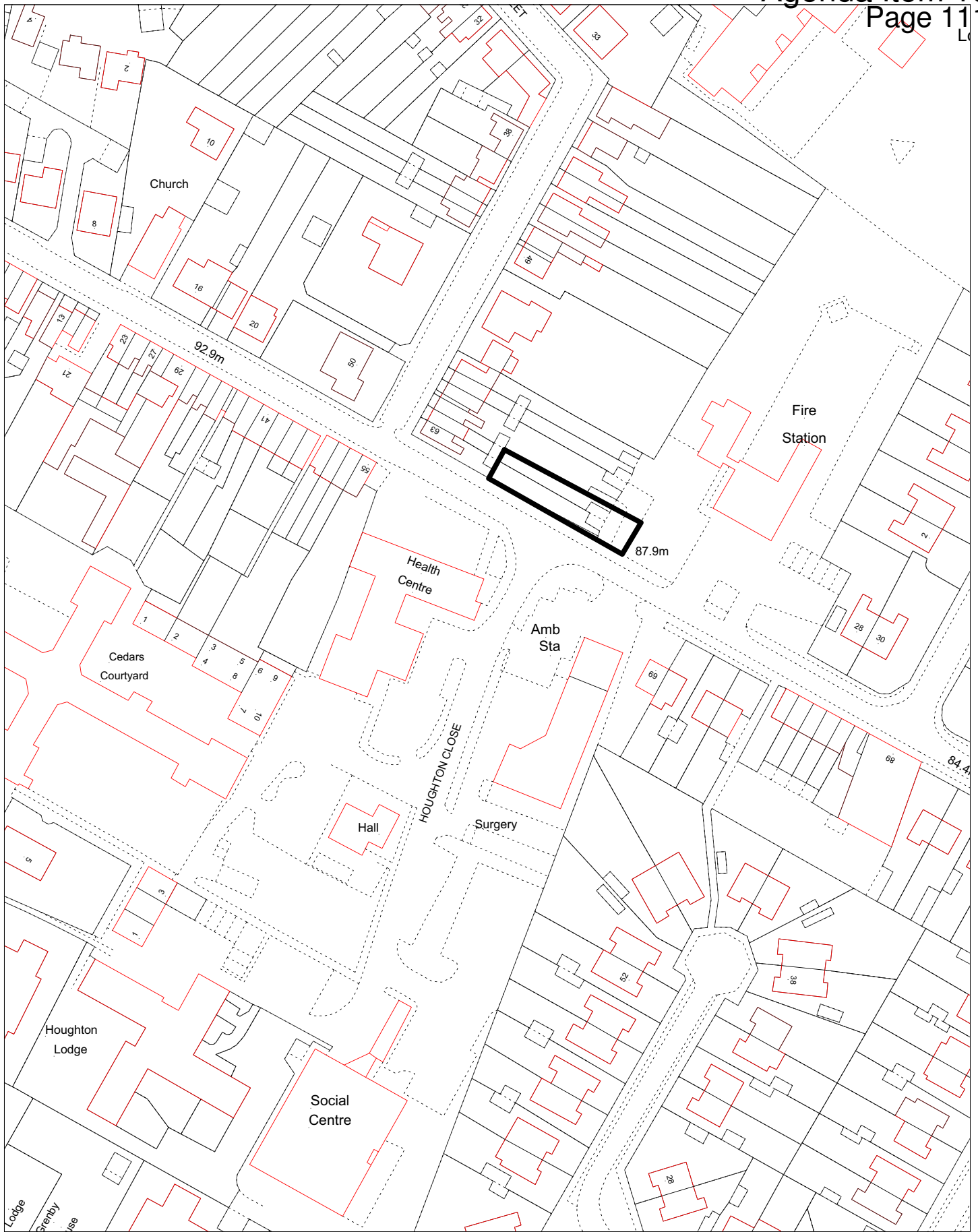
- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (no) Order 2008 (or any Order revoking or re-enacting that Order with or without modification), no works shall be commenced at Plots 2,3 and 4 under Schedule Part 1 Class A (extensions), Class B (additions or alterations to roof), Class C (alteration to roofs), Class D (porches), Class E (outbuildings), or Class F (hardstandings) without the grant of express planning permission from the Local Planning Authority.

Reason: To protect the amenities of occupiers of neighbouring properties.

DECISION

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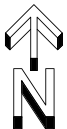


Date: 07 October 2009

ITEM NO. 14

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APPLICATION NO. CB/09/01212/FULL



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Land to rear of 61 and 63, Arthur Street, Ampthill

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APPLICATION NUMBER	CB/09/01212/FULL
LOCATION	LAND TO THE REAR OF 61 AND 63, ARTHUR STREET, AMPHILL
PROPOSAL	FULL: ERECTION OF DETACHED DWELLING.
PARISH	Amphill
WARD	Amphill
WARD COUNCILLORS	Cllr P Duckett & Cllr G Summerfield
CASE OFFICER	Mary Collins
DATE REGISTERED	24 June 2009
EXPIRY DATE	19 August 2009
APPLICANT	Mr K Knowles
AGENT	Mr B Pitts
REASON FOR COMMITTEE TO DETERMINE	CLLR SUMMERFIELD AT REQUEST OF AMPHILL TOWN COUNCIL WHO OBJECT. ALSO BECAUSE CENTRAL BEDFORDSHIRE COUNCIL OWNS A PART OF THE ACCESS TO THE SITE.
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

The application site comprises a narrow, regular shaped plot of land, 0.3 hectares in area to the rear of 61 and 63 Arthur Street and with frontage onto Oliver Street. The site is currently overgrown and unmanaged, formerly comprising part of the rear gardens to 61 and 63 Arthur Street but now fenced off from them. At the eastern extremity of the site is a concrete hardstanding which provides parking for no. 63, accessed from a private driveway which serves the rear of all the dwellings between nos. 53 – 63 Arthur Street.

The site is situated within and on the edge of the Amphill Conservation Area. Oliver Street is characterised by a mixture of houses of varying styles and sizes. Immediately to the east is a Fire Station with an Ambulance Station and health centre on the opposite side of Oliver Street. Further west along Oliver Street the area is characterised by terraced dwellings set at the back edge of the pavement and towards the eastern end of Oliver Street outside the Conservation Area are chalet bungalows.

