

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



please ask for Martha Clampitt
direct line 0300 300 4032
date 1 September 2011

NOTICE OF MEETING

DEVELOPMENT MANAGEMENT COMMITTEE

Date & Time

Wednesday, 14 September 2011 2.00 p.m.

Venue at

Council Chamber, Priory House, Monks Walk, Shefford

Richard Carr
Chief Executive

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

Cllrs A Shadbolt (Chairman), P F Vickers (Vice-Chairman), P N Aldis, A R Bastable, R D Berry, D Bowater, A D Brown, Mrs C F Chapman MBE, Mrs S Clark, I Dalgarno, Mrs R J Drinkwater, Mrs R B Gammons, K Janes, D Jones, Ms C Maudlin, T Nicols, I Shingler and J N Young

[Named Substitutes:

L Birt, P A Duckett, C C Gomm, R W Johnstone, K C Matthews, J Murray, B Saunders, B J Spurr, N Warren and P Williams]

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 17 August 2011.

(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.

REPORT

Item	Subject	Page Nos.
6	Planning Enforcement Cases Where Formal Action Has Been Taken	* 5 - 10

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.

Planning and Related Applications

To consider the planning applications contained in the following schedules:

Schedule B - Applications recommended for Approval

Item	Subject	Page Nos.
7	Planning Application No. CB/11/01546/FULL Address : Market Garden Nurseries, 64 High Road, Beeston, Sandy Change of use from nursery / horticultural site to commercial timber yard. Applicant : Bartram Properties Ltd	* 11 - 20
8	Planning Application No. CB/11/02500/FULL Address : The Mary Bassett Lower School, Bassett Road, Leighton Buzzard Change use of Caretaker's Bungalow to host existing before and after school care, parent support groups, 1:1 therapy sessions and local child/adult social care meetings. Applicant : Mary Bassett Lower School	* 21 - 46
9	Planning Application No. CB/11/02050/FULL Address : The Mary Bassett Lower School, Bassett Road, Leighton Buzzard First floor extension over existing building to form cloakroom/toilets. Applicant : Mary Bassett Lower School	* 47 - 70
10	Planning Application No. CB/11/02184/FULL Address : 34 Mill Road, Cranfield, Bedford Erection of 1 no. 3 bedroom house and 1 no 4 bedroom house to rear of 34 Mill Road Cranfield. Conversion of no. 34 Mill Road into 2 no 1 bedroom apartments. Applicant : Mr B Jones	* 71 - 84

11 **Planning Application No. CB/11/01842/VOC** * 85 - 94

Address : Whistlebrook Stud, Sewell Lane, Sewell,
Dunstable

Variation of Condition: Variation of condition
4 to enable the additional D2 use, of dog
agility training.

Applicant : Miss S Cook

Schedule C - Any other Applications
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Item	Subject	Page Nos.
12	Planning Application No. CM/11/01693/FULL	* 95 - 102

Address : Fairfield Park Lower School, Dickens
Boulevard, Stotfold, Hitchin

Erection of two canopies to provide covered
hard play area to two classrooms on the west
elevation of the main school building.

Applicant : Fairfield Park Lower School

13	Wrest Park Estate, Wrest Park, Silsoe	* 103 - 110
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To receive a report to confirm Article 4 direction at Wrest
Park Estate, Silsoe.

14	Henlow Village Green Application	* 111 - 176
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To receive a report to consider a village green application.

15	Site Inspection Appointment(s)	*
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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 12 October 2011 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.

Agenda Item:

Meeting: Development Management Committee

Date: 14th September 2011

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: 0300 300 4369)

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.
- (d)** 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 0300 300 4369.

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 & South)

Planning Enforcement formal action (DM Committee 14th September 2011)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
1	CB/ENC/09/1304	Land To The Rear Of 153, Biggleswade Road, Upper Caldecote	Unauthorised buildings and structures on agricultural land.	13-Apr-10	11-May-10	varied			Part complied , Buildings removed	Planning permission for paddock use & stables granted CB/10/03390/full. Not expedient to take further action. Case to be closed
2	CB/ENC/09/1355	2 Blackbird Street, Potton	Enforcement Notice, extension & alteration to roof & wall	13-Sep-10	11-Oct-10	12-Dec-10			Not complied	Evidence to Legal for further action. Legal has written to contravenor
3	CB/ENC/09/1378	Long Yard, Dunstable Road, Studham	Enforcement Notice - Residential use of barn	4-Jan-10	1-Feb-10	2-May-10				Planning application received, CB/10/00783. Await decision.
4	CB/ENC/10/0068	Land at The Haven, Castle Hill Road, Totternhoe, Dunstable	Enforcement Notice, use of land for the stationing of container and the storage of building materials	22-Jun-10	20-Jul-10	17-Aug-10	Appeal dismissed	3-May-11	Part complied , container removed, some materials remain	Site being monitored to assess for further action
5	CB/ENC/10/0147	Land at 45 Katherine Drive, Dunstable. LU5 4NP	Enforcement Notice Change of use for A1 retail and B8 storage and distribution in connection with a tyre replacement business.	23-Aug-11	20-Sep-11	20-Oct-11			Complied	Business has moved. Notice to remain in effect
6	CB/ENC/10/0189	Land adjacent to 17 The Causeway, Clophill Bedfordshire MK45 4RA	2 Enforcement Notices material change of use of the land to a caravan site and construction of hardstanding	10-Aug-11	08-Sep-11	07-Nov-11				Check compliance after 7/11/11
7	CB/ENC/11/0193	Land at 52 Clifton Road, Henlow SG16 6BL	Section 215 Unity Land Notice	21-Jul-11	21-Jul-11	18-Aug-11				Check compliance after 18/8/11
8	CB/ENC/10/0236	Land and buildings at 27 Maulden Road, Flitwick MK45 5BL	Enforcement Notice - change of use of the land from residential to mixed use for residential and business purposes	04-Feb-11	04-Mar-11	01-Apr-11	Appeal dismissed	15-Nov-11		Enforcement Notice upheld, compliance period extended. Check compliance after 15/11/11

Planning Enforcement formal action (DM Committee 14th September 2011)

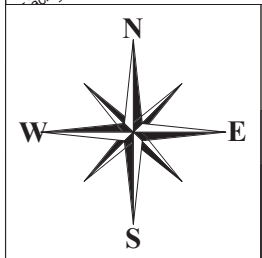
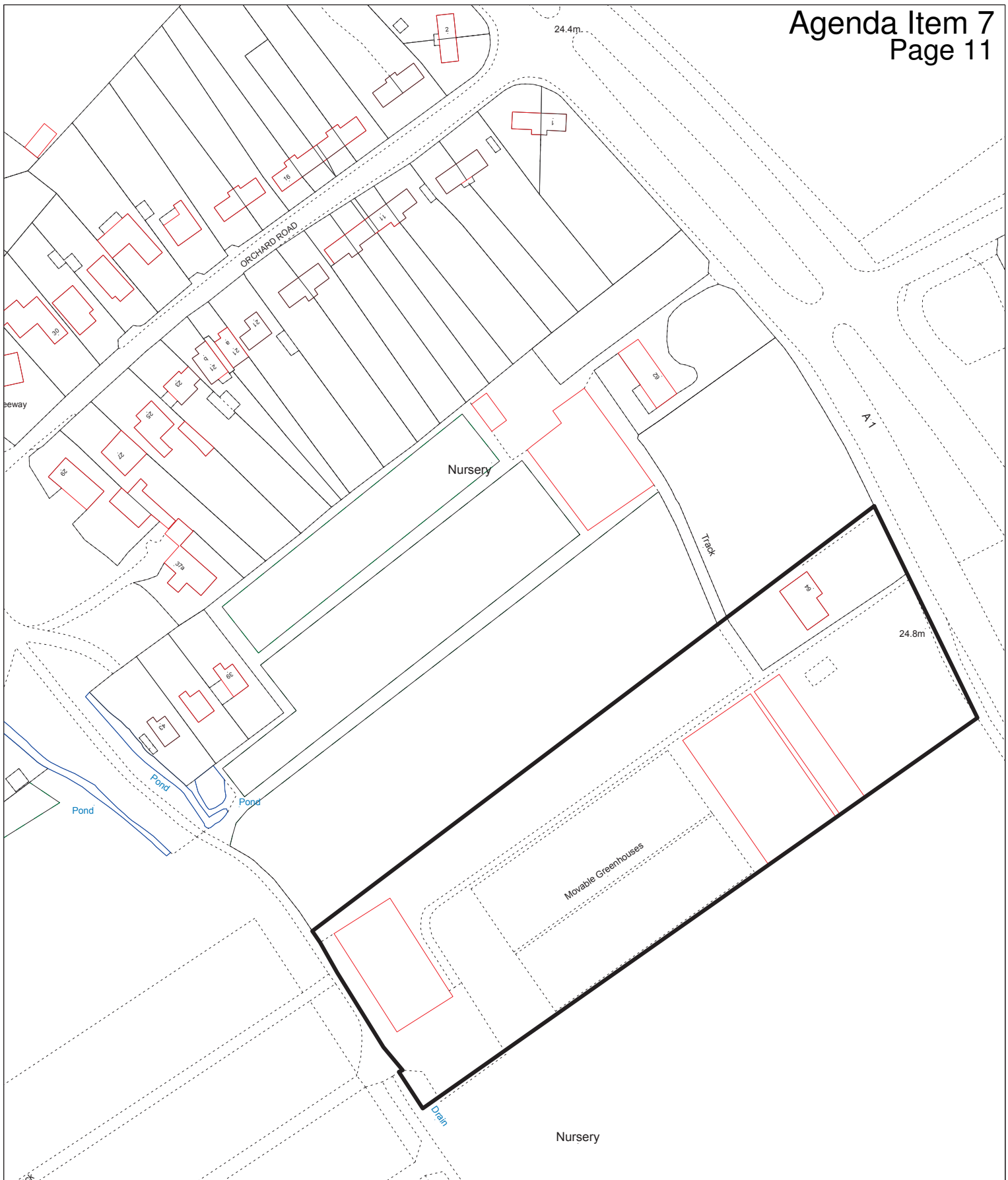
	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
9	CB/ENC/10/0382 Case closed	Land at St Marys House, Everton Road Sandy.SG192YQ	Enforcement Notice, change of use to mixed use for residential and business use for swimming lessons to persons not resident on the land.	13-Dec-10	10-Jan-11	14-Feb-11			Complied	Case closed but Notice remains in effect on the land
10	CB/ENC/10/0657	Land at 24 London Road, Sandy. SG19 1EX	Enforcement Notice - the erection of a timber climbing frame with raised platform	21-Jan-11	18-Feb-11	18-Mar-11			Not Complied	Evidence sent to Legal 10/8/11 for further action
11	CB/ENC/11/0060	Land at Oak Barn, Little Park Farm, Station Road, Ampthill, Bedford MK45 2RE	Enforcement Notice - construction of a detached building and an area of hardstanding	10-Mar-11	07-Apr-11		Appeal allowed 16/8/11			Enforcement Notice quashed. New Notice to be served
12	CB/ENC/11/0114	57 Shefford Road Clifton, Shefford SG17 5RQ	Breach of Condition 3 (parking for construction workers) attached to planning permission ref: CB/10/01791/FULL	20-Jul-11	20-Jul-11	19-Aug-11			Complied	To be monitored to ensure continued compliance with condition
13	MB/ENC/05/0178	Land at Maulden Garden Centre, Water End, Maulden	Enforcement Notice - change of use from nursery to garden centre, construction of 6 buildings, siting of mobile home.	9-Apr-09	9-May-09	9-Nov-09	Appeal received 7-May-09		Some details approved, further details received.	Appeal decision received. Enforcement Notice varied & part upheld. Planning permission granted (part) with conditions. Conditions being monitored
14	MB/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, compliance period extended		Part complied	1 cabin removed, 2nd cabin to be removed by 9/9/11
15	MB/ENC/07/0085	Woodview Nurseries, Shefford Rd, Meppershall	Mobile home & conservatory	21-Jan-08	19-Feb-08	19-Aug-08	Appeal dismissed, Notice upheld	3-May-10	Not complied. Court Hearing March 2011 - prosecution and fine	Evidence to Legal 28/6/11 to prepare 2nd prosecution for non compliance
16	MB/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			Part complied	Offender did not attend Court. Not to proceed with prosecution. Awaiting further planning application

Planning Enforcement formal action (DM Committee 14th September 2011)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
17	MB/ENC/08/0372	Dingley Dell, Toddington Road, Westoning, Bedford	Enforcement Notice. Unauthorised restaurant building and farm shop building	16-Jul-10	13-Aug-10	8-Oct-10			Planning permission granted	No further action at present, but check compliance with conditions
18	MB/ENC/09/0034	Land at Whitsundales Farm	2 Enforcement Notices - Change of use to storage, erection of hardstanding + Access	17-Dec-09	17-Jan-10	various up to 17-Apr-10	Appeal received 12/01/2010	To be agreed	Hearing held jointly with planning appeals 10th to 11th August 2010	Appeal decision 27/8/10. Appeals dismissed, Enforcement Notices upheld, compliance periods to be monitored up to Oct 2011
19	SB/ENC/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.	No further action at present, planning officer dealing.
20	SB/ENF/04/0002 SB/ENF/04/0003 SB/ENF/04/0004 SB/ENF/04/0005	Land at Stanbridge Road, Billington, Leighton Buzzard	Change of Use of land for stationing of caravans and mobile homes, & hardcore & fencing.	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 - Subject to Legal challenge
21	SB/ENF/04/0007 SB/ENF/04/0008	Land rear of Fancott Cottages, Luton Road, Toddington	Erection of building for residential purposes, laying of hardcore, mobile home & storage of materials	8-Sep-04	08-Oct-04	08-Jan-05	Appeal received 01 Nov 2004	No Change	Appeal withdrawn. SB/TP/05/1217 & S106 Agreement approved, 2 years for compliance.	New planning applications withdrawn.
22	SB/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. Not complied	Further evidence to Legal 30/9/11 to commence prosecution.
23	SB/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	Planning application received, CB/10/00783. Await decision.
24	SB/ENF/07/0006 SB/ENF/07/0007 SB/ENF/07/0008	Dunedin, Harlington Road, Toddington	Change of use to bedsit accommodation, erection of building & extensions, non compliance with Condition 2 of SB/TP/98/0838	10-Aug-07	12-Sep-07	4-Dec-07	27-Sep-07	9-Jan-09	Appeal dismissed, compliance extended to 9/1/09. Not complied	Further evidence sent to Legal April 2011 to commence prosecution. 1st Court Hearing adjourned to September 2011
25	CB/ENC/10/0449	Land at Dunedin, Harlington Road, Toddington	Enforcement Notice, change of use of land to the stationing of mobile homes, touring caravans and trailer tent	7-Sep-10	5-Oct-10	2-Nov-10			Not complied	Further evidence sent to Legal April 2011 to commence prosecution. 1st Court Hearing adjourned to September 2011

Planning Enforcement formal action (DM Committee 14th September 2011)

	ENFORCEMENT CASE NO.	LOCATION	BREACH	DATE ISSUED	EFFECTIVE DATE	COMPLIANCE DATE	APPEAL	NEW COMPLIANCE DATE	RESULT	NOTES/FURTHER ACTION
26	SB/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. Not complied.	Further Court Hearing due August 2011, adjourned for decision on LDC application
27	SB/PCN/08/0011 Case closed	Land at Woodside Eggs and Animal Farm, Woodside Road/Mancroft Road, Slip End, Luton	2 Enforcement Notices - construction of hardstanding & change of use to airport parking & business use.	30-Nov-09	11-Jan-10	Varied	Appeal dismissed	31-Dec-10	Appeal dismissed, Enforcement Notice upheld. Part complied use ceased, buildings removed	Planning Application CB/11/01632/full approved 1/8/11 for overflow parking. Case closed no further action
28	CB/ENC/10/0644	Land adjoining Woodside Farm and Wild Fowl Park, Mancroft Road, Aley Green, Luton. LU1 4DG	Enforcement Notice - change of use of land from residential garden to use as a car park for non-residential purposes.	18-Jan-11	15-Feb-11	22/02/11 and 22/03/11			Part complied	Use ceased, land to be restored



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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 25:August:2011
Grid Reference: 517271; 247884

Application No.
CB/11/01546/FULL

Scale: 1:1750

Market Garden Nurseries, 64 High Road, Beeston,
Sandy, SG19 1PB

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Item No. 7

APPLICATION NUMBER	CB/11/01546/FULL
LOCATION	Market Garden Nurseries, 64 High Road, Beeston, Sandy, SG19 1PB
PROPOSAL	Change of use from nursery/horticultural site to commercial timber yard (Sui Generis)
PARISH	Sandy
WARD	Northill
WARD COUNCILLORS	Cllr N Aldis, Cllr C Maudlin & Cllr N Sheppard
CASE OFFICER	Clare Golden
DATE REGISTERED	21 April 2011
EXPIRY DATE	16 June 2011
APPLICANT	Bartram Properties Ltd
AGENT	Chartered Building Surveyor
REASON FOR COMMITTEE TO DETERMINE	Cllr Aldis called to Committee on grounds of industrial use out of keeping with the rural nature of the area, inadequate access and loss of amenity to neighbours
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The application site is located at 64 High Road in Beeston, formerly known as Thelsid nursery. The site currently accommodates a bungalow adjacent to the A1, 2 no. large greenhouses, a detached Atcost building to the rear and a concrete access route through the site. There is direct access via the A1 and a single track access from Orchard Close, which also serves as footpath no. 40. The site is located in the open countryside.

The Application:

The application seeks permission for a change of use of the site from nursery/horticultural to commercial timber yard, (Sui Generis).

RELEVANT POLICIES:

National Policies (PPG & PPS)

- PPS1 Delivering Sustainable Development (2005)
- PPS 4 Planning for Sustainable Economic Growth (2009)
- PPS 7 Sustainable Development in Rural Areas (2004)
- PPG24 Planning and Noise (1994)

Regional Spatial Strategy

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

N/A

Central Bedfordshire Core Strategy and Development Management Policies 2009

Policies DM3 and Central Bedfordshire Adopted Core Strategy and Development Management Policies (2009)

Supplementary Planning Guidance

Design in Central Bedfordshire: A Guide for Development (2009)

Planning History

<p>MB/74/00153 MB/74/0153A</p>	<p>Full: Market garden and nurseries – Refused 04.07.1974 Full: Conversion of existing garage to bedroom and erection of new garage – Approved 04.10.1974</p>
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**Representations:
(Parish & Neighbours)**

<p>Sandy Town Council</p>	<p>Objects to the application on the following grounds:</p> <ul style="list-style-type: none"> • The proposed development was a change to industrial use of former agricultural land in a quiet village situated in open countryside; • The proposed development would result in a loss of amenity to near neighbours because of noise and dust pollution from the timber yard and furniture workshop; • The proposed development would result in damage to the local environment, there would be loss of habitat for local wildlife caused by the increased traffic on footpath 40 and likely encroachment onto the village green; • The increased vehicular traffic on Orchard Road, the village green road and footpath 40 would present a road safety hazard to children and pedestrians in the nearby area.
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<p>Adjacent Occupiers</p>	<p>Twelve objections 6 from three addresses and 3 from one address) received on the following grounds:</p> <ul style="list-style-type: none"> • Increase in traffic along Orchard Road and The green; • Noise, air and ground pollution; • Change of use to brownfield site gives potential for future development; • Should encourage further farming activity and not industrial; • Orchard Rd inadequate for HGV use; • Conflict of interest along footpath 40; • Inappropriate development, scale and type of activity out of character within this rural area; • Sets a precedent for industrial development; • Footpath 40 unsuitable for proposed increase in use
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Consultations/Publicity responses

Highways Agency	No objections subject to a condition requesting details of the required improvements to the access of the A1.
Highways Team	No objections subject to a condition relating to a scheme for signage which clearly indicates entry and access of vehicles to and from the site.
Public Protection Team	No objections subject to conditions noise levels and hours of use.
Ramblers Association	No objection subject to there being no obstruction of Sandy footpath 40 during or after development
Rights of Way Officer	No objection but suggested some form of traffic calming measure and the creation of a grass verge along the lane for pedestrians
Site Notice Posted	10.05.2011
Newspaper Advert	13.05.2011

Determining Issues

The main considerations of the application are;

1. Principle of Development
2. The effect on the character of the area
3. The impact that the proposal will have on the residential amenity of neighbouring properties
4. Any other implications of the proposal

Considerations

1. Principle of Development

The site is located adjacent to the built form of Beeston, which in itself does not benefit from any defined settlement envelope therefore is wholly within the open countryside.

Policy DM12 of the Central Bedfordshire Adopted Core Strategy and Development Management Policies (2009) deals with the re-use of redundant horticultural sites. The policy states that proposals for commercial development on horticultural sites in the countryside will be approved if they are considered acceptable in terms of their:

- Scale, layout and design in relation to their setting;
- Assimilation into the rural setting and impact on the surrounding countryside;
- Relationship with the road network and neighbouring rural settlements;
- Potential relationship on existing local retail facilities; and
- Provision of suitable vehicular and pedestrian access arrangements.

The preamble to the policy states:

'... it is considered that the change of use of horticultural sites ... to similar small-scale and low impact commercial uses may be appropriate; particularly in the context of the Core Strategy where emphasis has been placed on creating

additional employment opportunities across the district.'

The application under consideration is for the change of use of the land from its existing nursery/horticultural use to a commercial timber yard use. The criteria set out above are considered further within this report; however the change of use to commercial is considered acceptable in principle.

2. Effect on the Character and Appearance of the Area

The application is for the change of use of the land only but a site plan has been provided detailing the configuration of the site in the context of the new use. The 2 no. large glasshouses currently on site will be removed and although a Dutch barn will be constructed in the middle of the site, the remaining land will be turned to grass/meadow planting. It is proposed to create additional hardstanding throughout the site but this will not have a significant visual impact on the appearance of the area.

The boundary of the closest neighbouring residential property is some 60.0m away and given its siting on the A1, the character of the use in this location is not considered to be at odds with the appearance of the rural area.

Concern has been raised in respect of traffic including heavy vehicles using Footpath 40 and Orchard Road when exiting the site and the impact this would have on the character and amenity of The Green. It is acknowledged that the number of traffic movements on these roads is likely to increase with the new use and there will be a balance therefore between the site developing economically and the potential harm this may have on the character and appearance of the surrounding area. Documentation has been submitted as part of the application outlining the use of this access with the former use of the site for a number of heavy commercial transport vehicles associated with the original nursery/horticultural use of the site. Presently, there is a GVOL consent on the site for 5 vehicles, of which one is a 44 tonne articulated lorry and thus Footpath 40 and Orchard Road has historically been used by heavy vehicles for the movement of goods. Although the number of traffic movements on these roads is likely to increase, the agent has advised that HGV movements for the commercial timber use would likely be 2-3 per week with car movements of staff and trade persons more daily. This is not considered to be a significant amount of heavy traffic to detract from the character and appearance of The Green to an unacceptable degree.

Should permission be granted, it is recommended that a condition be imposed limiting the height of external storage to 4metres to preserve the visual amenity of the surrounding area.

It is therefore considered that the proposed use would not result in an unacceptable impact on the surrounding area to the detriment of its character or appearance. The proposal is therefore considered to be in accordance with Policies DM3 and DM12 of the Adopted Core Strategy, Development Management Policies.

3. Impact of the Proposal on the Residential Amenity of Neighbouring Properties

Due to the physical separation of the site from the nearest residential property, there would not be any significant impact on their residential amenity. However, no. 43 Orchard Road and the property known as Coslodge are adjacent to the access road to the rear of the site. This is a single tarmac road, which serves access to the site and is footpath no. 40. It also appears to serve access to land beyond and behind the application site. The proposed use of the site indicates that staff would use this route as access in and out of the site together with the timber deliveries exiting this direction only, accessing the site from the A1.

Footpath 40 and Orchard Road has historically been used by heavy vehicles for the movement of goods in relation to the former nursery/horticulture use of the site. It is acknowledged that the number of traffic movements on these roads is likely to increase with the new use, although as noted previously, the HGV movements for the commercial timber use would likely be 2-3 per week with car movements of staff and trade persons more daily.

It is therefore considered that the proposed use would not result in any additional impact on the residential amenity of neighbouring properties which would result in a greater impact than that which could occur with the current use.

4. Any Other Implications

Highways

The Highways Team were consulted on the proposal and have raised no objection to the proposed use subject to a scheme for signage within the site which would alert drivers leaving the site that they will be driving on Footpath 40 and that the speed limit is 20mph.

The Highways Agency was consulted on the proposal and support the use of Footpath 40 and Orchard Road for traffic leaving the site rather than using the A1, as the safest option in highway safety terms.

Public Protection

The Public Protection Team was consulted on the proposal and raised no objections in principle to the change of use, however concerns were raised over noise from the operation and thus conditions have been suggested limiting the noise levels to 5dBA below the existing background level for any plant, machinery or equipment, or 10dBA if there is a tonal/distinctive quality, and this would be at a point one metre away from the nearest residential dwelling. A condition relating to premises not being used except between 0730 hours and 1800 hours, Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays has also been recommended.

Rights of Way

The Rights of Way Officer was consulted on the proposal and raised no objections. They commented on the shared access to Beeston Green and whether any traffic calming measures can be considered. They also suggested a grass verge be created to allow pedestrians to draw off the land when vehicles are passing. Given that the lane and verges are not within the application and do not appear to be under the applicants ownership, the Council cannot attach conditions relating to these issues, although a condition can be imposed for a scheme for signage within the site which alerts drivers leaving the site that they are about to use a Public Footpath and that the speed limit is 20mph.

RECOMMENDATION

Grant Planning Permission for the application set out above 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 **Before development commences an advanced signing scheme which clearly indicates entry and access of vehicles to and from the site shall be submitted to and approved by the Local Planning authority and the approved details shall be implemented before the site is first brought into use as approved.**

Reason: In the interest of highway safety and for the avoidance of doubt in accordance with Policy DM3 of the Adopted Core Strategy Development Management Policies.

- 3 Noise resulting from the use of any plant, machinery or equipment shall not exceed a level of 5dBA below the existing background level (or 10dBA if there is a tonal/distinctive quality) when measured or calculated according to BS4142:1997, at a point one metre external to the nearest noise sensitive building.

Reason: To preserve the residential amenity of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy Development Management Policies and guidance in PPG24: Planning and Noise (1994).

- 4 There shall be no machinery used at the site, goods moved within the site or deliveries received or dispatched outside the hours of 0730 hours and 1800 hours Monday to Friday and at no time on Saturdays, Sundays, Bank or Public Holidays, without the prior agreement in writing of the Local Planning Authority.

Reason: To preserve the residential amenity of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy Development Management Policies.

- 5 No goods, waste or other materials shall be stored, stacked or deposited outside the building(s) to a height exceeding 4metres, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM3 of the Adopted Core Strategy Development Management Policies.

- 6 **No development pursuant to planning application number CB/11/01546/FULL shall commence unless and until the developer has submitted to and approved in writing by the local planning authority in consultation with the Highways Agency, the following design details relating to the required improvements to the access off the A1. The scheme shall generally conform to the arrangements shown in outline on RPS drawing: Job No: JKK6849 - Drg No: 100 - Rev B attached hereto.**

Scheme details shall include drawings and documents showing:

- i) how the improvement interfaces with the existing highway alignment and carriage way markings including lane destinations,**
- ii) full construction details relating to the highway improvement. This should include any modification to existing structures or proposes structures, with supporting analysis,**
- iii) full signing and lighting details where applicable,**
- iv) confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards),**
- v) an independent stage 2 Road Safety Audit (taking account of any stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes, and**

2. Development of the site using the existing access off the A1 trunk road will only be permitted on completion and approval of the access improvements.

Reason: To ensure that the A1 will continue to fulfil its purpose as part of a national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980, and for the safety of traffic on that road. In pursuance with this requirement, the Highways Agency must be satisfied with all the details of the proposed improvement to access off the A1 prior to the commencement of construction work.

- 7 This permission is solely for the change of use of the land and does not grant permission for any buildings indicated on the submitted plans.

Reason: For the avoidance of doubt.

- 8 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 11/BGT/01, 11/BGT/02, Design and Access Statement - submitted 21.04.11.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed change of use to a commercial timber yard would not have a negative impact on the character of the area or an adverse impact on the residential amenity of neighbouring properties and is acceptable in terms of highway safety. Therefore, by reason of its site, use and location, the proposal is in conformity with Policies DM3 and DM12 of the Core Strategy and Management Policies, November 2009; PPS1 Delivering Sustainable Development (2005), Planning for Sustainable Economic Growth (2009), PPS7 Sustainable Development in Rural Areas (2004), PPG24: Planning and Noise (1994), Regional policies in the East of England Plan (May 2008) and the Milton Keynes and South Midlands Sub-Regional Strategy (March 2005). It is further in conformity with the technical guidance Design in Central Bedfordshire, a Guide for Development, 2010.

Notes to Applicant

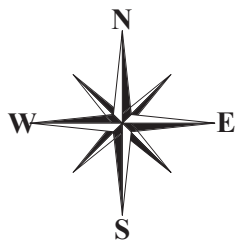
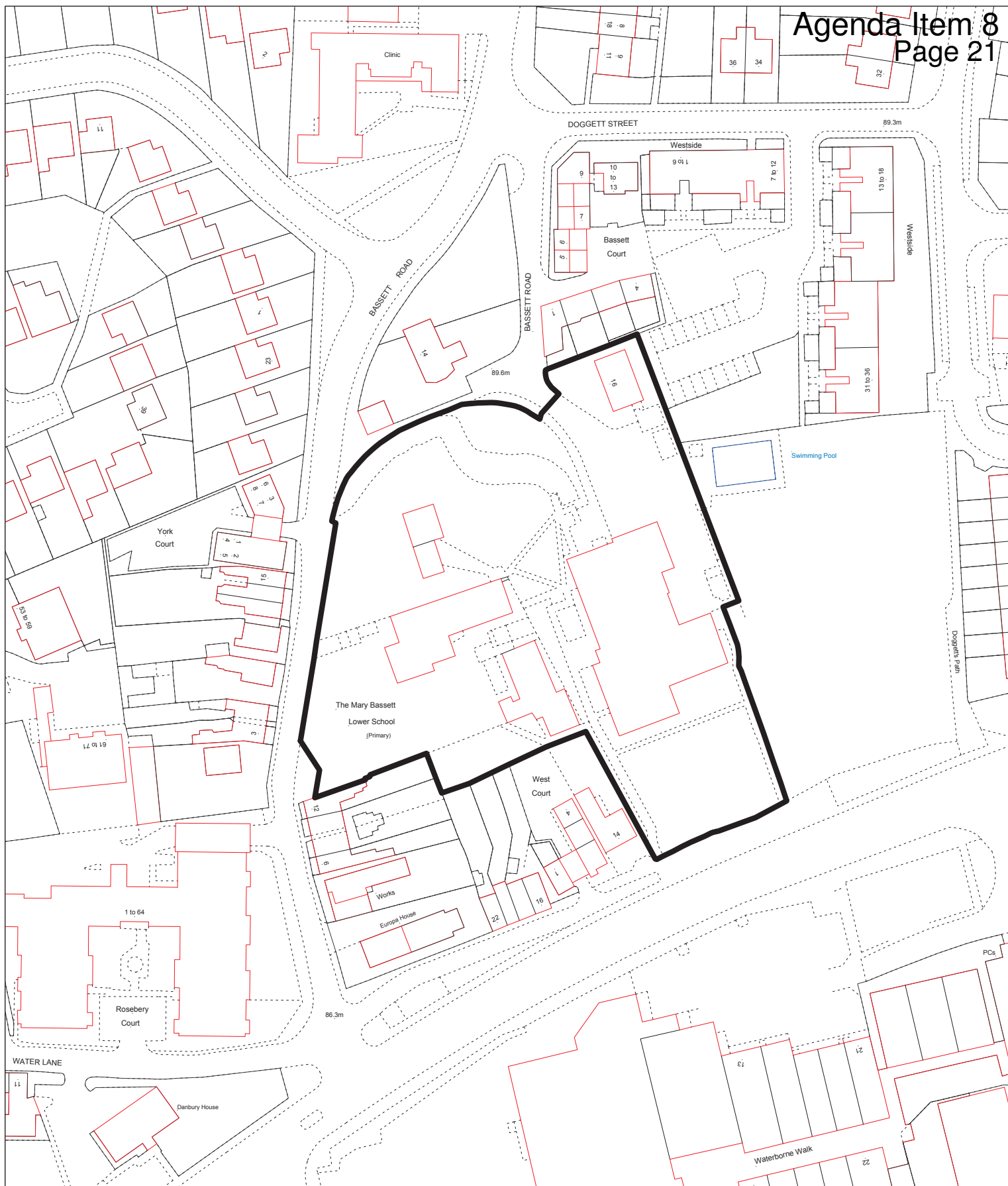
1. The applicants should be aware that the Public Footpath No. 40 running adjacent to the west boundary of the site needs to be open and available for use at all times.

Please contact the Rights of Way Officer at Central Bedfordshire Council on 0300 300 8000 for further information.

2. This permission relates solely to the use of the site as a commercial timber yard (Sui Generis) and does not grant planning permission for any new buildings which shall be the subject of future full planning applications.

DECISION

.....
.....



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Central Bedfordshire Council
Licence No. 100049029 (2009)

Date: 23:August:2011

Grid Reference: 491952; 225228

Application No.
CB/11/02500/FULL

Scale: 1:1250

The Mary Bassett Lower School, Bassett Road,
Leighton Buzzard, LU7 1AR

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Item No. 8

APPLICATION NUMBER	CB/11/02500/FULL
LOCATION	The Mary Bassett Lower School, Bassett Road, Leighton Buzzard, LU7 1AR
PROPOSAL	Change use of Caretaker's Bungalow to host existing before and after school care, parent support groups, 1:1 therapy sessions and local child/adult social care meetings.
PARISH	Leighton-Linlade
WARD	Leighton Buzzard North
WARD COUNCILLORS	Cllrs Johnstone, Shadbolt & Spurr
CASE OFFICER	Vicki Davies
DATE REGISTERED	14 July 2011
EXPIRY DATE	08 September 2011
APPLICANT	Mary Bassett Lower School
AGENT	BHD Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Ward Councillor Shadbolt having regard to public interest
RECOMMENDED DECISION	Full Application - Granted

Site Location:

Mary Bassett Lower School is located to the north of Leighton Buzzard town centre and has frontages to Leston Road, Bassett Road and Doggett Street. Vehicular access to the school site is gained via Doggett Street only. The school buildings are concentrated centrally on the site with a site agents bungalow and car parking to the north of the buildings. The school playing fields are located to the east of the buildings. There are residential properties on all sides of the school site at varying distances from the boundary.

The school site is within an area of archaeological interest but is outside of the Conservation Area and town centre boundary.

The Application:

The application seeks consent for change of use of the caretaker's bungalow to host existing before and after school care, parent support groups, 1:1 therapy sessions and local child/adult social care meetings.

A document provided by the headteacher of the school sets out how the bungalow would be used.

The revised usage is to provide a pastoral space for children and adults generally associated with the school. This will present as:

- Site for before and after school care (8.00am – 5.30pm.) This facility has been offered by the school for over ten years and is being relocated from another part of the site. There are no plans to alter the Ofsted agreed number of 15 children.
- Office for Parent Support Advisor (PSA) currently based at Linslade Lower School. The PSA role is a job share and one PSA currently spends a minimum of one morning in the school. Most of their work is off-site, in schools and people's homes.
- Staff Study room. This is currently located elsewhere in the school, but is better suited to the bungalow as it will be quieter.
- Family / child/ adult therapy room. This room is shared with the PSA. This area will be a quiet room for individual or small group therapy. This currently offered in school, but the existing space is not quiet or private. Occasionally the school hosts therapy meetings for other schools; it is our intention to continue to do this.
- Social Care Child-in-Need and Child Protection Meetings and Family Support Meetings. These are already hosted by the school in the Headteacher's office. There can be up to 10 professionals at these meetings, so they need to be hosted in a larger room. It is planned that the main area in the bungalow will suit these meetings.
- Hosting 'Human Givens' Therapist. Primarily for children and parents/carers at school. This may be offered to the broader local community. There is a safeguarding issue here so sessions will be very limited and access controlled.
- Parent training sessions, both academic and pastoral. These are currently hosted by the school, but the area used is becoming a classroom in September. They are usually during school time, although about five times a year they are delivered in the evening. They always finish before 9pm.
- With the change of use the school would like to explore offering the following:
 - Small group healthy eating training.
 - Small group intense parent support.
 - Coffee mornings for existing parents (currently hosted in school.)
 - Small group children's cookery lessons, before 5.00 pm.

The idea is that the bungalow becomes a resource for the school. The traffic should not be increased and most of the proposed usage is currently being delivered in other parts of the school. The bungalow will rarely be used after 5.30, and never after 9pm. The earliest access will be at 7.50am, to get the rooms ready. Almost all activities will be limited to term-time only.

RELEVANT POLICIES:

National Policies (PPM & PPS)

PPS1 - Delivering Sustainable Development
PPS5 - Planning for the Historic Environment

**Regional Spatial Strategy
East of England Plan (May 2008)**

ENV7 - Quality in the Built Environment

Bedfordshire Structure Plan 2011

No relevant policies

South Bedfordshire Local Plan Review Policies

BE8 - Design Considerations
H7 - Loss of Residential Accommodation

Supplementary Planning Guidance

Design in Central Bedfordshire: A Guide for Development

Planning History

Recent planning applications include:

CB/11/02050/FULL	First floor extension over existing building to form cloakroom/toilets. Under consideration
SB/08/00748/TP	Installation of flat roof mounted solar electric panels on the main roof. Approved 4/9/08
SB/94/0007/TP	Erection of replacement toilet block and new access ramp. Approved 12/8/94

**Representations:
(Parish & Neighbours)**

Leighton Linlade Town Council	No objection but request that consideration be given to neighbouring residents regarding noise.
Neighbours	One letter of objection has been received from a neighbouring resident, setting out objections to a number of developments and changes at the school over a number of years as well as to this application. The objection is set out below.

1. REQUEST FOR A FAIR, OPEN AND TRANSPARENT DECISION PROCESS

1.1 Request for a Committee decision In this objection letter I am raising some serious issues that I consider require a fair, open and transparent decision process i.e.

one that is made by the Development Management Committee on the basis of an officer's report that sets out the key facts and assesses these according to planning law and also the relevant corporate policies, strategies and procedures of the Council of which the planning function has to have due regard.

1.2 Key facts In addition to the issues set out in my specific objections below, there are two key issues of fact that need to be established and then addressed in order to ensure that this particular development and the other linked developments in the school site are sustainable development - in the interest of future generations as well as now.

The two key sets of facts relate to the expansion of the school and the adequacy of the vehicle and pedestrian access to the school. As I understand the position, the latter will not be considered relevant unless the former can be considered as part of the planning decision. The way out of this conundrum is actually quite simple.

a) The Statement of Community Involvement states that for applications from schools, the Local Education Authority is a statutory consultee. Therefore the Council's relevant schools services should be consulted. The alternative is to look at the report and minutes of the Council's Schools Admission Forum of 24 March 2010. I have also obtained, by means of a Freedom of Information request, copies of minutes of the Governing Body of the School. These were only provided in hard copy but I have extracted key extracts and I attach a copy of these to this letter. The School should be requested to confirm that these are a correct record.