The Application:

Planning permission is sought for the erection of a detached dwelling. The access to the site and adjacent garages is owned by Central Bedfordshire Council (Fire Service) and the relevant notices have been served.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS 1	Delivering Sustainable Development
PPS 3	Housing
PPG 15	Planning and the Historic Environment

Regional Spatial Strategy

East of England Plan (May 2008)
Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

Mid Bedfordshire Local Plan First Review 2005 Policies

LPS1 - Selected Settlements
LPS4 - Settlement Envelopes
DPS5 - Protection of Amenity
DPS9 - Open Space for New Dwellings
H06 - Location of new Residential Development
CHE11 - Conservation Areas

Supplementary Planning Guidance

Design Guide for Residential Areas in Mid Bedfordshire Adopted 2004.
Planning Obligations Strategy 2008

Planning History

MB/93/00399	Outline application for erection of one detached dwelling.
MB/93/01218	Outline application for erection of one detached dwelling.
MB/98/00363	Full: Erection of dwelling. Refused June 1998
MB/98/01490	Full: Erection of one Dwelling. Refused Jan. 2001
MB/06/00687	Erection of 1 no. 3 bed detached dwelling. Refused: June 2006
MB/06/01136	Full: Erection of detached dwelling. Refused: 13/9/06
MB/09/00239	Full: Erection of 3 no. bedroom detached chalet. Withdrawn: 28/04/09

**Representations:
(Parish & Neighbours)**

Ampthill Town Council	Recommend Refusal: a) Arthur Street is characterised by terraced properties and this proposed development is out of keeping with the street scene and will therefore have an adverse impact on the Conservation Area. b) Lack of amenity space c) Loss of amenity to adjoining neighbours by reason of overlooking. d) There could be a conflict of traffic movements as this property is in close proximity to the emergency and health services and an established safer route to school.
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- e) Would recommend that members of the Development Control Committee visit the site before the application is determined
- f) Ampthill Fire Station and Ampthill Ambulance Station have previously raised concern about increased traffic movements in the vicinity of Oliver Street/

Neighbours

The Occupier of No. 45 Oliver Street objects to the proposal on the following grounds:

- Detrimental impact on the traffic problems currently endured and conflict with ambulance and fire stations
- Detrimental impact on the current level of parking
- Lack of parking provision for guests or additional cars
- The driveway does not look wide enough for cars to enter and leave the premises safely

Consultations/Publicity responses

Highways

No objections. Recommend conditions are imposed regarding resurfacing of existing access drive, the footpath along the site frontage should measure 2.0m and that the development should not include the existing service box within the development boundary.

Application advertised
03/07/09

No response received

Site Notice posted
26/06/09

No response received

Determining Issues

The main considerations of the application are;

1. **Background**
2. **Visual impact upon the character and appearance of the Conservation Area**
3. **Impact upon neighbouring residential amenity**
4. **Highways issues**
5. **Unilateral Undertaking**

Considerations

1. Background

The principle of development has been established on the site through the granting of an outline planning permission in 1993. Although this permission has lapsed the site is located within the settlement envelope of Ampthill which is identified as a Selected Settlement within the adopted Local Plan. As such this proposal for a new residential dwelling within the settlement envelope is considered acceptable in principle provided other local plan criteria can be met.

A previous application for full planning permission for a detached two storey dwelling was refused for the following reasons:

1. The application contains insufficient information to show that adequate on-site parking and access can be provided to serve the development in a manner that would not cause additional vehicles parking on the public highway and increased danger and inconvenience to users of the highway; as such the proposal is contrary to Policy DPS5 of the Mid Bedfordshire Local Plan 2005.
2. The proposed dwelling, by reason of its size, siting and proximity to the northern boundary would appear unduly overbearing and would result in an unacceptable loss of daylight and overshadowing of the adjoining property at no. 59 Arthur Street, to the detriment of the amenities currently enjoyed by the occupiers; as such the proposal is contrary to Policy DPS5 of the Mid Bedfordshire Local Plan 2005.

2. Visual impact upon the character and appearance of the Conservation Area

The application site comprises the former rear gardens to 61 and 63 Arthur Street. The rear gardens to 61 and 63 Arthur Street were previously separated into two sections by outbuildings to the rear of the properties. The outbuildings still exist and separate the application site from these properties.

A three bedroomed detached one and half storey dwelling is proposed to front Oliver Street and will be sited on the back edge of the pavement.

The dwelling has three pitched dormer windows to the front elevation and these are equally spaced across the roof slope. The dormers are set down from the ridge of the roof and are set in from the eaves by approximately 20cm and are not considered to dominate the roof slope.

The ground level is currently higher than the level of the public pavement. It is proposed to lower ground levels by approximately 700-800mm to reduce the impact of the dwelling on the neighbouring property and its impact on the street scene.

The garden to the proposed dwelling will be to the side and will comprise a lower terrace area off the lounge and a raised garden area. The garden is 10 metres wide by 8.9 metres deep. The garden to the side will be private and is proposed to be behind a garden wall with fencing above to a height of approximately two metres. Given that this is within the Conservation Area, it is considered that a more appropriate treatment is a full height brick wall. This can be achieved by condition.

The garden area available for the proposed property has a depth of 10.5m and therefore meets the Council's supplementary guidance for development in a suburban area. The depth of the remaining gardens for the existing dwellings at 61 and 63 Arthur Street is approximately 10 metres in depth.

The dwelling faces on to Oliver Street and relates well to the street. The side of the dwelling will be highly visible when approached from the south east along Oliver

Street. The building will mark the entrance into the Conservation Area from Oliver Street. However the dwelling does not project beyond the end elevation of the existing terrace which faces Oliver Street and the proposed dwelling will be viewed against a backdrop of the rear elevations of this existing terrace of properties in Arthur Street. The parking area to the side of the dwelling is not considered to be detrimental to the appearance of the area.

The land at present is overgrown and contributes nothing to the character of the Conservation Area or street scene. Although the dwelling would appear unrelated to any surrounding development, given the variety, nature and form of surrounding buildings and uses, it is considered that the modest form of the new dwelling would not appear duly prominent within the streetscene. The proposed dwelling is not detrimental to the character or appearance of this part of the Conservation Area. and does not visually detract from views into the Conservation Area. It is therefore considered that the proposal will preserve the character and appearance of this part of Ampt Hill conservation area in compliance with Policy CHE11 of the Mid Bedfordshire Local Plan and guidance in PPG15.

3. Impact upon neighbouring residential amenity

The property will present a rear elevation and a gable end to the boundary and garden of 59 Arthur Street.

The proposed dwelling is one and a half storey and is set in by one metre from the boundary. The part of the garden affected is approximately 23 metres from the rear of the dwelling at 59 Arthur Street. Ground levels are proposed to be lowered by 700-800mm. The eaves level of the dwelling is approximately 3 metres high. Given the reduction in ground levels and intervening boundary treatment, all that will be visible above a two metre fence line would be the roof of the dwelling sloping away from the boundary. The proposed dwelling is therefore not considered to be overbearing or result in a detrimental loss of light to this property. A small section of adjoining garden will be affected by the dwelling but this would not warrant refusal of this application.

There are two rooflights in the rear elevation serving a shower room and the stairwell. The shower room rooflight will be conditioned to be obscurely glazed whilst there will be limited views out of the other rooflight. As a result a detrimental loss of privacy through overlooking into the adjoining rear gardens is unlikely to occur.

There is an intervening outbuilding between the rear gardens of 61 and 63 Arthur Street and the application site and this will obscure views at ground floor level so that a detrimental loss of privacy should not result. A bedroom window in the gable end will face the rear of these properties and the property at 59 Arthur Street. However given that there is a distance of over 21 metres between this side elevation and the backs of these properties, it is considered that a detrimental loss of privacy will not result at first floor level.

4. Highway issues

Six parking spaces have been provided on site. Two each for the existing properties at 61 and 63 Arthur Street and two for the proposed property and this is satisfactory. A one metre high brick wall will separate the parking area from the side elevation of the dwelling. The parking area is partially screened from the street by a one metre

high wall.

5. Unilateral Undertaking

The Planning Obligations Strategy, wherein the construction or creation of one dwelling or more is required to make a financial contribution towards the costs of local infrastructure and services, was adopted by Mid Bedfordshire District Council on 20th February 2008 and has been operative since 1st May 2008. The Draft Supplementary Planning Document was subject to a six week public consultation period between 6th July and 17th August 2007.

In accordance with national planning policy contained in PPS1, Local Planning Authorities are required to ensure that new development is planned to be sustainable. Where communities continue to grow, many require additional infrastructure, in the form of services and health care, for example.

This involves all new residential proposals having to enter into either a Section 106 Legal Agreement or a Unilateral Undertaking to provide contributions towards the impact of new developments within the former Mid Beds area.

The SPD is a material consideration in the determination of planning applications and refusal of planning permission is likely when development proposals do not comply with its requirements.

A Unilateral Undertaking has been received and payment for the legal and monitoring fees has also been received. If members are minded to approve the application, it is requested members delegate the decision pending the satisfactory completion of the Unilateral Undertaking.

Recommendation

That Planning Permission be Granted subject to the following:

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not continue in existence indefinitely if the development to which it relates is not carried out.

- 2 **Prior to the development hereby approved commencing on site details of the existing ground levels and final ground and slab levels of the dwelling and the final levels of the garden hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include sections through both the site and the adjoining properties, the location of which shall first be agreed in writing with the Local Planning Authority. Thereafter the site shall be developed in full accordance with the approved details.**

Reason: To ensure that a satisfactory relationship results between the new development and adjacent residential properties and public areas.

- 3 **Prior to the commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority defining those trees, hedges, shrubs and other natural features to be retained during the course of the development, and setting out measures for their protection during construction work . No work shall commence on site until all trees, hedges, shrubs and features to be protected are fenced with 2.3 high weldmesh fencing securely mounted on standard scaffolding poles driven firmly in the ground in accordance with BS 5837:2005;**

- **for trees, hedges and shrubs the fencing shall follow a line 1.0m outside the furthest extent of the crown spread, unless otherwise agreed in writing by the Local Planning Authority;**
- **for upright growing trees at a radius from the trunk not less than 6.0m, or two thirds of the height of the tree whichever is the greater;**
- **for other natural features along a line to be approved in writing by the Local Planning Authority.**

Such fencing shall be maintained during the course of the works on the site. No unauthorized access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.

Reason: To safeguard the existing trees on the site in the interests of visual amenity.

- 4 **Prior to the commencement of the development, samples of all the materials to be used for the external walls and roof and details of all external finishes including windows and doors, brick bond and mortar mix shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented solely in accordance with these approved details.**

Reason: To safeguard the appearance of the completed development and preserve the special character and appearance of the Conservation Area in accordance with Policy CHE11 of the Mid Bedfordshire Local Plan 2005.

- 5 **Notwithstanding the details shown on the approved plan, no development shall be undertaken until a scheme has been submitted for written approval by the Local Planning Authority indicating the positions, design, materials and types of boundary treatment to be erected including details of the retaining wall to the garden and the provision of a full height brick wall to enclose the rear garden adjacent to Oliver Street. The boundary treatment shall be completed in accordance with the approved scheme before the dwelling is occupied.**

Reason: To safeguard the appearance of the completed development

and the visual amenities of the locality by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing walls and the visual amenities of the locality.

- 6 Development shall not commence until a scheme detailing provision for on site parking for construction workers and one on site space for both 61 and 63 Oliver Street for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.

Reason: To ensure adequate off street parking during construction in the interests of road safety.

- 7 All rainwater goods shall be cast iron or cast aluminium and painted black unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing building(s) and the visual amenities of the locality.

- 8 Prior to the first occupation of the dwelling the rooflights to the rear roofslope shall be fitted with obscured glass of a type to substantially restrict vision through them at all times.

Reason: To safeguard the amenities of occupiers of adjoining properties.

- 9 Notwithstanding Schedule 2, Part 1, Classes A, B, C, D, E, F, G and H of the Town and Country Planning (General Permitted Development Order) 1995 (or any Order revoking or re-enacting that Order with or without modification) no works shall be commenced for the extension or material alteration of the buildings hereby permitted or the erection of any building/ structure within the curtilage of the dwelling hereby approved until detailed plans and elevations have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of occupiers of neighbouring properties. To protect the character of Ampthill Conservation Area.

- 10 Before the premises are occupied all on site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the premises.

- 11 Details of a bin collection point to serve the new dwelling shall be submitted to and approved by the Local Planning Authority and made available for use prior to the first occupation of the dwelling.

Reason: In the interest of amenity and in order to minimise danger, obstruction and inconvenience to users of the highway and the premises.

- 12 Before the access is first brought into use a triangular vision splay shall be provided on the west side of the access and shall measure 1.8m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 1.8m measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway 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 which is likely to use it.