In sum, the evidence available to the Planning Authority clearly shows that the school was granted an increase in its admissions numbers on the basis of a claim that it had sufficient accommodation. The school minutes and other documents show that this was not true and that the subsequent developments, including this application are all necessary in order to square the circle.

b) Having established the fact of school expansion and the relationship of the development to these, it is then necessary to consult with the Local Highways Authority having obtained a Transport Assessment and Travel Plan because the Council's Transport Policy - My Journey April 2011 states that a Travel Plan will be required to ensure that existing problems are not exacerbated by the increase in school numbers and that measures are in place to encourage safe and sustainable travel; and that the Travel Plan should be delivered with the Transport

Assessment and elements controlled by conditions. Such a consultation will be of interest to me because, to date, my requests for information have been repeatedly ignored and then evaded.

However, in the absence of a Transport Assessment and Travel Plan, after considerable effort, I have managed to obtain copies of the 2006 Travel Plan of the school and subsequent monitoring and review reports. The plan confirms that the access to the school is inadequate and that a safer and more pleasant pedestrian access had been identified as an alternative to the current access.

1.3 The opportunity

I wish to suggest that, by proceeding to seek to 'square the circle' by means of incremental developments presented in a way that seeks to avoid the issues of expansion and access, the school, the local education authority and the local highways authority and local planning authority are all missing the opportunity to achieve sustainable development in the interests of the children in the school and in the interests of current and future citizens.

This opportunity has been missed because of lack of consultation by the school on its development plans. I have sought a meeting with the Head of the Governing Body but he declined, even though I had already made a contribution to a resolution of some problems by pointing out the availability of the Baker Street car park.

If we also take into account the fact, again obtained via an FOIA request, that the additional children are coming from outside the catchment area of the school, from the east and south of the area, there is more than good cause to revisit the alternative access identified in the 2006 Travel Plan.

This would be sensible planning - for sustainable development and for a win-win situation for the school, parents/carers, the children, local residents and the community as a whole.

It seems to me that it is not in the interests of existing or future children in the school to proceed with accommodation that is less than adequate to meet current standards. The old school (for which the toilet block is needed to make its inserted floor legal for use as a classroom) has no outside play space and, apparently, no adequate access to the second floor (- see applicant's statement that without the development children would need to go outside to access toilets). This does not

conform with the Council's Accessibility Strategy - 'All of our new buildings and facilities will be designed to be fully accessible';

It seems to me that it was not in the interests of existing or future children to erect a new building on garden land (the log cabin) which is included in the definition of 'school playing field land'. With outside play space at a premium, more has been lost - due to a school expansion programme that was not planned and which was most certainly not transparent.

Furthermore, I point out that the garden attached to the bungalow is highly important for providing an acceptable environment for children, particularly those who come under rules for childcare rather than statutory education provision.

1.4 The decision framework

If the Council and the school are committed to proceeding with the expansion plans which have already been implemented in part already, then the impact of these needs to be mitigated and this can only be achieved if the expansion plans themselves are transparent and part of the planning decision process.

I submit that the issues that I have raised are key issues for the Development Control Committee. Unless they are resolved, there is no way of controlling other similar developments in other schools and the implications for the children, existing and future; for the ever increasing 'school run' traffic congestion problems; and for resolving the parking problems around many of our schools, as per recent letters to the local press; concerns raised with the Town Council and the latest agenda of the Council's Traffic Meeting.

It is not just the Mary Bassett School that is the issue here. It is all schools in areas like Leighton Buzzard facing disproportionate new development, including infill development. In the absence of coherent planning for this and then controlling it, the only option left is to use S106 funds from new developments to seek to address the problems raised by previous developments.

In sum, I consider that have identified a major and serious planning issue that needs to be addressed by elected Members through due democratic process

2. A SUMMARY OF KEY FACTS

2.1 Expansion of the school The school has been expanding for the past year in three ways:

- an increase in lower school admissions from 30 to 60 per year from September 2010 i.e 150 additional children by 2015;
- an increase in pre-school provision from 20 - 78 places during 2010;
- plans to increase in letting of school buildings for evening, weekend and holiday uses as well as additional daytime uses during term time.

2.2 Traffic and access issues arising from expansion

a) Vehicle and pedestrian traffic All this adds up to a massive increase in vehicle and pedestrian traffic to the school. This has doubled in the past year and will treble by 2015. The impact on traffic generation for the surrounding roads will be more than proportionate because the increase is due to demand from parents outside of the catchment area of the school for which there are no viable public transport links.

b) Access to the school site This includes the impact on narrow and otherwise inadequate access to the school site which is via the lane past my property. This access does not meet any of the key criteria in Design Statement 7 and is, quite simply, unsafe i.e. it should not be dual access for pedestrians and vehicle. It is also not adequate for emergency vehicles even when there are no other vehicles obstructing the lane or the limited turning space.

It is not just that dual use of the lane is unsafe but also that parents/carers allow very young, unaccompanied children run across my private courtyard land where cars are reversing and after which there is no footway to the school. Additionally, there is an area of school land outside the school vehicle access gates which is not controlled and which makes a nonsense of the no stopping traffic control markings.

On the issue of pedestrian safety, I arranged for the lane and the surrounding area to be inspected by an independent Highways expert on 10 August and will forward his report as soon as I receive it. In the meantime, his overall view is that current plans to make the lane and Bassett Road safer make no sense and that there are viable options to resolve the safety concerns.

Additionally, after nearly two years of raising queries and concerns, the Council has now admitted that the lane is not an adopted highway. The school has right of access

but the Council does not have the right to make changes in it because neither the footway outside Bassett Court nor the carriageway is adopted highway. Noting that the Council decided to register the name of the lane as Bassett Road in early 2011, this decision is also highly questionable.

3. THE STATUS OF MY COMMENTS

3. 1 My status as a stakeholder

I am a key stakeholder for this application because the location of the Caretaker's Bungalow and garden is directly behind my property and within 6 metres of it; because of a history of complaints concerning the bungalow site; and because of the amenity issues in respect of the vehicle and pedestrian access to the school, both of which are the subject of outstanding complaints to the Ombudsman and also the Council.

I am also a 65 year old pensioner and, as such, have a right to expect that my particular needs be taken into consideration as per PPS1 and also the Council's Equality and Diversity Scheme (June 2010) that includes the Planning function and cites Age Concern's findings that people over 65 are estimated to spend 80 per cent of their time in the home.

3.1 My key concerns as a stakeholder

My property is my retirement home and I have a right to enjoy it peacefully without regular and intrusive disturbance. N.B With the increase in part time pre-school and non-statutory nursery facilities, the number of drop off and collection times also increased during 2010.

During 2010 the level of nuisance and other problems significantly increased. The front windows of my cottage are approximately 8.5 metres from the junction of the private courtyard access to my property and the lane. This private access is used by parents/carers and other visitors to turn around, usually by reversing into it. Even if they do so at the entrance, this brings them about 6 metres from my home and this causes significant disturbance even with all doors and windows closed. Other problems, which have also significantly increased already are:

- noise nuisance and pollution due to illegal parking and turning by parents and carers; and from delivery and servicing vehicles which need to reverse down the lane;
- obstruction by parents/carers and by coaches which regularly park in the lane for 10-15 minutes with engine

running;

- worry about access by emergency services at the frequent times of obstruction;
- pollution from the vehicle traffic in a context of high walls surrounding the lane;
- trespass by vehicles and pedestrians.

I will show that the proposal to change use of the caretaker's bungalow will introduce nuisance at the back of my property as well so that there will be nowhere I can go in my property to be free of noise nuisance or the risk of noise disturbance.

Additionally, I am a keen amateur historian and place great value on the preservation of heritage assets. I have, to date, contributed original research findings to an understanding of the importance of these assets. This is relevant to all the recent and current developments in the school site as a letter from English Heritage, following a recent visit, confirms.

3.2 My status as an objector

As well as a resident affected by the proposals, I am a responsible citizen with a strong concern about the environment and a record of public service both in employment and as a community volunteer. I am also a parent and a grandmother and I have been horrified by the various dangers to very young children (2.5 to 8/9 years) attending the school. By vigilance and quick thinking, I have prevented one nasty, probably fatal accident and I have also nearly collided with a child when driving my car even though I was driving slowly.

It has been hard, if not impossible for me to get a hearing as a concerned citizen on issues for which I am also a stakeholder. Maybe it is unusual for someone to seek to find a solution to their own problems that is also not detrimental to others. I don't know the answer. All I do know is that, due to my background, I cannot approach a problem without considering it in the wider context and seeking to find a win-win situation for all concerned. This means joining up understandings and so seeking to find out about linked issues in order to understand the context.

The application for change of use of the bungalow arises because the Government has increased the autonomy of schools - in this case the right to opt out of property agency agreements with the Council for the management of the Council owned school sites. This has enabled schools to dispense with expensive property agency services and their caretakers, replacing these with part-

time Site Agents backed up by CCTV and security lights. The Mary Bassett School is not the only school to choose this option.

But, oh dear ... I now have a highly intrusive security light shining all night into my bedroom windows! Residents in Bassett Road have also been affected. How do I know? Because I asked them. In sum, like many of the other issues that I raise, it is not an issue that only affects me because I know that other schools are doing the same

3.3 Joining up the thinking

It is only possible to join up thinking and reconcile personal and community issues if all the understandings are available for this. Unfortunately, so much now is discussed and decided behind closed doors because these are not doors to the Council but internal Council doors to quasi-autonomous schools and private Highways contractors. What information can the Council provide and what is the province of the secondary organisations? There is no information available on this so it is a matter of trial and error.

3.4 Status of my specific objections Given this problem and given that there is so much information missing from the planning application to enable me to respond to it as I would wish, I will now proceed to respond to it as it is presented. In sum, in the absence of the necessary information to provide a full response, I can only take it at face value, filling in the gaps in information with assumptions where necessary.

One of the gaps is the absence of a location plan so I have obtained an up to date plan from Ordnance Survey and annotated it where it is not entirely up to date or otherwise correct.

4. SUMMARY OF THE APPLICATION

4.1 Proposed changed uses The application is for change of use from residential (caretaker's bungalow) to use for a range of specified purposes most of which are to be relocated from other parts of the school. I divide these uses into the following categories:

- a) Childcare relocated from other part of the school Out of School Care for 15 children starting at 8 a.m and ending at 5.30 p.m.
- b) Social Services relocated from other parts of the school Family/child/adult therapy room; Social Care Child in Need and Child Protection meetings and Family support meetings (up to 10 professionals; parent training sessions; intense parent support; 'Human Givens' therapist - 1:1

sessions .

- c) Other internal relocation Staff study room'; coffee mornings for parents.
- d) Social Services relocated from Linslade Office for Parent Support Adviser.
- e) Other possible future uses Healthy eating training; small group cookery sessions for children; extension of therapist service to 'broader local community'.

4.2 Inadequate information on use No existing or planned layout is shown for the building because no floor plans have been provided as per national validation guidelines for a 'change of use' application and no other information is provided as to which rooms have been identified for the various uses. No information is provided as to the frequency of the sessions and meetings, coffee mornings or other intermitted proposed uses.

4.3 Status of the uses I challenge whether the uses described above could be defined as 'operational development' because they are a relocation and not a development of current services, because they are not necessary to the core statutory education function of the school, and, apart from the Out of School Care, they are provided by others with the school generating income from lettings to these services. I note that a Design and Access Statement (DAS) is required for a change of use that does not involve operational development but a DAS has not been supplied with the application.

4.4 Other proposed changes The other changes described in the supporting document are that :

- a) Windows and doors Doors will be widened for disabled access and windows replaced with french doors/fire exit.
- b) Car park spaces 15 existing spaces are claimed with a plan to increase this to 18 parking spaces,
- c) Boundary An existing brick wall/fencing will be replaced by a wooden fence,

4.5 Inadequate/wrong information on other changes

a) Windows & doors No elevation plans have been provided to show where the french doors will be located; no information is provided about the windows which currently look to be single glazed; and linked to this no details are provided about sound proofing or energy conservation improvements. No reason is given why it is necessary to provide french doors for fire exit purposes. In the absence of this information, I will assume that the french doors will lead to the garden at the back of the bungalow and that there will be no double glazing or other sound proofing works.

b) Car park spaces No plan is shown of the location of the existing or proposed additional car parking spaces and no information is required on how these will be constructed. I note that, since the caretaker's bungalow was vacated, there has been parking on the grass area in front of the bungalow - see my location plan supplied. Therefore I assume that the grass area in front of the bungalow (see my location plan) is the planned location for these spaces i.e. directly behind the property of 1 Bassett Court.

The other current planning application from the school, submitted on 15 June, (02050) stated that there were 12 parking spaces. This has since been changed to show 0 parking spaces. The school now claims 15 existing parking spaces. However, in its 2008 planning application for solar panels, it stated that there were 12 parking spaces. The original 1965 planning permission for the school did not identify any parking spaces. Instead the area now used for parking was identified as 'turning space' and the bungalow was provided with a garage for the vehicle of the occupant.

There appears to be no need for additional parking spaces because all the majority of uses described in the application are for a relocation of these uses from other parts of the school. Having said this, given that the school is proposing additional parking spaces, so the vehicle access from the public highway to these spaces needs to be assessed as part of the planning decision.

c) Boundaries There is no current fencing surrounding the garden of the building, the boundaries of which are currently the back of garages on the adjacent Council site owned by Housing Services and the side of the garage attached to the bungalow. Other than this, the boundary is with cottages 1-4 Bassett Court and, behind numbers 1-3, it is constructed of random rubble greensand topped by thin slabs of greensand, with a brick extension to this at the back of No 4. The boundary wall at the back of my property has been in a dangerous condition since June 2010 and has been identified as an heritage asset by English Heritage, as per a recent letter of 2 August sent to the Council's Conservation Officer.

The boundary line shown in red on the site plan is wrong. The garden currently extends to the back of the garages of the Housing Services land and the area between these garages and the boundary line shown is owned by Housing Services. The area provides significant garden space for child and other activities associated with the proposed uses. I assume that there is no intention to

erect a fence to reinstate the actual boundary of the school site.

4.6 Erstwhile use of the bungalow as a residence The application states that the bungalow housed 3-5 adults with 3 cars with day and night traffic because two of the occupants worked shifts, with the garage used as a music studio for drums. I have only ever seen one occupant in the garden or otherwise when I went to speak to him (in the Spring of 2010) about the noise of drum playing from the front room of the bungalow nearest to 1 Bassett Court, with the windows of that room open. Up to 1 April, there was no parking on the grass in front of the bungalow. Other than the drumming nuisance which I manage to resolve, there has been no noise nuisance from the bungalow and certainly no night time traffic.

Unless the information supplied by the school can be verified, I consider that it should not be used for any planning decision. However, it does raise the question of the planned use of the garage given the claim that this was the location for the drumming sessions and within the context of no information as to the proposed location of the proposed additional parking spaces.

No information is provided as to why the bungalow cannot be let, instead, as a residential property.

4.7 Proximity of the proposed development to residential properties Other than the size of the bungalow -135 square metres (with the garage or not?), no dimensions are provided and the location plan only shows a corner of my cottage.

My location plan shows all the cottages with boundaries with the bungalow site and shows my cottage (coloured yellow). An extension to my property is not shown on the latest OS maps, the Council may be unaware that my cottage was extended in late 2008 by the addition of a conservatory. Additionally, the OS plan does not show that the path at the back of my garden and next to the boundary with the school is part of my property i.e. my boundary is the boundary with the garden of the bungalow and its side entrance.

The boundary is 8 metres from my living room and 6 metres from my conservatory/breakfast/reading room. The bungalow itself is approximately two metres from the boundary. My living room is double aspect with windows also in the front of my cottage. These windows are approximately 8 metres from No 1 Bassett Court and approximately 8 metres from the private entrance to the access to and from the private courtyard area in front of

my cottage, via the lane. During the periods of school drop off and pick up times, I am continuously disturbed not just by the noise of vehicles in the lane but also pedestrian traffic in the lane. The level of noise is affected by the existence of high walls of surrounding buildings and also the wall to 14 Bassett Court on the other side of the lane. At this and other times of disturbance that I detail below, my conservatory is the only quiet living room in my cottage, while my garden, due to the sideways build of cottage 1, is also much quieter than inside my cottage

4.8 Contradictions re the change of residential use

As the application has been presented, it appears to give 'wriggle room' within planning law for the school to evade any planning oversight on the issue of vehicle and pedestrian access to the school via the lane. However, to achieve this, it has identified uses which cannot be deemed to be 'operational development' so it needs to provide a full Design and Access Statement. At the same time, has provided no justification for the proposed change of use from a residential property. There are no factors that can be taken into account to balance this decision, most particularly employment generation because no additional employment is identified as linked to the development.

Other than the limited use of the bungalow for out of school childcare - before and after the school day and for a staff study area, the remaining proposed uses are lettings. Yet, given that the bungalow can be let for residential use, there is no good reason for agreeing a change of use that would involve loss of a residential property in reference to retained policy H7 in the Local Development Plan. i.e 'Planning permission will not be given for development that would result in the loss of residential land or building or for redevelopment or change of use of residential accommodation for non-residential purposes where this would represent an unacceptable loss to housing stock'.

Additionally, noting that the location plan for the Committee report on CB/11/02050 shifts the boundaries of the school site to exclude the residential bungalow, this part of the site is clearly capable of being treated as a separate area and all that is necessary to establish this in fact, is to move the vehicle and pedestrian access gates to enable the bungalow to be sold as a residential property, with financial benefit to the Council.

4.9 Contradictions re the parking spaces If we take into account the expansion of the school, then additional parking spaces are clearly needed for the additional staff. Yet, again, this is not part of the application and the

proposed alternative uses do not require additional parking spaces because they are presented as relocations from within the school site, other than for one parent support adviser. However, because additional parking spaces are proposed, then the Local Planning Authority needs to consider the access issues and also require the school to provide a Travel Plan.

In sum, either the change of use of the bungalow is necessary to enable accommodation to be released for the expansion of the school, in which case this expansion needs to be acknowledged in the application, or it is merely as it claims, a proposal for relocating existing lettings and some sessional core functions, in which case it is not operational development. Both options require the issue of access via the lane to be included in the planning decision.

5. IMPACT ON MY RIGHT TO PEACEFUL ENJOYMENT OF MY PROPERTY

5.1 Amenity issues I already suffer major noise nuisance from the use of the lane as vehicle and pedestrian access to the school. I am disturbed in my home even with all the doors and windows closed. This nuisance has got worse as the school has expanded. The noise from pedestrians is now as bad as that from vehicles shunting, reversing, slamming doors, in car stereos of parked vehicles etc.

The number of times in the day of substantial nuisance have also increased due to the expansion of the pre-school facility from 20 to 78 last year with three sessions per day; and two sessions for the nursery facility. With the 'Fun Club' (out of school) facility, there are now 7 times of comings and goings for each school day (without the added nuisance of delivery and servicing vehicles). Of these, the 'Fun Club' times around 8 a.m. and 5.30 p.m. cause the least disturbance but now the school wants to locate this facility at the back of me!

It is quieter at the back of my home where I have a patio garden with seating area and spend much time in this garden during the summer months. In the winter, I spend much time in my conservatory. [I am retired, aged 65 years]. This is currently the quietest part of my home. It is also the closest to the boundary with the bungalow site.

In February this year the school wrote to all cottage owners proposing to remove the fence along the entire boundary. The Governing Body minutes indicate that the school wants, eventually, to use the back garden of the bungalow for parking as well.

I have suffered disturbance from the bungalow to date and this was major nuisance from the use of a full-size drum kit. The problem occurred in the Spring of 2010 months when the windows of the bungalow were open and the drum kit was being played by an open window at the front of the bungalow. I managed to get this nuisance stopped. This year, works to refurbish and possible alter the bungalow started in early June and have continued since, even though there is no planning permission for its use. I have been disturbed by loud talking by workmen within the bungalow, again because the windows were open.