- 13 Before the premises are occupied the on site vehicular areas shall be constructed and surfaced in a stable and durable manner in accordance with details to be approved in writing by the Local Planning Authority for a distance of 5.0m into the site, measured from the highway boundary. Arrangements shall be made for surface water drainage from the site to soak away within the site so that it does not discharge into the highway or into the main drainage system.

Reason: To avoid the carriage of mud or other extraneous material or surface water from the site so as to safeguard the interest of highway safety and reduce the risk of flooding and to minimise inconvenience to users of the premises and ensure satisfactory parking of vehicles outside highway limits .

- 14 The proposed development shall be carried out and completed in all respects in accordance with the access siting and parking bays sizing and layout, 2.0m footpath width along the site frontage with Oliver Street, site boundary excluding the existing service box illustrated on the approved drawing No. 01 Rev G and defined by this permission and, notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995, (or any Order revoking or re-enacting that Order) there shall be no variation without the prior approval in writing of the Local Planning Authority. The dwelling shall not be occupied until the six parking spaces on the approved plan have been laid out and are available for use.

Reason: To ensure that the development of the site is completed insofar as its various parts are interrelated and dependent one upon another and to provide adequate and appropriate access and parking arrangements at all times and to ensure the highway boundary is protected.

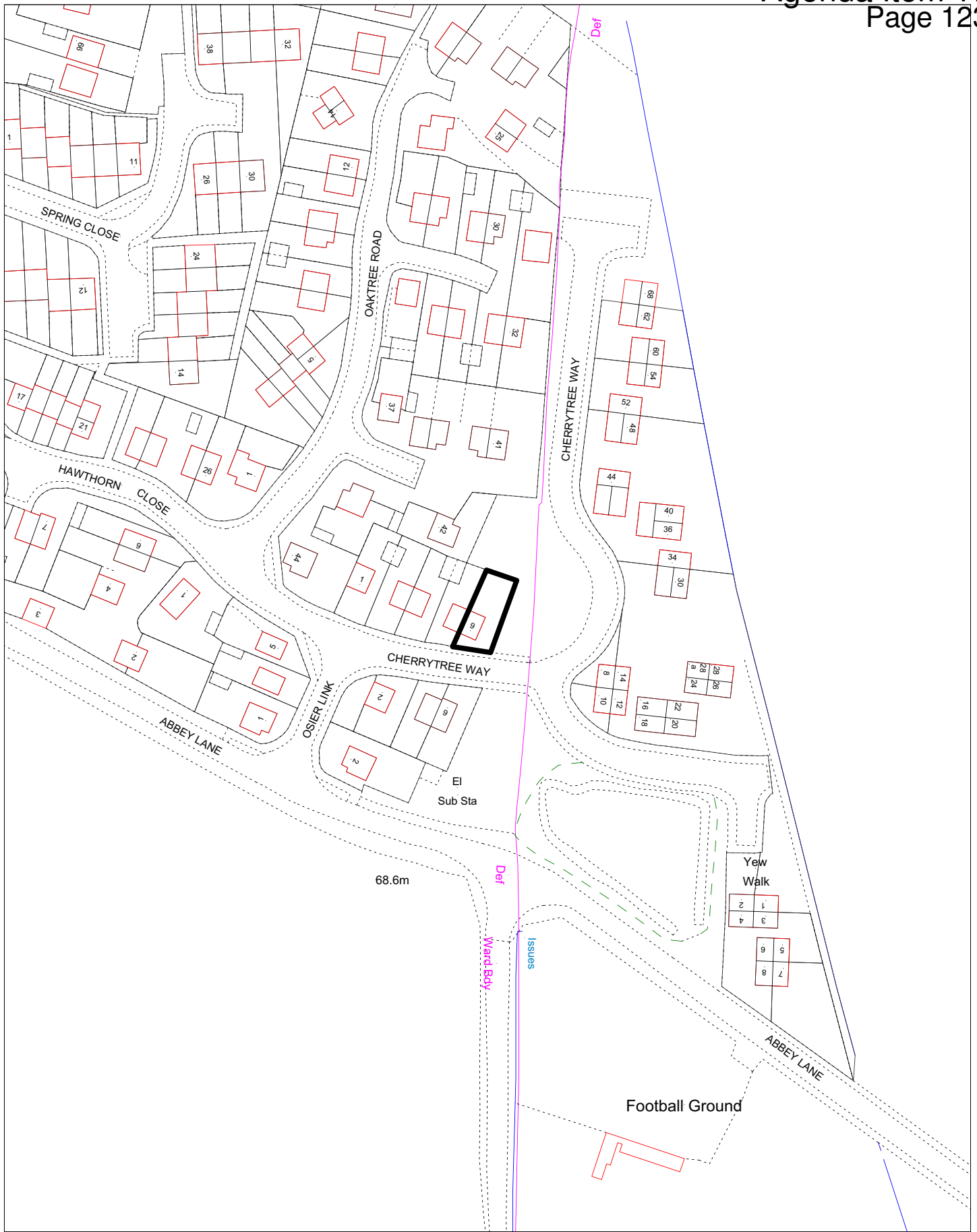
Notes to Applicant

1. The applicant is advised that, under the provisions of the Highways Act 1980, no part of boundary treatment or foundations shall be erected or installed in, under or overhanging the public highway door or gate shall be fixed so as to open outwards into the highway.

2. The Highway Authority has the power under Section 143 of the Highways Act 1980, to remove any structure erected on a highway.
3. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from the Traffic Management Group Highways and Transport Division, Central Bedfordshire Council, P.O. Box 1395, Bedford, MK42 5AN.
4. The applicant is advised that photographs of the existing highway that is to be used for access and delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the Local Highway Authority and at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.
5. The applicant is advised that all cycle parking to be provided within the site shall be designed in accordance with the Bedfordshire County Council's "Cycle Parking Guidance - August 2006".

DECISION

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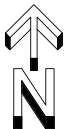
Date: 07 October 2009

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ITEM NO. 16

APPLICATION NO. CB/09/00707/FULL

9 Cherrytree Way, Amphill



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SCHEDULE C

APPLICATION NUMBER	CB/09/00707/FULL
LOCATION	9 Cherrytree Way, Ampthill, Bedford, MK45 2SZ
PROPOSAL	Full: Demolition of garage and utility room to provide driveway to front and single storey extension to side and conservatory to rear
PARISH	Ampthill
WARD	Ampthill
WARD COUNCILLORS	Cllr P Duckett & Cllr G Summerfield
CASE OFFICER	Duncan Jordan
DATE REGISTERED	04 September 2009
EXPIRY DATE	30 October 2009
APPLICANT	Mrs Morton
AGENT	
REASON FOR COMMITTEE TO DETERMINE	Applicant is an employee of Central Bedfordshire Council
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

9, Cherrytree Way, Ampthill is a semi detached property whose general appearance appears to date the property to the early 1980's. The property lies to the north of Cherrytree Way, in a small estate of similarly designed and aged properties. In terms of Local plan policy, the property lies in the designated Settlement Envelope.

The Application:

For the demolition of a garage and utility room to provide a driveway to front and single storey extension to side and conservatory to rear.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1: Delivering Sustainable Development
PPS3: Housing

Regional Spatial Strategy

East of England Plan (May 2008)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

Bedfordshire Structure Plan 2011

Mid Bedfordshire Local Plan First Review 2005 Policies

DPS6 - Criteria for extensions

Supplementary Planning Guidance

Technical Planning Guidance: Extensions and Alterations: A Design Guide for Householders

South Bedfordshire Local Plan Review Policies

Supplementary Planning Guidance

Planning History

92/00386 Retention of single storey side extension. Approved 1/6/92

**Representations:
(Parish & Neighbours)**

Parish/Town Council	Support subject to no adverse effect on neighbouring properties
Neighbours	No response

Consultations/Publicity responses

Highways Comments to be reported

Determining Issues

The main considerations of the application are;

- 1. Visual impact on the character and appearance of the area**
- 2. Impact on neighbouring residential amenity**
- 3. Highways**

Considerations

1. Visual impact on the character and appearance of the area

The existing single storey side extension is proposed demolished and its replacement with a side extension of reduced depth but comparable width. Remodelling of the property continues to the rear elevation wherein a replacement conservatory is proposed. The new side extension is proposed for additional living accommodation; a single car space is proposed in front of the extension.

In terms of its impact on the character and appearance of the area the property sits adjacent a relatively large public grassed area and therefore has substantial public views afforded to the side of the property. The new side extension is considered to sit well with the property, well set back and replacing a previous side extension which has an awkward relationship with the existing conservatory.

2. Impact on neighbouring residential amenity

The property occupies a corner plot and has no immediate neighbour to the east. The adjoining neighbour to the west will not be affected by the side extension. The replacement conservatory, with a brick side wall, will extend a further 10cm into the garden area than the existing structure. Additionally the conservatory will contain a partially bricked side wall, and will therefore be of greater impact than the existing structure, but the change is not so significant to warrant a refusal of planning permission. The neighbour has not raised an objection.

3. Highways

Both the existing and proposed arrangements make provision for the parking of one vehicle on plot and therefore no objection is anticipated from the highways officer. Further comment will be reported to the meeting.

Reasons for Granting

The proposed side extension is well set back from the frontage of the property and appears in a suitably subordinate role. The impact of the re-designed conservatory on the amenity of the neighbouring property is considered to be acceptable such that the proposal is in compliance with Policy DPS6 and Technical Planning Guidance: Extensions and Alterations: A Design Guide for Householders.

Recommendation

That Planning Permission be Granted subject to the following:

- 1 The development hereby approved shall be commenced within three years of the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 which is designed to ensure that a planning permission does not

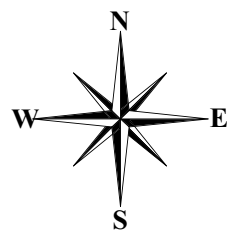
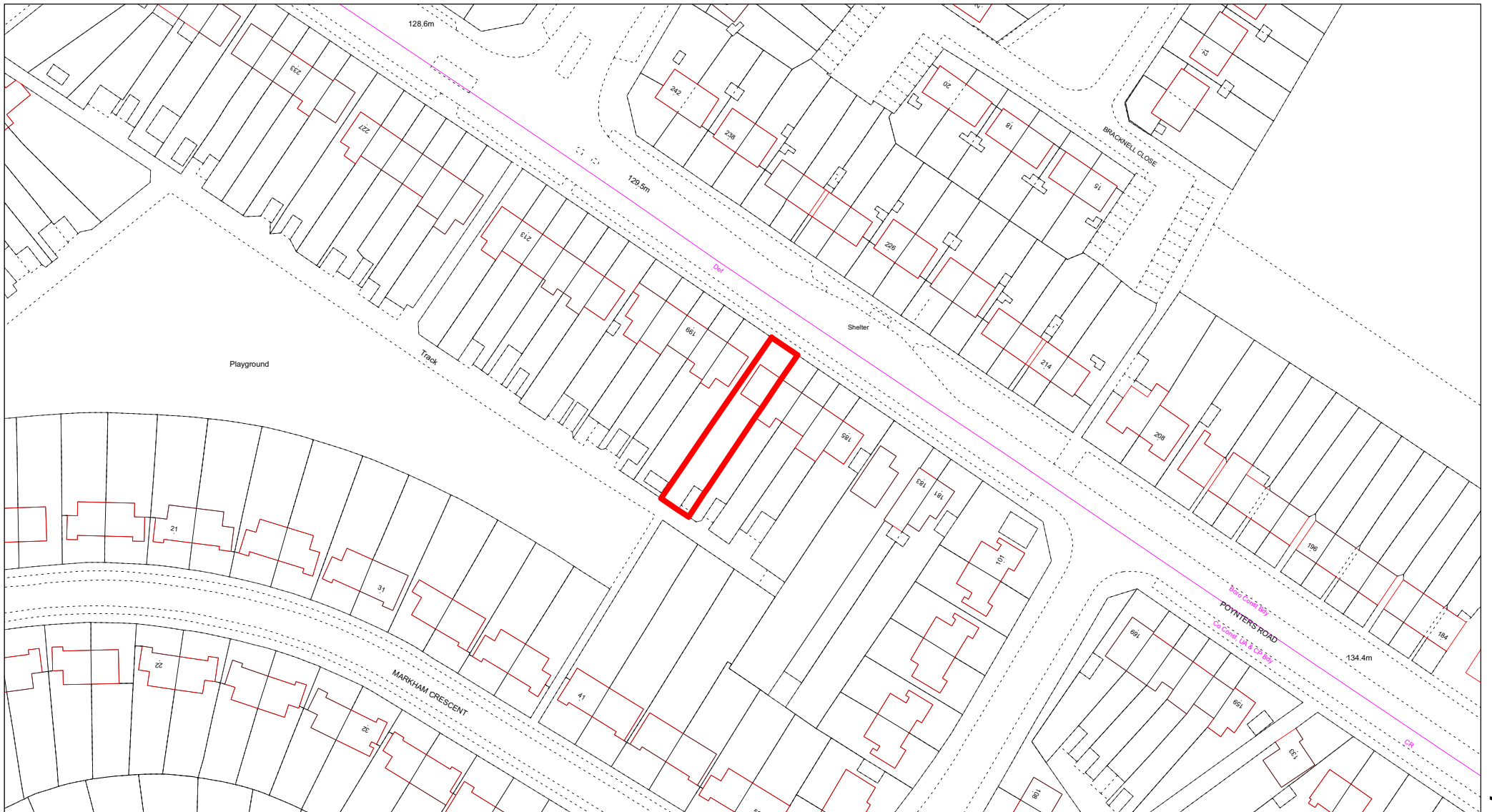
continue in existence indefinitely if the development to which it relates is not carried out.