More work has been underway since the application was submitted, with skips outside the bungalow. This work has also caused noise nuisance. It is not a planning matter but it underlines how I will never be able to 'mitigate' noise nuisance but choosing to go out to avoid it because I will never know when it will next occur.

Any provision for children requires an outside play space and this means that I face disturbance on a daily basis Winter and Summer. Noting that french doors are planned, family groups will also have access to the garden e.g. for smoking breaks or even outdoor sessions. I note, that for internal use, there is no mention of sound proofing, triple glazing etc. but anyway this will not help with use of the garden or when the windows are open.

I further point out that children throw things and, until recently, hula hoops and other play equipment has been littering shed roofs and high walls around the playground in front of the old school buildings.

I do not even now have the benefit of the tree and thick hedge that was next to the wall which acted as a buffer to sound from the bungalow site. Since these have been removed, the noise of maintenance work e.g. of grass cutting of the garden area is horrendously intrusive.

The loss of the hedge has also compromised the security of my property and that of my neighbours and also the garden of the bungalow because of ease of access over the garages in the adjoining Housing Services development. There has been a history of problems with children and youths on these roofs.

The only reasonable use of this site, in my opinion, is for the bungalow to be demolished and a single story building erected sideways to the boundary on the same building line, with windows only to the front i.e. facing south. This way, the building will buffer the sound of children/others using a re-sited garden space. This is the only win-win

solution that would enable the school to make suitable provision for the children without causing unacceptable detriment to me.

5.2 Note on reasonable expectations When I bought my property in January 2008 there was no indication that the lane was used as the main access to the school. My local search showed that it was not adopted; there was a front entrance in West Street with signs for the school; and the address of the school was the main Bassett Road.

Additionally, there were traffic controls marked in the lane. It is not a question of 'oh you live near a school and you must expect there will be problems'. I did find there were problems and tried to sort these out with the school. However, the problems were merely an intermitted annoyance and I did not pursue them when I failed to resolve them. It was not until 2010 that they escalated and it was not until 2011, in spite of all the concerns that I raised, that I discovered the cause. Nobody, not the school or the Council told me this. It has been only through my effort and persistence that I discovered the cause which have turned out to be causes - all to do with the expansion of various activities in the school.

There is no requirement placed on schools to engage with their immediate neighbours. It is not just a problem with the Mary Bassett School as the agenda of the next Traffic Meeting of the Council will confirm.

5.3 My recommendations

a) I am seeking a decision that achieves sustainable development, including for the children and for my quality of life and health and I ask the Committee to refuse the application on the grounds that it is not sustainable in any way and cannot be justified in reference to any material planning considerations.

b) I further recommend that the Mary Bassett School and the Schools Service consider my proposal for what would be a reasonable and so acceptable operational use of the bungalow site; and

c) That somebody in the Council reviews and controls the deployment of S106 funds for education and for transport to ensure that they are properly used for relevant planning purposes and also ensures this decision process transparent so that the community that is supposed to benefit can add value to the process. It is, after all, the local community that is best placed to have joined up understandings of the issues.

6. CONCLUSION

The issues that I am raising are about my amenity as a 65 year old pensioner with a right to reasonable peace and quiet in my own home free of worry about access by emergency services and about the safety of children using my land as a dangerous short cut to the school. However, they are, at the same time about whether or not a 'sticking plaster' piecemeal approach to providing school accommodation for children and, at the same time, a 'sticking plaster' highways approach to the inadequate vehicle and pedestrian access qualifies as sustainable development.

On the highways issues, I will forward the report of my independent Highways safety expert when I receive this. It will be at that stage that I will seek to add value to help to resolve the issues concerning vehicle and pedestrian access. In the meantime I wish to draw attention to two linked statements copied from the CBC website planning pages

A widely-used definition of 'sustainable development' is development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainable development is all about trying to live our lives in a way that doesn't damage the Earth for generations to come. It involves not only looking at the environmental costs, but also how to improve people's quality of life, their health and their economic situation.

Consultations/Publicity responses

Archaeology

The proposed development is in an area that has the potential to contain archaeological deposits relating to the origins and development of Leighton Buzzard in the Saxon and medieval periods. However, the nature of the development means that there will be no impact on archaeological deposits or on the significance of the heritage asset. Consequently the officer has no objection to this application on archaeological grounds.

Determining Issues

The main considerations of the application are:

1. Loss of Residential Accommodation
2. Impact on the character and appearance of the streetscene
3. Impact on the amenities of the neighbouring residents
4. Archaeology

5. Other Issues

Considerations

1. Loss Of Residential Accommodation

South Bedfordshire Local Plan policy H7 seeks to resist the loss of residential accommodation where it would lead to an unacceptable loss of housing stock. The existing dwelling is for the site agent to the school and therefore has not been in the general housing stock. In addition the dwelling is empty and is considered by the school not to be required for its previous use as a site agent's dwelling. Given the above circumstances and the needs of the school as set out in the supporting statement from the headteacher it is considered that on balance the proposal would be acceptable with regard to the requirements of policy H7.

2. Impact on the character and appearance of the streetscene

South Bedfordshire Local Plan policy BE8 states that new development, including extensions, should be appropriate in terms of size, scale, density, massing, orientation, materials and overall appearance and complement and harmonise with the local surroundings.

The caretaker's bungalow was given planning permission in the 1960's at the same time as the modern school buildings on the site. The bungalow is constructed from brick with a tiled roof.

The change of use does not have any significant impact on the external appearance of the building. The application proposes the installation of french doors to the rear of the property and some changes to the doors however these are not considered to have any adverse impact. The change of use may require internal alterations however these do not require planning permission.

The proposal would not have any adverse visual impact and therefore complies with policy BE8.

3. Impact on the amenities of the neighbouring residents

South Bedfordshire Local Plan policy BE8 states that new development should not have any unacceptable adverse impact on residential amenity or privacy.

The caretaker's bungalow is located in the north eastern corner of the school site adjacent to the vehicular access to the site.

The closest residential properties are 1-4 Bassett Court, the closest of which being around 9 metres to the north of the bungalow.

There would not be any adverse impact on the neighbouring residents by reason of loss of privacy or light as no changes would be made to the size, window location or boundary treatment of the building.

The use of the building would mainly be as office space and for meetings of varying sizes. The office and meeting uses would be confined within the building and would therefore have no impact in terms of disturbance on neighbouring residents. The objector does state that the outdoor space could be used as a smoking area which would lead to disturbance. Smoking is not

usually permitted on school sites however if the garden area was used for the purpose it is unlikely that the level of disturbance would be significantly more adverse than that experienced at present

The only use which would include groups of children would be the before and after school club. The before school club starts at 8am and the after school club finishes at 5.30pm. The number of children attending the club is limited by Ofsted to 15. It is anticipated that the club would be likely to use the garden of the bungalow as an outside space. The use of the garden may lead to some disturbance to neighbouring residents by reason of noise. It is however considered that the short amount of time that the garden could be used for and that it would only be on weekdays during term-time that any disturbance would not be sufficiently adverse to warrant refusal of planning permission. It is not considered that the use of the building for this purpose would lead to any significant adverse impact on the amenities of neighbouring residents by reason of noise or disturbance.

The objector comments that the increase in the use of the site would adversely effect her amenities due to the additional vehicles and pedestrians visiting the site. None of the activities which would take place within the bungalow require planning permission at the school site in their own right and indeed the majority are already taking place elsewhere on the site. The Local Planning Authority therefore has no control over the uses or the associated vehicle and pedestrian movements.

The objector also comments that works to the bungalow have been taking place since early June 2011 which has caused disturbance. The works are understood to be internal changes which do not require planning permission. Any disturbance from these works cannot be controlled by the planning system.

The objector considers that the only acceptable solution would be to demolish the bungalow and replace it with a single storey building erected sideways with south facing windows only. This may well be a suitable option, however the planning application under consideration is for the change of use of the existing bungalow.

Overall it is considered that the proposal would not have a significant adverse impact on the amenities of neighbouring residents.

4. Archaeology

The proposed development is within the historic core of the settlement of Leighton Buzzard. It is an archaeologically sensitive area and a locally identified heritage asset as defined by PPS 5 Planning for the Historic Environment.

The proposed development lies within the core of the medieval town of Leighton Buzzard (HER 16871) and this a locally identified heritage asset with archaeological interest, as defined by PPS5: *Planning for the Historic Environment*.

Leighton Buzzard was founded in the late Saxon period and re-planned early in the medieval period. Investigations conducted elsewhere within the town have indicated the presence of surviving sub-surface medieval archaeological deposits even in areas that have previously been subjected to disturbance

caused by earlier developments. However the nature of the proposed development is such that it is unlikely to have an impact upon any surviving archaeological deposits or the significance of the Leighton Buzzard medieval town heritage asset. Consequently the Archaeology officer has no objection to this application on archaeological grounds.

5. Other Issues

A number of other issues were raised by the objector which are dealt with below.

The objector raises concern that incremental additions to the school have resulted in the doubling of the number of children attending the site in the past year and the resulting issues this has raised. This may be true however it is not an issue to be addressed by this application.

The objector states that the vehicular and pedestrian traffic to the site has significantly increased and that the access to the school site is inadequate. Again this issues may well exist but cannot be addressed by this application for a change of use of a bungalow. Parking of vehicles on the highway and the manner in which people park and/or drive to the site is outside of the remit of the planning legislation.

The objector also raises concern that the site agent has been replaced with CCTV and security lighting and that the lighting shines into her bedroom windows. No lighting is proposed by this application and a condition could be added to restrict the installation of any external lighting to the bungalow.

The objector states that so much is discussed and decided behind doors it is hard for members of the public to get information. This has prevented the objector responding to the application as fully as she wished. It is not considered that there is any information missing from the planning application to enable the consideration of the application.

The objector comments that there is a discrepancy between plans submitted for different applications with regard to the number of parking spaces within the car park. As the application for change of use does not require any additional parking as it does not introduce any new uses to the site, this is not an issue considered as part of this application.

The objector comments that the existing boundary wall with her property, which is in poor condition, is a heritage asset and this application should not be determined without addressing this issue. The wall is not included within this application and no consideration of the wall can be given by this application.

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.

- 3 No external lighting shall be installed without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of neighbouring properties.
(Policy BE8, S.B.L.P.R).

- 4 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan, number PL-002.2.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposal would not detrimentally impact upon the character and appearance of the streetscene nor would there be any significant adverse impact on the amenities of neighbouring residents. The proposal would not have any impact on archaeological remains and in the circumstances of the case put forward for the needs of the school does not represent an unacceptable loss of residential accommodation. The scheme therefore, is in conformity with Planning Policy Statement 1 and Planning Policy Statement 5 and South Bedfordshire Local Plan First Review policy BE8 and H7. It is further in conformity with the Central Bedfordshire Supplementary Technical Guidance "Design in Central Bedfordshire, A Guide for Development".

Notes to Applicant

1. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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:

East of England Plan (May 2008)

Bedfordshire Structure Plan 2011

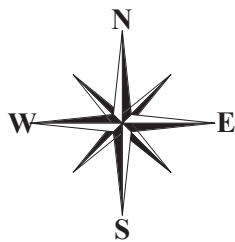
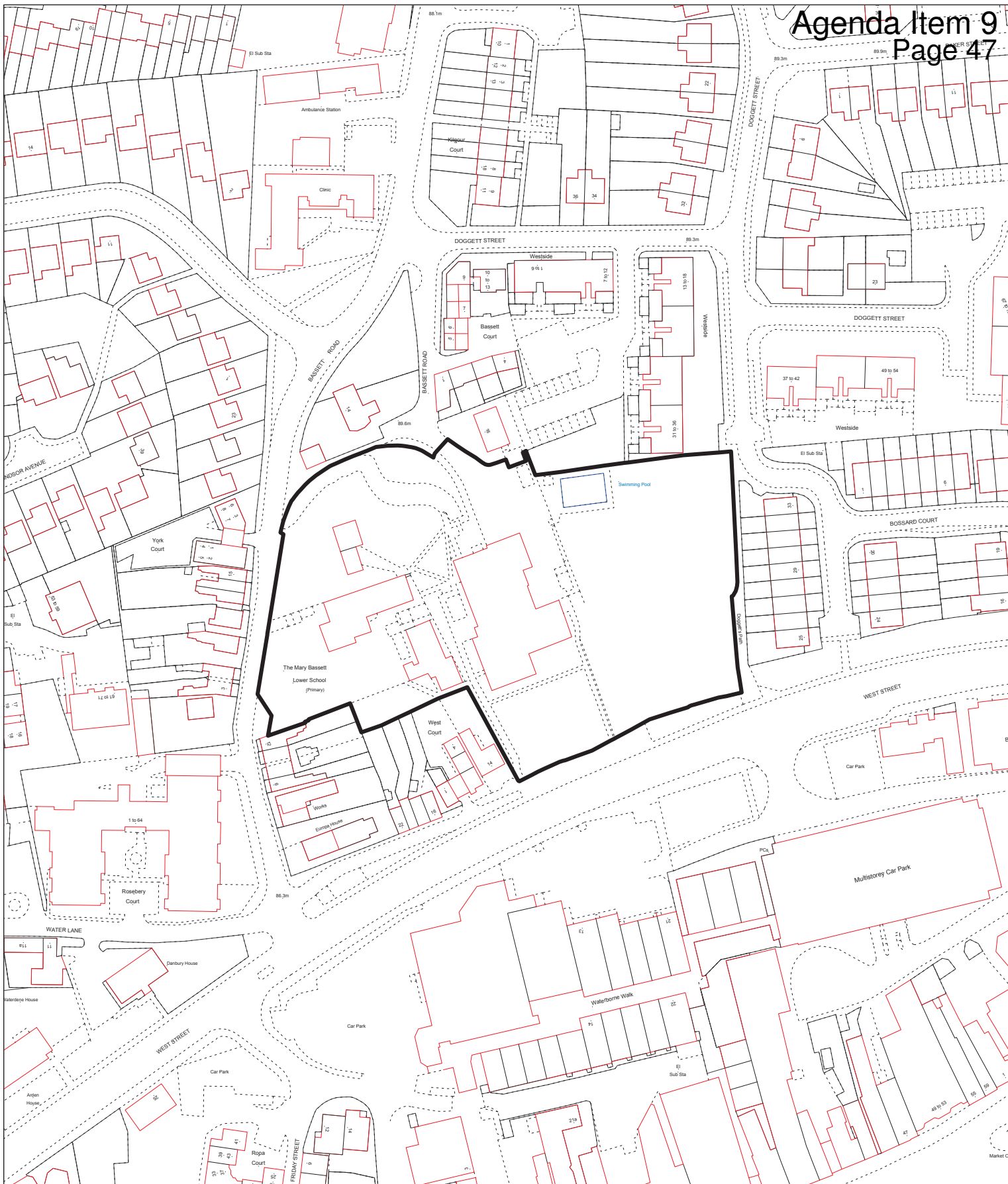
South Bedfordshire Local Plan Review

2. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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.

DECISION

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Central Bedfordshire Council
Licence No. 100049029 (2009)

Date: 01:August:2011

Grid Reference: 491982; 225226

Application No.
CB/11/02050/FULL

Scale: 1:1700

Mary Bassett Lower School, Bassett Road,
Leighton Buzzard LU7 1AR

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Item No. 9

APPLICATION NUMBER	CB/11/02050/FULL
LOCATION	The Mary Bassett Lower School, Bassett Road, Leighton Buzzard, LU7 1AR
PROPOSAL	First floor extension over existing building to form cloakroom/toilets
PARISH	Leighton-Linslade
WARD	Leighton Buzzard North
WARD COUNCILLORS	Cllrs Johnstone, Shadbolt & Spurr
CASE OFFICER	Vicki Davies
DATE REGISTERED	22 June 2011
EXPIRY DATE	17 August 2011
APPLICANT	Mary Bassett Lower School
AGENT	BHD Ltd
REASON FOR COMMITTEE TO DETERMINE	Called in by Ward Councillor Shadbolt having regard to public interest.
RECOMMENDED DECISION	Full Application - Granted

Site Location:

Mary Bassett Lower School is located to the north of Leighton Buzzard town centre and has frontages to Leston Road, Bassett Road and Doggett Street. Vehicular access to the school site is gained via Doggett Street only. The school buildings are concentrated centrally on the site with a site agents bungalow and car parking to the north of the buildings. The school playing fields are located to the east of the buildings. There are residential properties on all sides of the school site at varying distances from the boundary.

The school site is within an area of archaeological interest but is outside of the Conservation Area and town centre boundary.

The Application:

The application seeks consent for a first floor extension to one of the school buildings to provide cloakrooms and toilets. The proposed first floor extension would be constructed over an existing ground floor extension on the northern elevation of one of the original school buildings.

The extension would match the width and depth of the existing ground floor extension which measures approximately 10 metres wide by 4.8 metres deep. The extension would have a pitched, hipped roof to match the roof of the existing building. The extension would measure around 9 metres to the ridge line.

RELEVANT POLICIES:

National Policies (PPM & PPS)

PPS1 - Delivering Sustainable Development
PPS5 - Planning for the Historic Environment

**Regional Spatial Strategy
East of England Plan (May 2008)**

ENV7 - Quality in the Built Environment

Bedford shire Structure Plan 2011

No relevant policies

South Bedford shire Local Plan Review Policies

BE8 - Design Considerations

Supplementary Planning Guidance

Design in Central Bedford shire: A Guide for Development

Planning History

Recent planning applications include:

CB/11/02500/FULL	Change of use of caretaker's bungalow. Under consideration
SB/08/00748/TP	Installation of flat roof mounted solar electric panels on the main roof. Approved 4/9/08
SB/94/0007/TP	Erection of replacement toilet block and new access ramp. Approved 12/8/94

**Representations:
(Parish & Neighbours)**

Leighton Linlade Town Council
No objection.

Neighbours

One letter of objection has been received from a neighbouring resident, setting out objections to a number of developments and changes at the school over a number of years as well as to this application.

1. GENERAL

1.1 New objections based on new information These objections include new information and understandings that I have obtained since submitting my previous objections.

1.2 Status of my objections I am objecting to the application as a citizen with a strong sense of community responsibility and a concern about the need for sustainable development with particular reference to the physical environment and heritage. I do so as a retired public servant with a background in corporate management, sustainable development and equalities issues. I am also a Master of Business Administration with training and experience in identifying the nature of the problems to be solved, analysing and devising solutions that are feasible and achievable

Additionally, as a retired neighbour to the school who spends much time in her home, I have an interest as a stakeholder in the issues that I raise in section 4 below concerning traffic generation and vehicle and pedestrian access. However, the key focus of my objections to this application is on the wider sustainability issues and on need for a joined up approach to the development challenges faced by the school and so by the Council with all its various hats on - planning, schools, highways and property and asset management.

Finally, as a keen amateur historian, I have a strong concern about heritage assets as well as the ability to add value to knowledge about local assets.

1.3 Focus of the objections My objections relate particularly to sustainable development, particularly the health and well-being of children and others in the school, myself as a key stakeholder, and those in the wider community. The sustainability issues cannot be properly considered and assessed because there is insufficient information supplied with the application and some information that is supplied is misleading. They also cannot be addressed in a piecemeal planning process of incremental developments.

1.4 Attachments The objections include background documents supplied as follows:

a) Previously supplied: Annotated location plan; 2006 School Travel Plan; CBC letter re road adoption and traffic controls; CBC report on school admissions March 2010; Extracts from FOIA responses and other information; Safer Roads Foundation report; letter from English Heritage; Planning officer advice re log cabin; FOIA response on school numbers.

N.B The numbers do not include pre-school and non-statutory nursery provision. For the FOIA response, the answers to question 5c are relevant i.e. there are no children from the King Street development attending the school but there are 45 from the St George's catchment area. Additionally, the response to question 4 states that there were 135 lower school children in May 2010 and 145 children in January 2011. This is a numbers game because schools have intakes at the beginning of all 3 terms so it is only possible to assess increase and capacity after the start of the Summer term. Oddly, the Council's schools planning data is based on intake in the Autumn term of each year!

1.5 Council interests and responsibilities The application relates to one of a number of developments on the site and the unadopted vehicle access lane to the site that should be considered as a whole particularly noting that the site is owned by the Council which also has responsibility, as the local education authority, for the children educated on the site; as social services authority, for child-care and other services provided on the site; and as highways authority for safety of children in the access to the site and for other traffic issues arising from the development.

1.6 Children/others with disabilities I raise important concerns below in respect of access issues within the site and, at the very least, the decision needs to be deferred until these issues are resolved.

1.7 Request for the application to be refused I ask that a) a decision on the application be refused; b) the concerns that I raise (in reference to the evidence I supply) are investigated and c) subsequently, the school be required to submit a site-wide application to incorporate all the relevant developments as identified below.

It is only by this approach that the Development Management Committee and the relevant Portfolio Holders of the Council's Executive Committee can ensure that the developments on the site are sustainable and that the issues concerning access and traffic generation can be addressed.

2. SCHOOL EXPANSION AND PIECEMEAL DEVELOPMENT

2.1 The size of the development A site-wide application is no more that the Council would require for other significant developments and I have been struck by the contrast between the recent Tesco application to extend its premises and this particular application. The difference, of course, is that a development of less than one hundred square metres can be treated differently. However, the evidence points strongly to the actual development proposed in App. 02050 being not just a larger development than that described in the application but that is also needed to accommodate part of a planned expansion of the school.

2.2 The four types of expansion The school site is used for four main and distinct purposes: a) education i.e. statutory operational purpose; b) childcare - out of school; pre-school; and non-statutory nursery provision; c) social services - support for problem families; and d) incidental purposes, mainly the letting of facilities to generate income via lettings and or fund-raising. All four types of provision have been expanded over the past year and there are plans for further expansion. This expansion has significant implications for traffic generation; access and parking requirements; and impact on the amenity of neighbouring residents and the wider local community.

2.3 The decision on expansion of education provision
The application relates to the expansion for education purposes. This was approved by the Council's admissions forum on 24 March 2010, based on the officers report reproduced as follows:

Agenda Item: 4 (d)

Meeting: ADMISSIONS FORUM

Date: 24 March 2010

Subject: Admission Numbers – Community and Voluntary Controlled Schools

Report of: Deputy Chief Executive and Director of Children's Services

Summary: The purpose of this report is to agree the admission numbers for community and voluntary controlled schools.

Contact Officer:

Rosa Bonwick

RECOMMENDATION:

1. That the proposed admission numbers for those schools listed in Appendix A be agreed, subject to the views of the Forum on the proposed increase to the admission number for Hadrian Lower School.

1. The proposed admission numbers for community and voluntary controlled schools are set out in Appendix A.

2. Members of the Forum will recall that a replacement school is planned for Roecroft Lower School. The school will be two forms of entry and subject to the completion of the building project, the admission number for the new school will be 60. The school currently has a published admission number of 30.

3. Following consultation with community and voluntary controlled schools requests for increases to admission numbers were received from the Governing Bodies of the following schools:

Gravenhurst Lower School – an increase from 9 to 10. This increase can be accommodated within existing class organisation.

Mary Bassett Lower School – an increase from 30 to 60. There is a long term need for additional lower school places in the Leighton Buzzard area. The school has sufficient accommodation to support two forms of entry and therefore no additional accommodation would be required.

The Local Authority had no objections to these changes which were included within the statutory consultation process.

2.4 The actual availability of suitable accommodation

However, the school actually had no suitable accommodation. This is shown clearly by extracts from school documents (as previously supplied with my objections to the concurrent App. 02500). On particular minute of the Governing Body underlines this i.e

Governing Body 27 September 2010

Expansion of school site DP reported that more space is required to house the school's increasing roll. Immediate Need - The YN [Nursery] intake in January (part time) will be able to use the Garden Room in the mornings as an interim measure. However, in April there is .. insufficient space to admit them full-time; the Garden Room is also

used to house the before and after school club and the Nurture Group in the afternoons; Mary's Loft does not have toilet facilities or an outside area; DP proposes to install a log cabin. DP advised that two vegetable patches would have to be relocated. Longer term: Install lift and toilets in Mary's Loft (White Building); space for two more classrooms - DP to investigate a double terrapin hut; school bungalow to be used for school use i.e. fun club and nurture. The school bungalow garden would also create additional car parking space.

2.5 Relevance of expansion to the application In sum, the toilet extension is part of the expansion plans of the school. More than this, it is a necessary part because of statutory standards for the percentage of washroom facilities (toilets and handbasins) that must be provided for children in schools. This means that the space created in the old school building by the insertion of a floor is not useable as classroom space unless toilets are provided. I will show below that the 2009/10 alterations also need to be considered as part of the application because there are issues of access.

2.6 The accommodation needs - 5 extra classrooms for 5 years of increased admissions Other school minutes show that additional space for the consequent increase in staff is required. The minutes reproduced above also show the link with two other developments - the log cabin that was constructed November 2010 to January 2011 without planning permission and the concurrent application for change of use of the bungalow. After this, there will clearly be more development - to create another two classrooms (reference to the possibility of a double terrapin hut. Later, in February 2010, development of the lane and surrounding roads was planned in conjunction with Amey (see section 5 below)

2.7 Implication for the well-being of children The planning history of the site shows that, when the main school building was granted 'deemed' planning permission in 1965 there was sufficient space in this building for a two-form intake i.e an admission number of 60. There is no information as to when this was reduced - perhaps when the school became a Lower School in 1978 (see 2006 Travel Plan). What is clear is that the space is now used for other purposes because it is no longer available for classroom space. So, instead, the lower school children are to be spread around the school site in various 'add on' developments, requiring long walks through unsheltered areas and via stepped walkways that could be hazardous in bad weather. It is also clear that this is a 'sticking plaster' solution i.e not one planned with full regard to the well-being of the children in the school.

Is this the way to create the best possible learning and physical environment for the children now and in the future?

2.8 Other linked plans The school minutes of 27 September 2010 also show a) that the bungalow aids the expansion challenge by releasing space in the other buildings and by providing additional car parking space; and b) that the 'log cabin' would require the relocation of two vegetable patches. For the log cabin, the school sought planning advice on 2 November 2010 and received a letter on 8 November (attached) advising that a planning application would need to be submitted (information supplied by planning officers; the school minutes show that, by 15 November the log cabin had already been purchased.

2.9 The log cabin as unauthorised development. As shown by the school minutes, the log cabin was clearly built on garden land (created as a formal garden in 2004 - see 2006 Travel Plan). Garden land falls within the definition of 'school playing fields' that are excluded from permitted development rights. On 10 August, I was informed by the Planning Enforcement Team that the log cabin is considered to be permitted development for reasons including: *'the building is not sited on land that has been used as a playing field within the last 5 years'*. This information is simply not true.

Additionally, I have only just discovered by a review of a withdrawn 2010 planning application for 14 Bassett Road (CB/10/01761) that the Environment Agency objected to this application due to concerns about groundwater pollution - that could also be relevant to this part of the school site.

2.10 Heritage assets The log cabin required foundations and these were installed in what is described by the Conservation and Design Officer in the officer's report (p67) as 'an archaeological sensitive area .. within the historic core of the settlement of Leighton Buzzard' in reference to the Saxon and medieval periods. I am also aware from the Council's own records that is, additionally, the site of a gravel pit first worked in 1398 and with the potential to hold palaeolithic remains.

The old school building was built in 1839 by the Quakers and is a local heritage asset while boundary walls of the site are also heritage assets. All this combined history comes within PPS5. English Heritage has referred to this in a letter of 2 August, asking *'that Central Bedfordshire Council gives appropriate consideration to the value of both designated and undesignated assets when*

considering how best to expand capacity at this school, and that appropriate resources are made available to ensure local distinctiveness is maintained. As noted in PPS 5, 'once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact.'

2.11 Further planned development The final part of the 'catch up' and piecemeal planning for the expansion of the school is to be a development of a double terrapin hut (see section 2.4 above).

2.12 The need for an overview by the Council as local education authority All the issues I have raised in this section concern the need for a site-wide overview by the Education functions within Childrens Services of the planning for expansion of the school site and for control of development on the site in order to ensure that the developments permitted or otherwise supported meet the requirements of sustainability and other planning objectives, including protection of school playing fields, including gardens and protection of heritage assets.

3. ISSUES OF ACCESS WITHIN THE SITE

3.1 The application The application is to build a first floor to an existing toilet block which is an extension to the old school building that has recently been altered by the insertion of a first floor. Since submitting early objections with a strong emphasis on heritage assets, the plans have been changed from a flat roof extension to one with a pitched roof in keeping with the old building. However, there may still be heritage asset issues because there appear to be access

es i.e access for children and others with disabilities.

3.2 Access issues The DAS states that the old school buildings and the 1965 main building are built on different levels and are linked 'by a series of stepped approaches that negotiates the severe level changes; the old school hall has been split horizontally into two floors and subdivided into 3 rooms for 'teaching and services purposes'. No other toilets exist for these classrooms except within the main school - which would require a long walk through unsheltered areas. There will be differing levels between the new toilets and classrooms which will be negotiated by a short flight of ambulant steps.

3.3 The Council's Accessibility Strategy Noting that the children in this and other existing and planned separate classrooms and facilities all need to undertake long walks through unsheltered areas to e.g. attend

assemblies; use other facilities such as out of school car park and to the canteen, there is no reference to provision for parents and staff with disabilities either to access the classrooms or negotiate the 'short flight' of steps. Yet the Council's Accessibility Strategy (Maintained Early Years Settings and Schools) April 2010 states that '*All of our new buildings and facilities will be designed to be fully accessible*'. It also refers to the availability of funding for this.

3.4 Lack of information There appears to be no internal link between the two floors of either the old school building or the toilet block as proposed. The school minutes of September 2010 (see section 2.4 above) refer to the need for a lift as well as toilets. Is there an internal link i.e staircase between the two floors or is the access to the second floor via an external staircase or ramp? No floor layout is provided for the old school building so it is not possible to work this out. It is a key issue for assessing the access arrangements in reference to the accessibility strategy.

3.5 Outstanding heritage issue The question of the need for a lift also raises again the issue of the impact of further development on the old school building in reference to PPS5. It is also worth pointing out that the school site north of the original site of the old school was worked as a gravel pit from 1398 until the 17th Century and that is the reason for all the differences in level - such differences imposing significant constraints in terms of modern standards and legal requirements in respect of health and safety and of access for those with disabilities.

3.6 The actual size of the development Whatever the access to the first floor classrooms, the nearest toilets are not, as claimed, in the main school but on the ground floor of the old school building. This means that there has to be another reason why an extension to the toilet block is needed and this is the statutory requirement to provide additional washroom facilities for additional children (Education (School Premises) Regulations 1999). In sum, the alterations to the old school building and the current application for toilets to service the inserted floor are part of the same development.

4. LINK WITH VEHICLE AND PEDESTRIAN ACCESS ISSUES

4.1 Design Brief for Schools As a combined development, the development needs to be assessed in reference to the Council's Sustainable Design Brief for the School's Estate (March 2011). This Design Brief refers to the Building Research Establishment Assessment Method

(BREAM) that requires an initial detailed and comprehensive sustainability survey of the school/site for each project including .. access and transport.

4.2 National planning policy PPS1 seeks to 'promote high quality and safe development by, amongst other things, respecting the diverse needs of communities and the special needs of particular sectors; taking into account issues such as accessibility and sustainable transport needs; and providing improved access for all to ...education .. by ensuring that new development is located where everyone can access services on foot, by cycle or public transport. It also states that adverse environmental, social and economic impacts should be avoided, mitigated or compensated for.

5. TRAFFIC GENERATION AND SAFETY CONCERNS

5.1 Additional and disproportionate traffic generation Information supplied by the Council in response to a FOIA request reveals that the addition to admissions in 2010/11 derives from demand for places from parents living outside the schools local catchments area. 45 children are registered as living in the neighbouring catchment area of St Georges Lower School where, in the north of this area, there is a recent infill development of 202 houses - not within walking distance or on a public transport route.

Additionally, 20 roads in South Leighton have been added to the Mary Bassett School catchment area in the absence of a new school to serve this major peripheral development. This has a public transport service to the Town Centre but how practical this is for parents with young families e.g. babies as well as lower school children is not clear. The bus provided is small; there is only one stop in the estate and this has no shelter.

5.2 Parking needs Parents of lower school and pre-school children cannot just drop them off or pick them up from a point in the highway. Those that travel by car need to park but the school, like many schools, has no suitable area for safe parking. The school records show a concern about this and unsuccessful efforts to organise 'park and stride' using supermarket car parks. In the absence of a solution, there are major parking problems which cause not just nuisance for local residents but significant safety concerns. Again, the 2006 Travel Plan shows that this cannot be managed by enforcement of parking controls because even this does not deter unsafe parking practices.

5.3 Other factors influencing traffic generation

2006 Travel Plan also shows that travel choices are constrained for many parents by the need to get to work as well as deliver and collect children from school. Increasingly, this is being done with the help of carers who could live anywhere in the town. It is worth noting that the 2006 plan referred only to parents. Now the school refers to parents/carers.

With the increase in pre-school and part-time nursery provision, the traffic generation and parking problems now apply to the middle of the day as well as the start and end of the school day. This further challenges effective parking enforcement because of the length of time and number of times the area needs to be patrolled in order to be effective.

5.4 Link with the highways development

The school sought to address the issues of parking and safety around the school perhaps as part of its planning for expansion although the relevant minute only refers to the need to smarten up the approach to the school i.e. a marketing concern. The school minutes show that the Head of the Governing Body approached Bedfordshire Highways and, at meeting in February 2011, plans were drawn up to 'address' these issues by a range of works around the school.

5.5 The highways development works

These works, done in May & June 2011 have included multiple bollards, a 'build-out' in Bassett Road, multiple dropped kerbs, a complete resurfacing of the footpath from Bassett Road and the lane providing vehicle as well as pedestrian access to the school, together with a new street light and renewal of traffic control markings. Additionally, it was planned to install a pedestrian walkway along the carriageway of the lane to compensate for the absence of adequate footway provision.

5.6 A flawed decision process There are a number of problems with the highways works that have emerged only recently i.e. after June 2011. These are

- a) The works were done as part of a 'King Street Area Scheme' funded by a S106 contribution from a development within the local catchment area but this development consists of small apartments and no children attending the school live in these apartments;
- b) The access lane is actually not an adopted highway

c) The works themselves are now challenged by a report from the Safer Roads Foundation (SRF), the covering email to which refers to the works as 'fundamentally flawed'. In particular, the 'build out' and the planned pedestrian walkway are considered to be unsafe. On this latter issue the report states:

'It is considered that the introduction of the proposed walkway in the 'location of concern' will create more safety implications than currently exist, as it will encourage more pedestrians to use this access and thereby increase the likelihood of a pedestrian/vehicle conflict, with potentially devastating consequences.'

5.7 Circular 05/2005 This states that the following tests of S106 agreements **MUST** be followed

- relevant to planning
- necessary to make the proposed development acceptable
- directly related to the development proposed
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects.

The evidence I have supplied demonstrates that the recent and planned highways works are not relevant in any way to the King Street development and, for the developments in the school are, not reasonable in all other important respects - status of the lane and the key issue of safety.

5.8 Relevance of traffic generation to the need for planning oversight over access The SRF report underlines the need to consider the vehicle and pedestrian access to the school as part of the planning process which would also then ensure that Design Statement 7 is applicable. The traffic generation issues cannot be resolved by even a site-wide planning oversight because the issues require overall planning for school expansion across the town. However, the impact of the traffic generation on the vehicle and pedestrian access problems does need to be taken into account.

The traffic generated by the expansion of the school will be more than proportionate to that expansion because the new children are coming from outside the local area. This impact will continue to increase up to 2015 an additional 30 lower school children are admitted each year. It will, in turn, add significantly to parking problems causing not just nuisance but also endangering pedestrians.

6. Community Engagement

6.1 My attempts to engage Many of the proposed solutions recommended by SRF coincide with proposals that I have raised over a long and tortuous process of seeking to get attention to the problems of vehicle and pedestrian access. These include encouraging parents/carers to walk around 14 Bassett Road and use the safe footpath access and to create an access at the top of Doggetts Path next to Bossard Court. This latter solution was also proposed in 2006. I have further pointed out the existence of a free public car park on the corner of Baker Street - ideal for traffic from the east where the additional pupils live and also from the south of the local catchment area (noting additional problems at the West Street entrance to the school).

I have tried to engage with the school and the Council on these issues and also on the heritage issues without success. I note that the Statement of Community Involvement includes provision for the Council to encourage pre-application community engagement by developers. I do think that, for applications on the Council's own land, that this could be given high priority.

6.2 The challenge of community engagement

Community engagement does mean the need to answer what are sometimes awkward questions on issues and problems for which there appear to be no solutions. However, with FOIA rights, such questions do need to be answered eventually - however long it takes! I have persisted with my questions because there were and remain serious safety issues I observe the dangers on a daily basis either from my home or as a pedestrian in the surrounding streets. When, in March 2010 I discovered that the escalating problems were linked to school expansion, I have had no alternative but to continue to try to join up all the understandings. I note that sometimes my questions have prompted action by the Council.

6.3 The need to reconcile the different views

Community engagement also helps to resolve misunderstandings that arise on matters that require different Council services, including arms length services such as quasi-autonomous schools and private contractors to jointly agree matters. Those who live in the area in question are actually the only ones with a complete view of the problems and issues to be addressed. It may be a 'worms eye' view but it is nevertheless the only joined up perspective. However, the worms do not have the 'birds eye' view of Council officers and other players or even a right to engage in any decision process except by means of limited formal

consultation. There has been no consultation on the plans to expand the school or on the planned highways works.

6.4 Danger of arbitrary decisions based on wrong information The 'birds eye' view is hidden from the community due to lack of transparency and openness generally and particularly for 'arms length' services. This is a recipe for confrontation via formal complaints rather than a process of feedback. Until now, I have had no right to a hearing from councillors because there has been no provision for consultation on the key issues that I am raising.

6.5 The opportunity to add value Community engagement enables the community to add value, not just to help devise solutions but also to help raise external funds when needed and add ideas that would enhance the development. I have ideas to offer that would make the walking route to school fun for children and relevant to the school, so helping encourage the safe routes to be used rather than the unsafe alternative.

7. CONCLUSION

I have demonstrated that proposed development is not sustainable and cannot be made sustainable except as part of a site-wide application on which the Development Management Committee can make a properly informed and balance decision based on full knowledge of the purpose of the development and the various sustainability and other challenges.

At the very least, the application should be deferred so the issue of access to the building (old school + toilet annex) for children and people with disabilities (staff/parents/carers/visitors) can be examined and addressed. However, I reiterate my request for the application to be refused and for the school to be required to bring forward a site-wide application that can address all the sustainability and other important issues that I have raised.

I would also ask that consideration be given to how the Council proceeds with planning decisions for developments on its own land in future, including the pre-application and validation processes. For school sites, I note that there is a procedure called 'notifiable projects'. Additionally, given that school land is a community facility (and, in this case, part of it was taken over from the Quakers against their wishes and part acquired by compulsory purchase and also transfer of other Council owned land), I wish to suggest that the Council has special responsibility to preserve heritage assets not just

as a planning authority but as land owner and also manager of and/or user of the various developments on the site.

Consultations/Publicity responses

Conservation and Design Officer

The revisions to the scheme are considered to be a significant enhancement on the earlier proposed flat roof and likely to be acceptable subject to appropriate detailing and use of materials. It is not considered that it will have a significant detrimental impact on the setting of the adjacent Victorian school buildings.