- 2 All external works hereby permitted shall be carried out in materials to match as closely as possible in colour, type and texture, those of the existing building.

Reason: To safeguard the appearance of the completed development by ensuring that the development hereby permitted is finished externally with materials to match/complement the existing building(s) and the visual amenities of the locality.

DECISION

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Date: 06:October:2009

Map Sheet No

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CASE NO.

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SCHEDULE C

APPLICATION NUMBER	CB/09/05425/FULL
LOCATION	193 Poynters Road, Dunstable, LU5 4SH
PROPOSAL	Construction of vehicular crossover and formation of parking area.
PARISH	Dunstable
WARD	Icknield
WARD COUNCILLORS	Cllr John Kane & Cllr David McVicar
CASE OFFICER	Donna Stock
DATE REGISTERED	20 August 2009
EXPIRY DATE	15 October 2009
APPLICANT	Ms J Miles
AGENT	Kingswood Design Ltd
REASON FOR COMMITTEE TO DETERMINE	Part of the development has taken place on highway land owned by Central Bedfordshire Council
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

The application site consists of an end of terraced property located on a main road which acts as the boundary between the towns of Dunstable and Luton. The site is flanked to the north by 195 Poynters Road, to the south by 191 Poynters Road and to the rear by an access to the rear gardens and garages of the properties on Poynters Road. The streetscene is dominated by terraced dwellings with a high percentage of properties providing off-road parking.

The Application:

Permission is sought for the construction of a vehicular access to the front garden of the dwellinghouse and for the laying of hardstanding in the form of block paving to provide off-road parking facilities. The proposed hardstanding would measure 4.8 metres in width and 5.3 metres in length. Some planting will be retained. The drop kerb would measure 4.8 metres in width however details of the vision splays have not been provided.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 (Delivering Sustainable Development)
PPG13 (Transport)

Regional Spatial Strategy

East of England Plan (May 2008)

ENV7 (Quality in the Built Environment)
SS1 (Achieving Sustainable Development)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

None

Bedfordshire Structure Plan 2011

None

South Bedfordshire Local Plan Review Policies

BE8 (Design Considerations)

T10 (Parking)

Planning History

None

Representations:

(Parish & Neighbours)

Dunstable Town Council No objections.

Neighbours None.

Consultations/Publicity responses

CBC Highways Officer No objection, conditions relating to vision splays and surfacing recommended.

Determining Issues

The main considerations of the application are:

1. Highway Safety Considerations
2. Design Principles

Considerations

1. Highway Safety Considerations

The Highways Officer has no objection to the construction of the vehicular access, however in the interest of highway safety the Officer has recommended that details of the visibility splays are submitted and approved in writing before works can commence, to ensure safe transit of the vehicles to and from the busy highway.

The proposed hardstanding would provide for the parking of 2 motor vehicles which complies with the Councils Parking Standards for a dwellinghouse of this size. The proposal would provide ample parking on-site, reducing on-road parking and diminishing highway safety concerns.

2. Design Principles

The hardstanding proposed would be blockpaving, similar to that on properties within the locality. Therefore in design terms, the choice of material will harmonise with the existing dwellinghouse and properties within the area.

It has been suggested on the plans that the drainage solution will be to construct the block paving to provide gaps and a sand membrane which the water can soak into. This is all only possible dependent on the construction methods and on the type of block paving to be used. Therefore further details of the drainage solution will be required before the works can commence and this can be done by condition.

Reasons for Granting

The drop kerb & driveway by virtue of its design and scale compliments and harmonises with the character of the locality as required by Policy BE8 of the South Bedfordshire Local Plan Review 2004. Whilst there are concerns in relation to the surface water drainage, we consider these issues can be addressed by condition.

Recommendation

That Planning Permission be GRANTED subject to the following:

- 1 The development shall begin not later than three years from the date of this permission.
REASON: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 **Within 30 days of the date of this permission, details of the method of surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. The means of surface water drainage shall be fully implemented in accordance with the approved details before the hardstanding is first used.**
REASON: To ensure that adequate provision is made for surface water drainage.
- 3 **Development shall not begin until details of the junction of the proposed vehicular access with the highway have been approved by the Local Planning Authority and no building 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.
- 4 Before the access is first brought into use a triangular vision splay shall be provided on each side of the new access and shall measure 1.8m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 1.8m measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway 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 which is likely to use it .
- 5 Before the hardstanding is first used, it shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
REASON: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.
- 6 This permission relates only to the details shown on the Site Location Plan received on 18/08/09 and Block Plan and Drawing No. 1001-PL-010 received on 07/08/09 or to any subsequent appropriately endorsed revised

plan.

REASON: To identify the approved plans and to avoid doubt.