Careful attention should be given to the join between the existing and the new, and best efforts should be made to match the brickwork as best possible to the existing single storey. This same principle also extends to the window detailing. The roof should be in natural slate.

The officer requests 2 conditions to deal with the materials to be used for the extension and for the window detailing.

Archaeology

The proposed development is in an area that has the potential to contain archaeological deposits relating to the origins and development of Leighton Buzzard in the Saxon and medieval periods. However, the nature of the development means that there will be no impact on archaeological deposits or on the significance of the heritage asset. Consequently the officer has no objection to this application on archaeological grounds.

Determining Issues

The main considerations of the application are:

1. Impact on the character and appearance of the streetscene
2. Impact on the amenities of the neighbouring residents
3. Archaeology
4. Other Issues

Considerations

1. Impact on the character and appearance of the streetscene

South Bedfordshire Local Plan policy BE8 states that new development, including extensions, should be appropriate in terms of size, scale, density, massing, orientation, materials and overall appearance and complement and harmonise with the local surroundings.

The original school buildings are important in terms of local history and interest and are attractive buildings in their own right. The buildings were grade III listed until 1975 when the grading arrangements were changed. They are therefore no longer constrained by any designation as Listed Buildings.

The original school buildings are located at a lower level than the more recent 1960's school buildings. The original school buildings are at a similar level to properties on Bassett Road, whereas the 1960's buildings are at a similar level to properties on Doggett Street.

The site boundary with Bassett Road is demarcated by an approximately 1.5 metre high brick wall. The wall would limit views of the proposed extension from Bassett Road at street level. The extension would not be visible from West Street or Leston Road as the existing school buildings would obstruct views. The existing school buildings would limit views of the first floor extension from the footpath from Doggett Street to Bassett Road. Overall the extension would not have any adverse impact on the character of the streetscene due to the limited views of it from outside of the site.

The original plans showed the first floor extension with a flat roof to match that of the existing ground floor extension and small extension on the neighbouring school building. It was considered that the proposed flat roof building would not have been appropriate in design terms and amended plans have therefore been submitted showing the extension with a pitched roof to match that of the existing building. The Conservation Officer considers that the revisions are a significant enhancement on the previous design and is acceptable subject to appropriate detailing.

The proposed extension as amended would be fairly large and would represent, with the existing ground floor extension, approximately a one-third increase on the size of the existing building. The extension is considered appropriate in scale and size in relation to the building and the wider site and the Conservation Officer does not consider that the proposal would have a significant detrimental impact on the Victorian school buildings.

The materials proposed to be used for the extension would match those of the existing ground floor extension. The roof tiles would match those of the existing building. A condition is proposed to be added to any planning permission granted requiring details of the materials to be submitted and approved.

Overall, it is considered that the proposed extension would be appropriate in terms of size, scale, size, density, massing, orientation, materials and overall appearance and accords with SBLP policy BE8.

2. Impact on the amenities of the neighbouring residents

South Bedfordshire Local Plan policy BE8 states that new development should not have any unacceptable adverse impact on residential amenity or privacy.

The proposed extension would be over 40 metres from the closest residential dwelling which would be at West Court on Leston Road. The occupants of this property would not be able to see the extension as the existing school building would prevent views. The proposal extension would therefore have no adverse impact on the amenities of these residents.

The properties on Bassett Road would be around 50 metres from the proposed first floor extension. Some residents would have views from their first floor front windows of the extension however seen in the context of the existing two storey

school buildings it is not considered that this would have any adverse impact on their amenity. There would be one window in the side elevation facing the properties on Bassett Road however due to the distance between the school building and dwellings it is not considered that this would result in any unacceptable adverse impact on privacy.

The properties to the north of the school site would be over 55 metres from the extension and due to the change in levels and other buildings would not have any clear views of the proposed extension from their properties.

The proposed extension would accommodate toilets and cloakrooms. There are currently no toilet facilities within this or the school building immediately adjacent. Toilet facilities are only available in the main school building. The extension would not increase the number of pupils or staff at the school only improve the facilities available in the older buildings.

Overall it is not considered that the proposed extension would have any unacceptable adverse impact on the amenities or privacy of the neighbouring residents and therefore accords with the relevant part of SBLP policy BE8.

3. Archaeology

The proposed development is within the historic core of the settlement of Leighton Buzzard. It is an archaeologically sensitive area and a locally identified heritage asset as defined by PPS 5 Planning for the Historic Environment.

The origins of settlement at Leighton Buzzard are in the Saxon period. By the time of the Domesday Survey in 1086 the settlement had acquired the right to hold a market and started to function as a town. In the 12th century the town was replanned to increase the size of the market place and redirect transport routes through it to increase trade.

The proposed development is in an area that has the potential to contain archaeological deposits relating to the origins and development of Leighton Buzzard in the Saxon and medieval periods. However, the nature of the development means that there will be no impact on archaeological deposits or on the significance of the heritage asset. Consequently the officer has no objection to this application on archaeological grounds.

4. Other Issues

A number of other issues were raised by the objector which are dealt with below.

The objector states that the application should not be determined until the outstanding issues on the site with regard to unlawful development have been resolved. It is not within the Local Authorities power to decline to determine a planning application for this reason.

The objector also comments that the application is invalid as it does not include an acceptable site plan/location plan and the design and access statement contains errors. The site location plan does not contain two street names as required by the validation checklist, nevertheless it is possible to easily identify the application site. The design and access statement may contain errors however this would not be a reason to make the application invalid.

The fact that there was no pre-application advice is not a reason to make the application invalid or to decline to determine it. Whilst pre application advice is recommended it is not possible to force applicants to follow this route.

The objector states there has been no check against the Heritage Environment Record. When the application was validated the constraints on the site were checked. The site is not within a Conservation Area nor is it a Listed Building. The Historic Environment Record has been referred to by officers in determining the application.

The objector comments that no notices have been posted in the local press or notices erected on the site. The application due to its type, location and lack of planning constraints is not required to be advertised in the local press. A site notice was erected on the site on 28th June 2011 and a further site notice advertising the amended plans erected on 26th July 2011.

The objector comments the full planning history of the site was not supplied until two weeks after the application was validated and no one can make a proper judgement on the application without this information. The full planning history of an application site is not normally provided to consultees or neighbouring residents. The application should be determined on its own merits and not on the basis of the previous planning history of the site.

The objector raises concern that incremental additions to the school have resulted in the doubling of the number of children attending the site in the past year. This may be true however it is not an issue to be addressed by this application which seeks consent for an extension to provide toilet facilities for the existing pupils.

The objection letter sets out that the school has no authorised vehicular access due to changes to the access arrangements over the years including the closure of accesses off Bassett Road and West Street, the only vehicular access is by default the unadopted access to the unauthorised staff car park which fails to meet Design Supplement 7. The letter also raises concerns over the unsuitable access in terms of visibility, turning area and servicing, pedestrian provision and safety and traffic generation due to the increasing number of pupils attending the school and the local and wider impact on the road network. These issues are not included in this planning application and the application should be determined on its own merits.

The objector raises the management of the school car park and unlawful parking by parents and nuisance due to unlawful parking, by delivery vehicles, noise from children and activities on the outside of school hours. These are issues for the school to address as they are outside of the control of the Local Planning Authority.

Objections are made due to the impact on heritage assets in relation to this application and previous developments on the site. The consideration of this application has included considering the impact of the proposal on the historic school buildings, however the impact of any previous developments cannot be considered as part of this application.

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 any building works or repairs being first commenced, a full & detailed, precise specification of all proposed materials (e.g. type & origin/ manufacturer & mix of lime & sand/ aggregate for mortars or plasterwork/ render, wood lath, brick, stone, tile, slate, thatch, cast iron, timber or wood) to be used in the works hereby granted consent.**

Reason: To ensure that the special architectural or historic interest of the building or structure, its character & appearance is properly preserved, maintained & enhanced, in accordance with PPS 5 & standard conservation good practice.

- 3 **Prior to any building works being first commenced, detailed drawings of all proposed new &/ or replacement doors & windows, together with a detailed specification of the materials, construction & finishes, shall be submitted to & approved in writing by the Local Planning Authority. Details shall be provided which clearly show (as appropriate)- a section of the glazing bars, frame mouldings, door panels, the position of the door or window frame in relation to the face of the wall, depth of reveal, arch & sill detail.**

Reason: To ensure that the special architectural or historic interest of the building or structure, its character & appearance is properly preserved, maintained & enhanced, in accordance with PPS5 & standard conservation good practice.

- 4 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers PL-001A, PL-002.1A & SU-001.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposal would not detrimentally impact upon the character and appearance of the streetscene nor would there be any adverse impact on the amenities of neighbouring residents. The proposal would not have any impact on archaeological remains. The scheme therefore, by reason of its size, design and location, is in conformity with Planning Policy Statement 1 and Planning Policy Statement 5 and

South Bedfordshire Local Plan First Review policy BE8. It is further in conformity with the Central Bedfordshire Supplementary Technical Guidance "Design in Central Bedfordshire, A Guide for Development".

Notes to Applicant

- 1. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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 in the Built Environment

Bedfordshire Structure Plan 2011
 No relevant policies

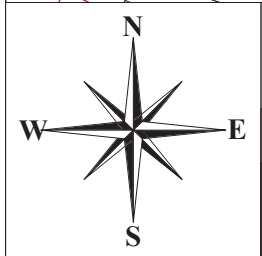
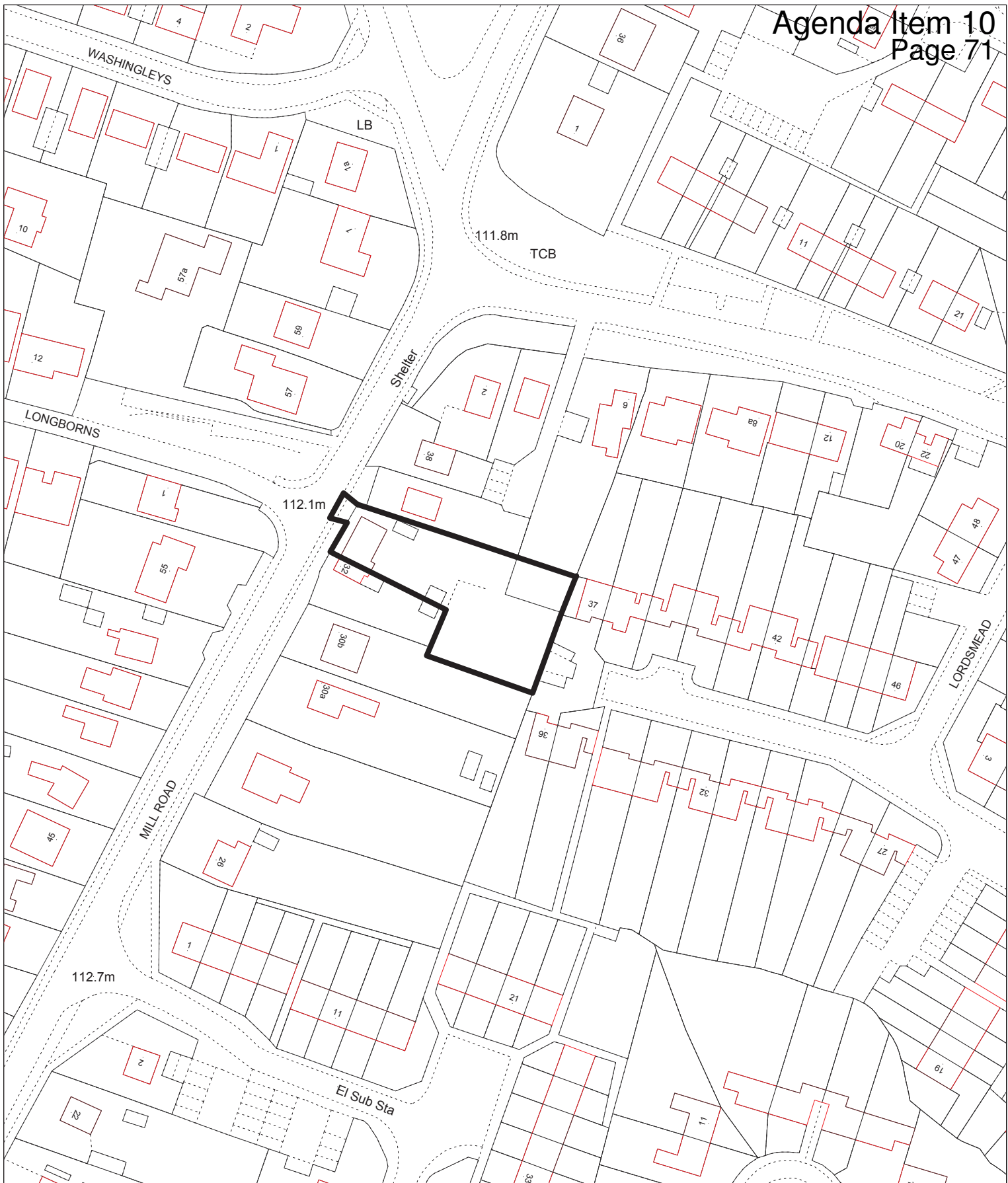
South Bedfordshire Local Plan Review Policies
 BE8 - Design Considerations

- 2. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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.

DECISION

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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 25:August:2011
Grid Reference: 496131; 242863

Application No.
CB/11/02184/FULL

Scale: 1:1250

34 Mill Road, Cranfield, Bedford, MK43 0JL

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Item No. 10

APPLICATION NUMBER	CB/11/02184/FULL
LOCATION	34 Mill Road, Cranfield, Bedford, MK43 0JL
PROPOSAL	Erection of 1No. 3 Bedroom House and 1No. 4 Bedroom House to rear of 34 Mill Road Cranfield. Conversion of No. 34 Mill Road into 2No. 1 Bedroom apartments.
PARISH	Cranfield
WARD	Cranfield & Marston Moretaine
WARD COUNCILLORS	Cllr Clark, Cllr Bastable & Cllr K Matthews
CASE OFFICER	Annabel Gammell
DATE REGISTERED	05 July 2011
EXPIRY DATE	30 August 2011
APPLICANT	Mr B Jones
AGENT	3d Architects Ltd
REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION	Cllr Clark called in the application on grounds of significant local opposition.
	Full Application - Granted

Site Location:

The application site is 34 Mill Road in Cranfield, which is currently a dilapidated three bedroom semi detached dwelling house. The house is constructed from brick and has been rendered and painted white, it has a grey tile roof and a low level brick wall to the front. The application site has a large rear garden the site totalling 1000 square metres (0.1 hectare). The rear garden is currently fenced and walled up to a height of some 1.8 metres, the area is covered in grass and small shrubs.

The Application:

This application seeks permission to reduce the size of the three bedroom dwelling and convert it into two number 1 bedroom flats. To the rear of the site the erection of one number 3 bedroom and one number 4 bedroom dwelling houses.

The site is approximately 1000 square metres.

The existing dwelling house would be reduced in width by some 2 metres, this is to facilitate a new access driveway to be provided for the dwellings to the rear of the site. The access would be some 4.1 metres in width.

The flats would in appearance be similar to the existing dwelling house, the width reduced to 7.4 metres, the exterior re-rendered and finished in cream. There is provision for three cars to park off street. Total height 7.45 metres.

Plot 1: A four bedroom dwelling house with detached single garage and parking for four vehicles off street. Total height 7.85 metres.

Plot 2: A three bedroom dwelling house with parking for two vehicles off street. Total height 7.85 metres.

Both houses would be constructed from red brick work with cream render first floors, slate roof tiles and white window detailing.

RELEVANT POLICIES:

National Policies (PPG + PPS)

PPS 1 Delivering Sustainable Development (2005)

PPS 3 Housing (2006)

Regional Spatial Strategy

East of England Plan (May 2008)

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

Bedfordshire Structure Plan 2011

Not applicable

Core Strategy and Development Management Policies, November 2009

Policy CS2 - Developer Contributions

Policy CS5 - Providing Housing

Policy DM3 - High Quality Development

Policy DM4- Development Within and Beyond Settlement Envelopes

South Bedfordshire Local Plan Review Policies

Not applicable

Supplementary Planning Guidance

Design in Central Bedfordshire: A Guide for Development

Planning History

None relevant

Representations: (Parish & Neighbours)

Cranfield P.C

Object:

- Overbearing to neighbouring properties and Lordsmead.
- Access is poor due to visibility.
- Access too narrow for a fire appliance or ambulance.
- Insufficient parking causing cars to park on Mill Road.

- Lack of infrastructure in Cranfield.
- The area is prone to flooding.
- Overdevelopment of the site.
- Noted that trees were removed from the site, and there may have been asbestos removed.

Neighbours and near neighbours: Six letters of objection:

30 and 36 Mill Road; 6 Crane Way; 36, 37, 41 Lordsmead:

- Traffic and impact upon parking.
- Access insufficient/visibility.
- Access location with regard to local bus stop.
- Loss of trees prior to application being submitted.
- Impact upon streetscene of Lordsmead and Mill Road.
- Overlooking of windows within Lordsmead.
- Restriction on "back land development" and green field sites.
- Previous application at 32 Mill Road was refused on grounds of unacceptable subdivision of land.
- Housing approved at Home Farm development and would over stretch local facilities.
- Not in keeping with the village setting.
- Site would be unduly cramped.
- Concern over boundary treatment.
- Impact upon light into residential gardens.
- Increase in noise from traffic.
- Concern that the houses will become student "lets".

Consultations/Publicity responses

Site Notice Posted on 14.07.11:
Highways Department:

No comments received

No objections:

The existing access is opposite the junction serving Longborns however the likelihood of any vehicles going from Longborns to the proposal or vice versa (straight across Mill Road) is very limited. Intervisibility from both junctions is greater than the requirement and both sides of Mill Road at this location has a highway verge and footpath providing greater visibility between vehicles using the carriageway and those using the accesses and also allows for more than adequate driver/pedestrian intervisibility. Vehicles will

The proposal provides adequate parking using the current guidance and provides one visitor parking space which is also acceptable current guidance. The on site turning area is also suitable to accommodate service/deliver/ambulance sized vehicles.

Public Protection:

No comments received

Trees and Landscaping:

No objection, landscaping scheme acceptable

Environment Agency

Responded stating they should not have been consulted.

Determining Issues

The main considerations of the application are;

Determining Issues

The main considerations of this application are:

1. The principle of development
2. The effect on the character of the local area
3. The impact that the proposal will have on the residential amenity of neighbouring properties
4. The highway safety implications
5. The planning obligations strategy
6. Any other implications

Considerations

1. Principle of Development

As Cranfield is considered a Minor Service Centre in the Central Bedfordshire Core Strategy, "within the settlement envelopes of both major and minor service centres, the Council will approve housing." - Policy DM4 of the Central Bedfordshire Council, Core Strategy and Development Management Policies, 2009. This is dependant upon ensuring that there would be no significant adverse impact upon the character of the area or on the residential amenity of neighbouring properties and that satisfactory access can be achieved. In addition PPS 3 encourages the use of previously developed land and maximising the use of land in urban areas. It is noted that while the house is considered previously development land, recent amendments to PPS3 means that the current garden area is not considered to be previously developed land. Although part of the site is considered greenfield the area is within the settlement envelope as defined within the Core Strategy where residential development is considered an appropriate use of the land.

It is considered that in principle the residential development in this location is acceptable.

2. Character and Appearance of the Local Area

Impact upon appearance of Mill Road:

The proposed development will not have a significant impact upon the appearance of Mill Road, which is a residential road with a variety of housing types on it, the properties are not uniform in appearance. The dwelling to be converted into flats would have a residential appearance, it is considered that it would appear similar to the existing dwelling house. This aspect of the development would be visible within Mill Road. The access would also be visible, this access would be an upgrade to the existing access which is part grass and part concrete. It is considered that the streetscene of Mill Road would be enhanced by the development. The proposed dwellings are some 0.4 metres taller than 34 Mill Road, it is considered with the set back of some 38 metres from Mill Road, that this increase in height would not have a significant impact upon the appearance of the area.

Impact upon appearance of Lordsmead:

Lordsmead is more uniform in appearance than Mill Road, this development was constructed together in the 1960s, the road is characterised with linked semi detached properties constructed from brick with white window detail and render, or cladding to the first floor. This area is of no special character designation, it is considered that the addition of the two dwellings to the rear of the application site, although they would be visible at the end of the cul-de-sac would not significantly impact upon the character of the road. Currently there are garages and a fenced amenity block at this end of the road, this would remain, 10 metres beyond the existing wall would be the rear elevations of the dwelling houses. It is considered that the brick built dwellings with slate roofs, although not matching those properties within Lordsmead would not detract significantly from the character of the road. The proposed dwellings have taken design cues from the Lordsmead dwellings, being constructed from brick and pale render the pitch of the roofs would also be similar though it is noted slightly steeper.

The impact upon the general character of the area:

Cranfield is a village which is designated as a Minor Service Centre, identified as having local facilities such as small supermarkets, schools and a variety of local shops as well as the University and Technology Park. Due to the designation of Cranfield as a Minor Service Centre within recent years there has been significant development and growth. The traditional character of the village is long and linear. It is considered sustainable development to build new dwelling houses close to local facilities and job opportunities. This development would be central within Cranfield filling in an area adjacent to these facilities. It is considered that the additional dwelling houses and the subdivision of the residential site would not have a detrimental impact upon the general character of the area.

It was raised by a number of local objectors that this application could be considered similar to MB/06/00273/FULL & MB/06/01133/FULL - 32 Mill Road Cranfield. Both of these application were for an additional dwelling house on the site of the existing garage for the adjacent property. One of the reasons for

refusal given related to an unacceptable subdivision of land. It is considered that this decision was made on a different site, which is significantly smaller than this application site. The dwelling house of number 32 Mill Road Cranfield is substantially smaller, as the division of the semi-detached properties is currently disproportionately larger for number 34 Mill Road, the site size is also substantially larger to the rear of this site. The result of this development would be the appearance of a pair of semi detached properties appearing more symmetrical than the current situation. The 2006 applications would have resulted in two very narrow sites, this was considered unacceptable, this development would maintain appropriate garden area for the new dwellings and amenity area for the flats.

It is considered that the development has been design to relate sensitively to the site and surroundings and is considered to be in accordance with policy DM3 of the Core Strategy and Development Management Policies, 2009.

3. Residential Amenity of Neighbouring Properties

To the north is 36 Mill Road and 6 Crane Way, to the east is 37 and 36 Lordsmead, to the south is 32 and 30b Mill Road, to the west is Longborns access.

It is considered that the development would not impact upon the residential amenity of any neighbouring property in terms of:

Loss of light:

The proposed dwellings would not significantly impact upon the light into any residential property, it is judged there is suitable spacing between the proposed dwellings and all surrounding adjacent properties. The flats as the building would be of a reduced size would have less of an impact upon the light into adjacent properties. Within the design of the proposal attention has been made to locate single storey elements adjacent to boundaries with neighbouring gardens, this would further reduce impact upon light into adjacent residential properties.

Overbearing impact:

Due to the scale and massing of the proposed buildings it is judged that this would not cause an overbearing impact upon any neighbouring properties.

Loss of privacy:

The new dwellings have been design to conform to the 21 metre back to back distance which is set out within the technical design guidance, this guidance though intended for "back to back" can be applied to "front to back" in these circumstances, and is based on straight angled windows, thus able to achieve a direct view. The distance of 21 metres is not normally used in "back to side" development or "side to side" development. The rear elevations of the dwelling houses are some 14 and 15 metres from the side elevations of the dwellings on Lordsmead. It was noted on site that there are clear glazed side facing windows within these elevations, these currently look over the rear garden of number 34 Mill Road. It is considered that these windows would have the potential to partially overlook the amenity areas of the proposed dwelling houses. As part of

the landscaping scheme trees are proposed to reduce the intervisibility between these windows and the application site. The converted flats and additional dwellings have been designed to not impact upon the privacy of the adjacent properties.

The distances between 1st floor windows and adjacent dwelling houses:

36 Mill Road: 14 metres
 34 Mill Road (first floor flat): 27 metres
 32 Mill Road: 23 metres
 30b Mill Road: 22 metres
 36 Lordsmead: 15 metres
 37 Lordsmead: 14 metres

Loss of outlook:

Currently the area is in an untidy condition, it is judged that a new development with appropriate landscaping would improve the look of the site, and that it would not result in a loss of outlook for any residential properties.

6 letters of objection were received from local residents and an objection from the Parish Council:

- Traffic and impact upon parking/Access insufficient/visibility.

The Highways Department have no objections to this proposal, they have considered the appropriateness of the access with its proximity to the bus stop, the junction with Crane Way, the junction with Longborns, visibility, the parking provision, the ability to get emergency vehicles in and out.

- Access location with regard to local bus stop.

This site is considered to be sustainable development due to its proximity to local facilities and these include the adjacent bus stop, the Highways Department do not consider the location of the bus stop to be a danger to people using the site or highway therefore it is considered to be acceptable. The close proximity to the local bus stop will hopefully encouraging increased use of public transport.

- Loss of trees prior to application being submitted.

The applicant cleared the site prior to the application being submitted, as far as I am aware at this time this was carried out in an appropriate and reasonable fashion. None of the trees had preservation orders on them and the site is not within a Conservation Area, therefore the applicant was within their rights to clear the site.

- Impact upon streetscene of Lordsmead and Mill Road/Restriction on "back land development" and green field sites/Previous application at 32 Mill Road was refused on grounds of unacceptable subdivision of land/Overlooking of windows within Lordsmead/Not in keeping with the village setting/Impact upon light into residential gardens/Site would be unduly cramped.

These issues are covered above.

- Housing approved at Home Farm development and would over stretch local facilities.

As part of the application a Unilateral Undertaking is required which would give a contribution to local infrastructure. Although the Home Farm development does help provide new dwellings for Cranfield it can not be considered the only appropriate location for new development.

- Concern over boundary treatment.

A landscaping plan has been submitted as part of the application showing new 1.8 metre high brick wall on the north and east boundaries and an new 1.8 metre high close boarded fence on the south and west facing boundaries as well as a comprehensive scheme of planting. It is considered that the approach to boundary treatment is appropriate.

- Increase in noise from traffic.

There would be a 1.8 metre high brick wall which would divide the driveway and parking area from the adjacent property. It is considered that this would be a suitable sound barrier.

- Concern that the houses/flats will become student "lets".

Cranfield benefits from a University therefore there is increased need for smaller contained units. It is not considered a negative aspect of this application that the flats could be rented out to students. The parking provision is judged appropriate for the size of the properties.

4. Highways Implications

The Highways Department have no objection to the development as they are satisfied that the access, parking arrangement and visibility are all to an appropriate standard to ensure no significant danger to the users of the highway.

Nine conditions were suggested which relate to the size of the junction, vehicle area surfacing, removal of permitted development rights for the garages, surface water drainage, construction of the turning area, scheme of secure cycle parking, details of refuse collection points, construction worker parking, and details of the marking out of "visitor parking bay".

It is considered that a condition related to secure cycle parking is not required as part of the landscaping scheme details showing stores for bikes and cycle stands are shown. The parking and turning area is to be non-adoptable permeable block paving therefore a condition requiring drainage details are not required. The condition relating to bin storage and refuse collection points is also not required as they are shown on the landscaping plan, the refuse collection point will be at the access with Mill Road. The site is relatively large and therefore it is considered that a scheme for construction worker parking is not required and also unenforceable. It is also judged not necessary to see

details of the marking out of the visitor parking bay for the flats.

5. Planning Obligation Strategy

The proposed development would form the conversion of 1 number 3 bedroom dwelling house into 2 number 1 bedroom flats and 1 number 3 bedroom dwelling and 1 number 4 bedroom dwelling which falls within the criteria of the Planning Obligation Strategy therefore contributions for Local Infrastructure is required and takes place in the form of a Unilateral Undertaking submitted by the applicant.

The Planning Obligation Strategy is an adopted Supplementary Planning Document and is therefore a material consideration in the determination of the planning applications. A Unilateral Undertaking and associated fees have been submitted with this application, these have not yet been approved by the legal department as there was a dispute over the final figure. A figure has been agreed and a revised copy is expected, an update on this will be represented on the late sheet. It is considered that the applicant has a willingness to enter into a legal agreement with Central Bedfordshire Council.

6. Other Implications

Flood Risk:

This issue was raised by the Parish Council, the area is not within Flood Zone 2 or 3, the Environment Agency were consulted, they commented to say that they should not have been consulted. It is considered that this flat site would not be at significant risk of flooding.

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 shall be submitted for written approval by the Local Planning Authority setting out the details of the materials to be used for the external walls and roof, samples shall be provided. 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 **Prior to the development hereby approved commencing on site, details of the existing site levels including the floor level of the dwelling at number 34 Mill Road, Cranfield and the finished floor levels of the proposed dwelling houses shall be submitted to and approved in writing by 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 The access shall have a minimum width of 4.1m, with a lateral clearance of 0.3m on each side (total 4.7m) and no building shall be occupied until the junction of the proposed vehicular access with the highway has been constructed in accordance with the approved details.

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

- 5 The proposed vehicular access and parking areas shall be surfaced in accordance with details shown on plan 205B unless other wise agreed in writing by the Local Planning Authority. 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.

- 6 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any amendments thereto, the garage accommodation on the dwelling house to the north of the site, shown on plan 205B as Plot 2 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.

- 7 The turning space for vehicles illustrated on the approved Plan 205B 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.

- 8 All planting, seeding or turfing comprised in the approved details, shown on plan number AE1119A 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.

- 9 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 203B, 206, 205B, AE1119A, 201, 200, 204.

Reason: For the avoidance of doubt.

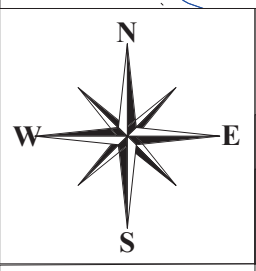
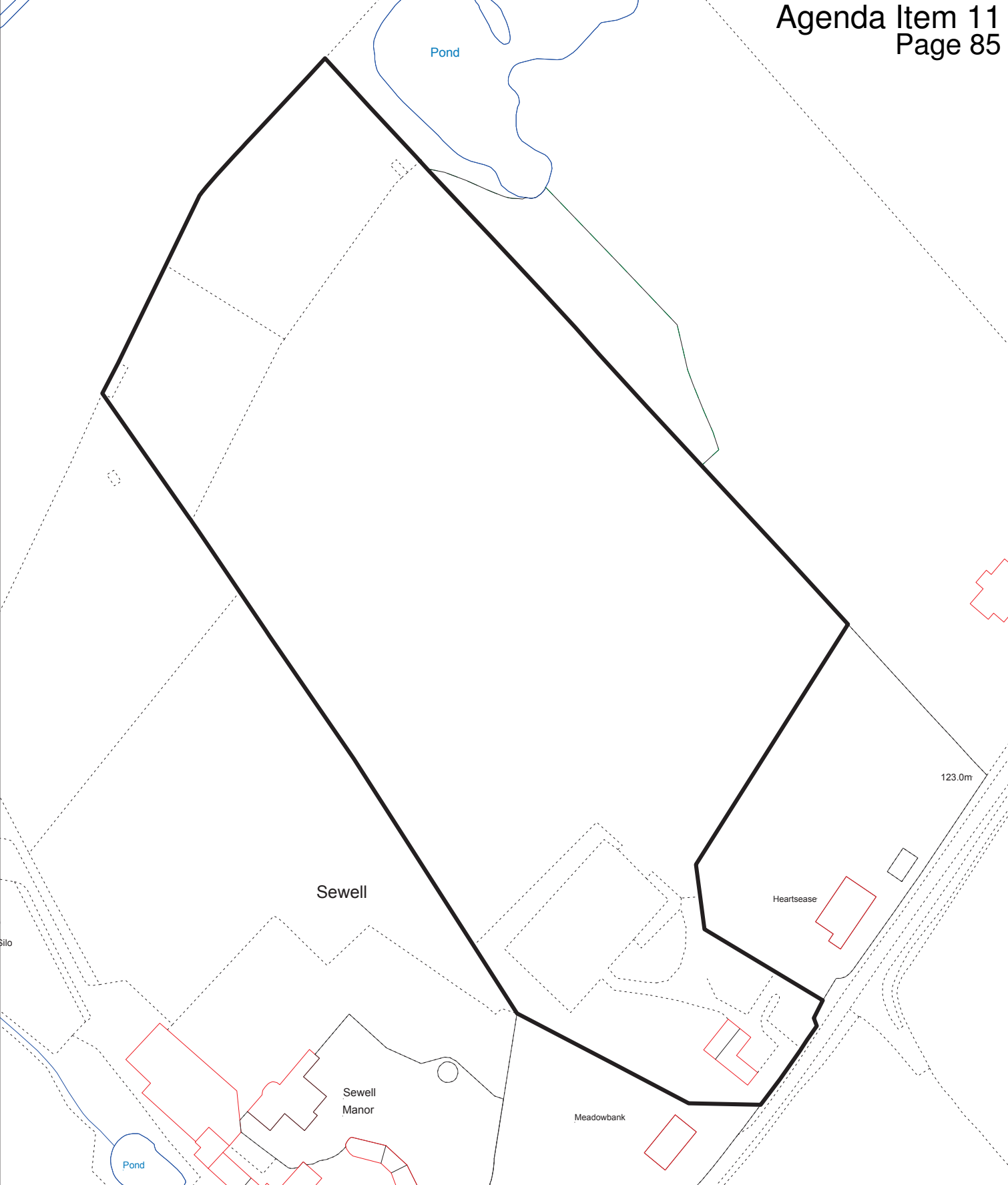
Reasons for Granting

The proposal of the conversion of the dwelling house into 2 number 1 bedroom flats and the addition of 2 dwellings in this location is considered to be acceptable because the development would not have a negative impact on the character of the area or an adverse impact on the residential amenity of neighbouring properties, it is acceptable in terms of highway safety and therefore by reason of its site, design and location, is in conformity with Policies CS2, CS5, DM3, and DM4 of the Core Strategy and Management Policies, November 2009; Planning Policy Statement 1 (2005), Planning Policy Statement 3 (2006), Regional policies in the East of England Plan (May 2008) and the Milton Keynes and South Midlands Sub-Regional Strategy (March 2005). It is further in conformity with the technical guidance Design in Central Bedfordshire, a Guide for Development.

DECISION

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 Central Bedfordshire Council
 Licence No. 100049029 (2009)
 Date: 01:August:2011
 Grid Reference: 499577; 223250

Application No.
 CB/11/01842/VOC

Scale: 1:1749

Whistlebrook Stud, Sewell Lane, Sewell LU6 1RP

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Item No. 11

SCHEDULE B

APPLICATION NUMBER	CB/11/01842/VOC
LOCATION	Whistlebrook Stud, Sewell Lane, Sewell, Dunstable, LU6 1RP
PROPOSAL	Variation of Condition: Variation of condition 4 to enable the additional D2 use, of dog agility training.
PARISH	Houghton Regis
WARD	Houghton Hall
WARD COUNCILLORS	Cllrs Mrs Goodchild & Jones
CASE OFFICER	Abel Bunu
DATE REGISTERED	25 May 2011
EXPIRY DATE	20 July 2011
APPLICANT	Miss Stephanie Cook
AGENT	Dunstable Riding School
REASON FOR COMMITTEE TO DETERMINE	Member Call-in by Councillor Jones having regard to the objection from the Town Council and local residents
RECOMMENDED DECISION	Variation of Condition - Granted

Site Location:

The application site is in the hamlet of Sewell, a group of mainly residential properties located to the north west of Dunstable. The application site comprises stables with an outdoor riding school and 4 hectares of land. The site is washed over by the Green Belt and adjoins the Sewell Conservation Area on the south western boundary. The site is well screened on the northern and southern boundaries with mature conifers. There are open countryside views to the east and the land falls towards the north west.

The Application:

Seeks permission to vary condition 4 of planning permission reference, **SB/TP/96/0586** to enable an additional use within the D2 use class for dog agility training.

The condition to which this application refers states that :

Notwithstanding the provisions of Article 3 (1) of the Town and Country (General Permitted Development) Order 1995, no part of the site shall be used for any purpose other than as a riding school or for private recreation and the grazing of horses belonging to the applicant or her household, or for events solely to enable pupils of the riding school to compete against each other.

REASON: To protect the amenities of nearby residential properties.

RELEVANT POLICIES:

National Policies (PPG & PPS)

PPG2 - Green Belts
PPS7 - Sustainable Development in Rural Areas
PPS1 - Delivering Sustainable Development
PPG 24 - Planning and Noise
PPG13 - Transport

Regional Spatial Strategy

East of England Plan (May 2008)

ENV7 - Quality in the Built Environment

Bedfordshire Structure Plan 2011

None saved.

South Bedfordshire Local Plan Review Policies

BE8 - Design Considerations
T10 - Parking - New Development

Planning History

- CB/09/055211 - Permission. Erection of two storey extension and roof extension to provide observation and training facility at first floor level. Erection of fire escape and roof lights (Amended design to planning permission SB/TP/04/1044).
- SB/TP/04/1044 - Appeal allowed for erection of two storey extension, roof extension to provide observation and training facility at first floor level and alterations to elevations.(re-submission of SB/TP/04/0088).
- SB/TP/04/0088 - Appeal dismissed for erection of two storey extension, roof extension to provide observation and training facility at first floor level and alterations to elevations.
- CED/02/0001 - Refusal for use of land for the retention of a portable toilet.
- SB/TP/00/441 - Permission for removal of condition 3 of permission SB/TP/98/0499 to allow retention of toilet.
- SB/TP/00/663 - Refusal for removal of condition 3 and siting of a mobile home. Appeal Dismissed.
- SB/TP/98/796 - Refusal for retention of floodlit riding arena.
- SB/TP/98/499 - Permission for Retention of portable toilet and erection of single storey extension to stables.
- SB/TP/97/704 - Permission for construction of floodlit riding arena.
- SB/TP/96/586 - Permission for erection of hay storage barn and use of land for riding school.
- SB/TP/92/336 - Permission for erection of 5 stables, tack room and field shelter.
- SB/TP/88/588 - Refusal for residential development (outline).

Representations:

(Parish & Neighbours)

Town Council

Objection

- Noise levels created by dog agility training are unacceptable

- There are also concerns regarding the potential increase in traffic on the narrow roads
- The reasons for imposing condition 4 are still valid

Neighbours -
Meadowbank; 2
Cowslip Crescent;
Heartease, Sewell;
Honeysuckle Cottage,
Sewell Lane; Lane
Farm, Sewell; Sewell
Manor; Hillside, Sewell;
12 Greenfinch Close,
Berkshire.