Notes to Applicant

1. In accordance with Article 22 of the Town & Country Planning (General Development Procedure) Order 1995 (as Amended), the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the Regional Spatial Strategy for the East of England (the East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy), Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review and material considerations do not indicate otherwise. The policies which refer are as follows:

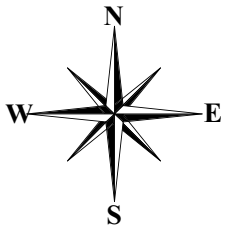
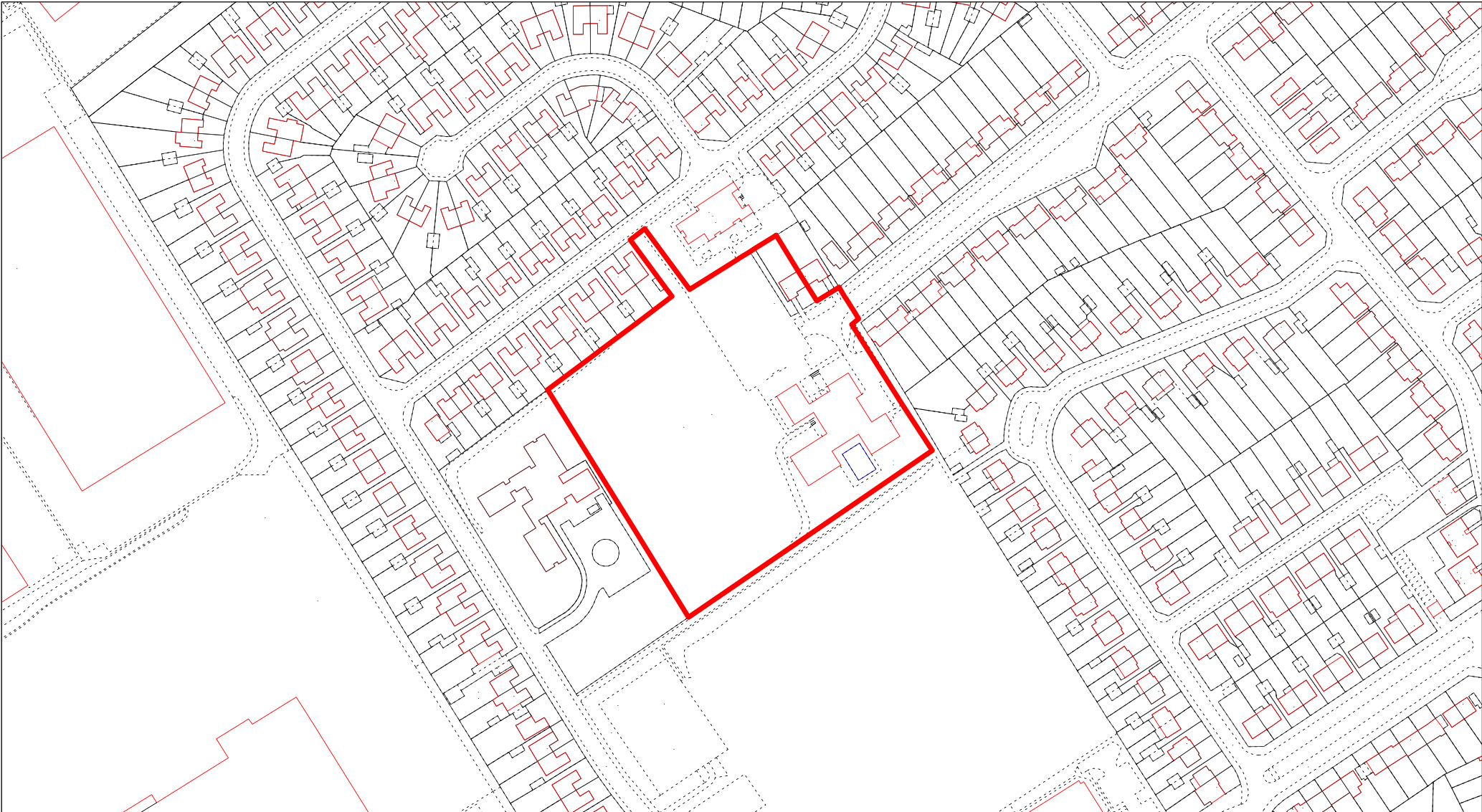
**Regional Spatial Strategy
East of England Plan (May 2008)**
ENV7 (Quality of the Built Environment)
SS1 (Achieving Sustainable Development)

South Bedfordshire Local Plan Review
BE8 (Design Considerations)
T10 (Parking)

2. In accordance with Article 22 of the Town and Country Planning (General Development Procedure) Order 1995 (as Amended), the reason for any condition above relates to the Policies as referred to in the Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire Local Plan Review (SBLPR).
3. 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.
4. The applicant is advised that no works associated with the construction of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Highway Engineer, Central Bedfordshire Council, PO Box 1395, Bedford, MK42 5AN. The applicant is also advised that if any of the works associated with the construction of vehicular access affects or requires the removal and/or relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

DECISION

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Central Bedfordshire Council
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Date: 06:October:2009

Map Sheet No

Scale: 1:2500

CASE NO.

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SCHEDULE C

APPLICATION NUMBER	CB/09/05647/FULL
LOCATION	Hadrian Lower School, Hadrian Avenue, Dunstable, LU5 4SR
PROPOSAL	Erection of single storey extension with canopy to increase size of existing classrooms and provision of landscaping to play area.
PARISH	Dunstable
WARD	Icknield
WARD COUNCILLORS	Cllr John Kane & Cllr David McVicar
CASE OFFICER	Gill Claxton
DATE REGISTERED	26 August 2009
EXPIRY DATE	21 October 2009
APPLICANT	2C Design Consultants
AGENT	2C Design Consultants
REASON FOR COMMITTEE TO DETERMINE	The land is owned by Central Bedfordshire Council and there is an unresolved objection from a third party.
RECOMMENDED DECISION	Grant Planning Permission

Site Location:

The application site lies on the south western side of Hadrian Avenue and comprises a single and two storey school building in the south eastern corner of the site with hard surfaced play ground area to the north and playing fields to the west. The school site is enclosed by 1.8m high palisade fencing.

Residential properties in Hadrian Avenue and Carterweys abut the north-eastern boundary; the Willow Nursery School and dwellings in Goldstone Crescent adjoin the north western boundary; Linsell House and grounds (a residential care home) lies to the south west while Ridgeway Avenue Recreation Ground is situated to the south east.

The Application:

Planning permission is sought for the erection of a single storey extension on the south eastern elevation of the building to enlarge two of the existing classrooms, with a fixed canopy attached to the extended classrooms and a new path with landscaped area to the south east of this.

The proposed single storey extension would measure 16m wide by 2m deep to a maximum height of 3.2m. The canopy/shade would measure 17m wide by 3m deep.

In support of the application it is stated that the school wishes to expand the current foundation and Year 1 classrooms and to create an external, shaded play and teaching area.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPS1 - Delivering Sustainable Development

Regional Spatial Strategy

East of England Plan (May 2008)

SS1 - Achieving Sustainable Development

ENV7 - Quality in the Built Environment

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

South Bedfordshire Local Plan Review

BE8 - Design Considerations

Planning History

BC/CC/2007/8	Permission granted for the creation of a disabled parking space
SB/TP/06/1444	Permission for rear conservatory
SB/TP/04/0067	Permission for replacement of boundary fence with new palisade fence
BC/CC/2001/42	Permission for two storey classroom extension and re-siting of temporary classroom
BC/CC/2001/0014	Permission for replacement 1.8m fencing

Representations:

(Parish & Neighbours)

Dunstable Town Council	No objection.
Occupier of 99 Hadrian Avenue	Objection. <ul style="list-style-type: none">• Proposed developments are neither desirable nor necessary as they should not be required to accommodate the existing pupil numbers.• Developments must be part of plans to increase the pupil intake.• This will increase traffic and noise nuisance to local residents. This is already an issue for which complaints have previously been made to the school on a number of occasions.• There is also noise and disturbance from the constant clanging of school gates. The school states that there are no funds available to address this, but there are funds for extensions and landscaping.• Notification letters have only been sent to the property immediately adjacent to the school. As the disruption would be more widespread properties as far as the junctions with Ridgeway Avenue and Duncombe Drive should have also been notified as these will be affected by construction traffic and increased parents/pupils.

- Lack of widespread neighbour notification is just a way of avoiding too many potential complaints.

Consultations/Publicity responses

Education No objection.

Determining Issues

The main considerations in the determination of the application are:

1. Principle of development
2. Design & external appearance considerations
3. Impact on amenity of neighbouring properties
4. Other matters

Considerations

1. Principle of development

The principle of the development is acceptable in this location. No specific Local Plan land use allocations are applicable to this location. The site does not lie within a designated Conservation Area or Area of Special Character. The school building is not Statutorily Listed.

2. Design and External Appearance considerations

The materials of construction would comprise brick and block for the walls with a flat roof construction for the roof, which would match that of the existing building. The fixed shade would be made from GRP (glass reinforced plastic). The existing paved courtyard currently situated outside the classrooms would be removed and replaced with a redesigned concourse with grass. There would be additional landscaping between the new rear concourse and the rear perimeter fencing.

The proposals would have some limited visual impact from the adjacent Ridgeway Avenue Recreation Ground but the single storey nature of the extension and canopy and the accosted landscaping would mean that the development would not appear visually intrusive.

It is considered that the design and external appearance of the extension and other associated works would be in keeping with the external appearance of the existing school building. There would be no adverse visual impact on the character and appearance of the school site and locality generally.

It is recommended that conditions be imposed to secure details of a landscaping scheme and the paving for the new concourse area in the interests of visual amenity.

3. Impact on amenity of neighbouring properties

The closest residential properties to the proposed works are situated at 101 Hadrian Avenue and 45 - 49 Carterweys. These properties are separated from the development by the existing school buildings and the swimming pool. There would be only limited views of the proposals and due to the distances involved, in excess of 35m from the rear garden boundaries, there would be no loss of

amenity in terms of loss of sunlight or daylight, privacy or overbearing effect. Similarly, the residents of Linsell House and occupiers in Goldstone Crescent would not be adversely affected by the proposals due to the distances involved.

The concerns of the occupier of No. 99 Hadrian Avenue are noted. The Design and Access Statement submitted with the application confirms that the proposals are not intended as part of an expansion of pupil numbers but to improve the teaching and play facilities for children in Reception and Year 1 classes to provide a 'wet floor' area within the classrooms and a shaded/covered external play area. The proposed extension would comprise the width of the existing classrooms, 17.2m by just 2.0m deep and is therefore considered to be modest in size and scale.

It is acknowledged that there is traffic congestion and noise in the vicinity of the school site at morning drop-off and afternoon collection. Congestion and noise at school drop off and collection is an inevitable feature of the area surrounding schools, is of relatively short duration and is not of itself a reason to withhold planning permission.

4. **Other matters**

The application was publicised by the direct notification of those properties having a common boundary with the school site and the display of a site notice. Additional neighbours close to the main school entrance on Hadrian Avenue were also notified. While this did not include all properties down to the junctions with Duncombe Drive and Ridgeway Avenue as suggested by the objector, it did exceed the statutory requirements for neighbour notification and encompassed those thought most likely to be affected by the development. It is considered that this is an appropriate level of publicity given the small scale nature of the proposals.

Reasons for Granting

The proposed development complies with national guidance and Policy BE8 of the South Bedfordshire Local Plan Review in respect of the visual impact of the siting, design and external appearance of the development on the character and appearance of the locality generally and the amenity of neighbouring premises.

Recommendation

That planning permission be GRANTED subject to the following:

- 1 The development shall begin not later than three years from the date of this permission.
REASON: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The external finish of the walls and roofing materials to be used for the extension shall match that of the existing building as closely as possible.
REASON: To ensure that the development is in keeping with the existing building.
(Policy BE8, S.B.L.P.R).
- 3 **Before development begins and notwithstanding the details submitted with the application, details of the materials to be used for the new**

external paved concourse shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

REASON: To control the appearance of the development in the interests of the visual amenity of the locality.

(Policy BE8, S.B.L.P.R).

- 4 **Before development begins, a landscaping scheme to include any hard surfaces and earth mounding shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained until satisfactorily established.**
REASON: To ensure a satisfactory standard of landscaping.
(Policy BE8, S.B.L.P.R).
- 5 This permission relates only to the details shown on Drawing Nos 2CD00682LP and 2CD00682PP received 05/08/09 or to any subsequent appropriately endorsed revised plan.
REASON: To identify the approved drawings and to avoid doubt.

Notes to Applicant

1. In accordance with Article 22 of the Town & Country Planning (General Development Procedure) Order 1995 (as Amended), the Council hereby certify that the proposal as hereby approved conforms with the relevant policies of the Development Plan comprising of the Regional Spatial Strategy for the East of England (the East of England Plan and the Milton Keynes and South Midlands Sub-Regional Strategy), Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review and material considerations do not indicate otherwise. The policies which refer are as follows:

Regional Spatial Strategy

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SS1 - Achieving Sustainable Development

ENV7 - Quality in the Built Environment

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South Bedfordshire Local Plan Review

BE8 - Design Considerations

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- 3. 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.

DECISION

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