Objections

- Noise intrusion to adjoining residential properties from barking dogs and people shouting during dog training classes
- Noise accentuated by the proximity of the arena to residential properties and the fact that dog training is carried out in the open air close to the boundaries of the adjoining residential properties
- Noise can be heard from the neighbouring gardens, patio areas and even from the houses when doors are closed and with televisions switched on
- No appropriate condition can be imposed to mitigate the noise from barking dogs and people shouting and cheering the dogs on
- Noise from the horse related activities already affects the amenities of the adjoining property occupiers
- General disturbance due to cars arriving and leaving the site
- An alternative dog training facility exists at Warehill Equestrian Centre, Eaton Bray and this is considered more appropriate than the application site
- Sewell is a narrow lane which cannot take the additional volume of traffic generated by the development
- Variation of the condition would be contrary to the spirit behind the original permission
- Approving the application would contradict the Environmental Health Department's earlier views that the proposal would not be supported
- The use of the property for dog training is totally out of character in this area
- Those supporting the application do not live close to the site and as such are not affected by the noise and disturbance
- Recommendation for approval made by the Environmental Health Officer not acceptable.
- Even one day a week is not acceptable
- Users of the facility are inconsiderate of the local residents' desire to live in a quiet location

Interested parties
79 Tring Road; 57
Warneford Way;
Lindum, Potten End; 10
Hazelwood Close,
Buckinghamshire;31
Kirton Way, Houghton
Regis; 177 Wavell

Support

- No evidence that the dog barking recorded on Mondays during dog training classes are from the application site
- There are many dogs in the area
- Dog training differs very little from riding tuition
- No dog fights have been recorded on site

Close, Bedfordshire; 3
Sandpitt Hill Cottages,
Herts;

- Classes never run till 9.15pm. They always end at 8.50pm and gates are locked at 9.15pm.
- The dog trainers are professional people who have a good understanding of dog behaviour
- Initial barking of dogs when the classes start might be heard, but this is not continuous.
- The facility provides a safe environment that is easily accessible
- Dog training is a lot quieter than horse training
- Cars are parked clear of the highway
- The lane is two way up to the Riding School beyond which it narrows down to one lane
- Some dogs bark out of excitement but not all dogs bark when taking part in the training
- Barking is not for the duration of the training
- Dog training is beneficial to society
- Dog training occurs on a Monday when horses are resting
- The business at Whistlebrook Stud would be put at financial risk if dog training stopped
- Dog training went on unnoticed for about six months proving that the classes are low key. Complaints only started when the floodlights were used.
- The use provides fun to all age groups
- Each class is limited to 6 dogs

Consultations/Publicity responses

Environmental Health Officer No objection subject to a condition limiting the dog training classes to one occasion per week. Any increase in the number of occasions would be detrimental to residential amenity. The dog training classes should be undertaken in accordance with the details submitted by the applicants.

Rights of Way Officer No objections

Determining Issues

The main considerations of the application are:

1. Impact on residential amenity
2. Parking and Highway Safety
3. Other matters

Considerations

1. Residential amenity

The application site is located close to residential properties and has permission to operate as a riding school for horses. However, Condition 4 places restrictions on the operation of any other uses within the same use class. After carrying out investigations, the Environmental Health Officer raises no objection to the proposed development subject to a condition limiting the dog training classes to

one occasion per week. The officer notes that any increase in the number of occasions would be detrimental to residential amenity and hence, the dog training classes should be undertaken in accordance with the details submitted by the applicants. Whilst it is recognised that there is substantial landscaping around the site, it can be concluded from observations made on site that this does not provide adequate mitigation against the noise that is generated during training. These observations point more towards the need to put adequate safeguards to protect residential amenity than to a total rejection of the application. Whilst the statutory nuisance regulations and planning controls are independent of each other and capable of different resolutions, it is considered that evidence gathered by the Environmental Health Service constitutes a material planning consideration. It is therefore considered that with suitably worded conditions, the proposed variation of condition to include dog training as proposed, would not be detrimental to residential amenities.

2. Parking and highway safety

Given that the proposed development does not amount to a material intensification in the use of the site, it is considered that no parking or highway safety problems would result from dog training. The site offers ample space for parking and turning to avoid cars leaving in reverse gear.

3. Other matters

The applicants have responded to the objections as follows :

- Dog agility lessons commenced in May 2010 and the first complaint was raised in November.
- Classes are conducted every Monday evening between 7 and 9 o'clock
- Barking is intermittent and cannot be considered excessive
- No dogs are allowed to run around loose
- Dog agility classes are held instead of horse riding lessons and not in addition to. There is therefore no intensification of the use of Sewell Lane arising from the dog classes.
- Traffic generated is not different from that generated on any other day of the week.
- There is adequate parking on site.
- More than 50% of local residents have not objected, ie eight properties and many have given verbal support
- Occupiers of four properties at the start of Sewell Lane have not objected
- In total, twelve occupiers of properties on the Lane have not objected
- The Highways Agency has no objection
- Dog training complements horse riding and no change is required to the existing facilities. In planning terms, the two activities are in fact in the same use class, (D2-E)
- Noise from barking dogs has been blown out of proportion. The barking that has been logged could quite easily have been from any dogs in the Lane of which there are fifteen known to the applicant
- Difficult to attribute barking noise to the agility training
- Barking noise from the training classes is no different from any that might come from dogs in the locality
- Dog training differs very little from riding tuition
- Activity is beneficial to varied age groups

Conclusion

Having taken into account both sides of the argument, it can be concluded that, as a matter of fact and degree, on balance, whilst the introduction of dog training in the horse riding arena would constitute an additional source of noise that would impact on the amenities of the adjoining residential property occupiers, it is considered that controlling the use in the manner proposed would ensure that the development would not result in detrimental harm to residential amenities. This conclusion takes into account the following considerations:

- The proximity of the application site to noise sensitive residential properties and the attendant noise complaints that have been reported to the Council.
- The social and economic benefits to be had from the development through diversification of use of the property.
- Whether or not dog training classes are noisier than horse riding classes remains open to debate but from the evidence available it is clear that both activities generate noise. There is however no conclusive evidence to suggest that dog training classes generate more intrusive noise than horse tuition.
- Dog training classes are run on Mondays when horses are taking a rest. The use of the arena for dog agility training therefore does not amount to an intensification of use because the alternative would be horse training on the same day. It is also not accepted that dog training is associated with more traffic movements to and from the site than would be the case with the current permitted use of the property. However, disturbance from cars entering or leaving the site is expected to last for a very short period of time.
- The conditions attached to the original permission are recommended to be retained in so far as they are still relevant.
- The decision to grant planning permission therefore seeks to balance the need to preserve residential amenity and the need to run a sustainable business operation.

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 Horse riding tuition shall not take place at the site or based at the site except between the hours of 08.00 and 21.00 on any day.

Reason: To protect the amenities of nearby residential properties.
(Policy BE8, S.B.L.P.R).

- 3 Notwithstanding the provisions of Article 3 (1) of the Town and Country (General Permitted Development) Order 1995, no part of the site shall be used for any purpose other than as a riding school or for private recreation or dog agility training and the grazing of horses belonging to the applicant or her household, or for events solely to enable pupils of the riding school to compete against each other.

Reason: To protect the amenities of nearby residential properties.
(Policy BE8, S.B.L.P.R).

- 4 Pursuant to Condition 3 above, the dog agility training tuition hereby approved shall be conducted only once a week and for not more than four hours between the hours of 0800 and 2100 hours when horse riding classes are not being carried out.

Reason: To protect residential amenity.
(Policy BE8, S.B.L.P.R).

- 5 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers CBC/001 and the operational details contained in the document titled 'AGILITY FLYERS -RULES'.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed variation of condition to include dog training on the application site would not, subject to the imposition of appropriate conditions, be detrimental to residential amenity and result in highway safety hazards thereby complying with the development plan policies comprising Policy ENV7 of the East of England Plan and Policy BE8 of the South Bedfordshire Local Plan Review and national advice contained in Planning Policy Statements 1 & 7 and Planning Policy Guidance 2, 13 & 24 and the supplementary planning guidance, 'Design in Central Bedfordshire, A Guide for Development', 2010.

Notes to Applicant

1. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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 in the Built Environment

South Bedfordshire Local Plan Review
BE8 Design Considerations
T10 Parking - New Developments

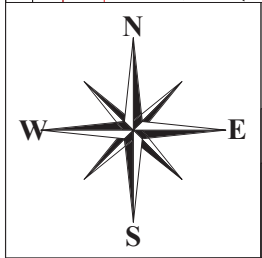
2. In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the reason for any condition above relates to the Policies as referred to in the Regional Spatial Strategy (RSS), Bedfordshire Structure Plan 2011 (BSP) and the South Bedfordshire 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. Please note that the unnumbered drawings submitted in connection with this application have been given unique numbers by the Local Planning Authority. The numbers can be sourced by examining the plans on the View a Planning Application pages of the Council's website www.centralbedfordshire.gov.uk.

DECISION

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 Central Bedfordshire Council
 Licence No. 100049029 (2009)
 Date: 25:August:2011
 Grid Reference: 520217; 234945

Application No.
 CB/11/01693/FULL

Scale: 1:1250

Fairfield Park Lower School, Dickens Boulevard, Stotfold,
 Hitchin, SG5 4FD

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Item No. 12

SCHEDULE C

APPLICATION NUMBER	CB/11/01693/FULL
LOCATION	Fairfield Park Lower School, Dickens Boulevard, Stotfold, Hitchin, SG5 4FD
PROPOSAL	Erection of two canopies to provide covered hard play area to two classrooms on the west elevation of the main school building
PARISH	Stotfold
WARD	Stotfold & Langford
WARD COUNCILLORS	CIlrs Clarke, Saunders & Saunders
CASE OFFICER	Judy Self
DATE REGISTERED	20 June 2011
EXPIRY DATE	15 August 2011
APPLICANT	Fairfield Park Lower School
AGENT	PCMS Ltd
REASON FOR COMMITTEE TO DETERMINE	The application is on Council owned land and a number of objections have been received.
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The application site comprises the premises of an existing lower school located off Dickens Boulevard, Stotfold. Fairfield Lower School is located within the recent development at Stotfold known as Fairfield Park.

The school premises are bordered to the east by the community centre, designated public open space and a number of residential properties, to the south by Dickens Boulevard and to the west by Nickleby Way and the covered reservoir. The north of the site adjoins the existing redeveloped Fairfield Hospital Grounds.

The existing school comprises a single storey purpose built building, constructed of buff brick under a slate roof.

Planning permission is sought for the erection of two canopies to provide covered hard play area to two classrooms on the west elevation of the main school building.

RELEVANT POLICIES:

National Policies

PPS 1 Delivering Sustainable Development (2005)

Regional Spatial Strategy

East of England Plan (May 2008)

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

Bedfordshire Structure Plan 2011

Not applicable

Core Strategy and Development Management Policies, November 2009

Policy DM3	High Quality Development
Policy CS3	Healthy and Sustainable Communities
Policy CS14	High Quality Development

South Bedfordshire Local Plan Review Policies

Not applicable

Supplementary Planning Guidance

Design in Central Bedfordshire. A Guide for Development (2010)

Planning History

06/00024	CC: New 150 place Lower School, incorporating a nursery unit with associated ancillary facilities - Approved 27/2/06
07/00578	CC: Erection of canopy to create covered area - Approved 11/6/07
08/00938	Full: Erection of timber storage shed and a teaching and learning timber play lodge (part retrospective) - Approved 09/07/08
08/02210	Full: Erection of single storey pre-school building - Approved 15/1/09
09/00347	Full: Installation of play equipment (retrospective) - Approved 14/5/09
10/03760	Full: a new modular single classroom building within the grounds – approved
11/01414	Full: Variation of condition: Removal of Condition 5 relating to CCTV on planning permission MB/05/01923/Full dated 19 July 2007

Representations: (Parish & Neighbours)

Stotfold TC
Adj. Occs

No objection

2 letters received, summarised as follows:

- The proposed development would be a direct contravention of the restrictive covenants attached to the adjacent residential dwellings;
- The area is inappropriate for use as a hard play area as it is designed as an access walk-way only a few metres wide and close to the private residential properties sited immediately opposite;
- Loss of privacy;
- Noise and disturbance;

- Visual impact of development;
- Loss of visual amenity and outlook;
- Impact on the children from traffic pollutants;
- Unacceptable impact on the 'human right' to a quiet and peaceful existence.

Consultations/Publicity responses

Tree & Landscapes	No objection
Community Safety Officer	No comments received
Education Officer	No comments received

Determining Issues

The main considerations of the application are;

1. Visual impact upon the character and appearance of the area.
2. Impact upon the neighbouring residential amenity.
3. Any other implications of the proposal.

Considerations

1. *Character and Appearance of the Area*

Planning permission is being sought for two external canopies in order to improve outdoor facilities for two classrooms. The area proposed to be covered by the canopies is an area of hard play which would provide all weather access to an outdoor teaching environment for pupils.

The classrooms have existing external doors to the hard play areas and the canopies would be sited over the two classroom doors in the western elevation of the building. The proposal would be visible within the streetscene.

The two canopies each measure 5.8m in width and 3m in depth and are of a simple lean-to design 3.4m in height. The frame, decorative details and supporting posts are powder coated steel and are black in colour. It is considered that the canopies would blend in with the Victorian style architecture of the existing school building and would not adversely affect the character and appearance of the area.

2. *Residential Amenity of Neighbouring Properties*

The application site is to the east of the estate road which serves Nickleby Way and no direct harm to the nearest neighbouring residential properties (nos. 1, 2, 3, 4, 34 & 35 Nickleby Way) by way of overbearing impact, overlooking or loss of light is considered to arise given the degree of separation.

A number of concerns have been raised by the residents at Nos. 2 and 4 Nickleby Way. These properties are located on the opposite side of the estate road. No. 4 occupies a corner site with the garden area adjacent to the highway and is positioned approximately 8 metres away from the canopies. No. 2 fronts onto the highway and is positioned approximately 15 metres away from the nearest canopy.

The hard play areas are currently used for periods of outdoor play within the schools normal teaching hours. The proposed canopies would provide two classrooms with a purpose built external area to achieve access to an outdoor all-weather teaching environment. The existing hard play is used by the class pupils and therefore the canopy would not increase the use of the area but it will improve the pupil's environment against weather conditions. These outdoor play areas are currently enclosed by railings and the children would only have access to the canopy within their play area.

Whilst the comments received have been duly noted given the nature of the school site; the degree of usage and the degree of separation between the canopies and the householders opposite, no significant harm to the residential amenity of nos. 2 and 4 Nickleby Way is considered to arise.

4. *Any other implications of the proposal*

Any restrictive covenants are a matter for the seller and purchaser of the properties concerned and were not imposed as a condition attached to the grant of planning permission.

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.

- 3 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 200-001A; 200-002A; 200-003A.

Reason: For the avoidance of doubt.

Reasons for Granting

The proposed extension would not detrimentally impact upon the character and appearance of the streetscene nor would there be any significant adverse impact on

the amenities of neighbouring residents. As such the proposal is in conformity with Planning Policy Statement 1 (2005) and Policy DM3, CS3 and CS14 of the Core Strategy and Development Management Policies, November 2009.

DECISION

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Meeting: Development Management Committee
Date: 14th September 2011
Subject: Confirmation of Article 4 Direction for Wrest Park Estate, Silsoe
Report of: Director of Sustainable Communities
Summary: To confirm an Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995 and as amended by the Town and Country Planning (General Permitted Development (Amendment) (England) Order 2010 removing permitted development rights under Schedule 2, Class B of Part 3 for the units within the Wrest Park Estate, Silsoe (identified on the attached plan). The confirmation of this Direction would remove the permitted change (without requiring planning permission) from Use Class B1 (Business) to Use Class B8 (Storage and Distribution) in cases where it involves less than 235 square metres of floor space.

Contact Officer: Lisa Newlands, Principal Planning Officer (Tel: 0300 300 4185)
Public/Exempt: Public
Wards Affected: Silsoe and Shillington
Ward Member: Councillor I MacKilligan
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The Article 4 Direction while removing the permitted development of the change of use from Use Class B1 (Business) to Use Class B8 (Storage and Distribution) where the floor space is under 235 square metres. It would not rule out change per se but would require a planning application to be submitted, which would allow the proposal to be considered fully by the Local Planning Authority.
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Financial:

There is a right to compensation should an application be submitted on the area covered by the Article 4 Direction and then refused by the Local Planning Authority, or at appeal, or conditions imposed on the grant of planning permission within the first 12 months of the Direction coming into force. Any person with an interest in the land, or in any mineral in the land, may seek compensation for abortive expenditure, or other loss or damage directly attributable to the withdrawal of the permitted development rights. This compensation would be payable in relation to each individual building/ application and therefore may result in a number of payments. Compensation would relate to administrative costs which can be quantified, and the effect on land value. This would be assessed in terms of the cost of the land/ building at Use Class B1/B8 value against the cost of the land/ building at Use Class B1 value. In 1988 a compensation case related to the subdivision of land, it was established that there were 15 plots and the compensation award was approximately £9,000 per plot. Therefore a total compensation claim in that instance was £135,000.

Legal:

None

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

The Direction would remove the permitted development right to change the use of no more than 235 square metres of floor space in a building from Class B1 (Business) to Class B8 (Storage and Distribution).

Community Safety:

None

Sustainability:

None

RECOMMENDATION(S):

That the Committee confirm the Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995, and as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 for land and buildings known as Wrest Park Estate, Silsoe (as identified on the attached plan).

Background

1. Wrest Park Estate lies within the extensive grounds of Wrest Park, Silsoe. It lies to the east of Wrest House, a Grade I listed building. It also lies within the Silsoe Conservation Area.
2. A report was put before the committee in March of this year seeking the committee's agreement to begin the process of making an Article 4 Direction to remove the permitted development right to change the use of no more than 235 square metres of floor space in a building from Class B1 (Business) to Class B8 (Storage and Distribution). At the committee, Members agreed to the making of the Direction.

3. This potential permitted change of use is of concern because of the number of buildings within the site that could make use of this permitted change. The cumulative effect of such an uncontrolled B8 use within this area may cause harm to the amenities of the local residents, and a detrimental impact on the character and appearance of the surrounding area and conservation area as a whole. It is therefore considered that an Article 4 Direction would remove this permitted change of use and bring it under planning control.

Making of the Article 4 Direction

4. The procedure for making an Article 4 Direction is set out in The Town and Country Planning (General Permitted Development) Order 1995, as amended by The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 .
5. The Article 4 Direction was made on the 1st August 2011. On the same day notification of the Direction was sent to all the owners/ occupiers of the buildings within the area defined in the Direction and to the owners of the land. In addition to this, in accordance with the procedure, an advertisement was placed in the local newspaper and three site notices were displayed at the site. Two of which were in the area affected by the Direction and one was placed at the entrance to the Wrest Park Estate. Furthermore a copy of the Direction and the notices were sent to the Secretary of State
6. The notices included a description of the development and the site to which it relates, and a statement of the effect of the direction; it also identified where a copy of the direction could be viewed and the 21 day period within which representations may be made to the Local Planning Authority regarding the direction.
7. The procedure sets out that on deciding whether to confirm the direction, the Local Planning Authority must take into account any representations received during the 21 day representation period.

Representations received

8. Only one representation has been received in relation to the direction. This was from the owner of the site. The representation raises the following issues:
 - Concern that the procedure set out in the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 has not been followed;
 - The Council has not been specific in stating what the compelling reasons are and what real and specific threat the Article 4 Direction will address;
 - Not seen sight of any reliable or confirmed evidence;
 - The Council has previously welcomed the opportunity that the Wrest Park Estate offers in respect of the creation of opportunities for small businesses within the area and the economic benefits associated with the such opportunities – the Article 4 direction has the potential of forcing local business out of the area, with the associated loss of employment and business rates.
 - The blanket restriction will discourage people from locating on the estate;
 - In light of the government guidance, agenda and the need for the planning system to facilitate a swift return to economic growth, it is unfathomable why the Council would seek to impose such a direction, without valid and justifiable evidence.

Reason for the Article 4 Direction

9. The reason for the Article 4 Direction is due primarily to concerns raised by the local residents and the Parish Council in terms of the potential permitted development of the change of use from Use Class B1 to Use Class B8 where the floor space is under 235 square metres.
8. This concern is due to the nature of Class B8 (storage and distribution) uses and the cumulative impact if all the buildings involved were to make use of the permitted development may have on the residential amenities of the surrounding properties and the character and appearance of the surrounding area and the Conservation Area. The vehicles used in relation to this kind of activity are by nature relatively large and local residents consider the highway network and junction into Wrest Park is not sufficient to cope with this type of activity, as the sole point of access into the site through the village. This is supported by our Highways section who have raised concerns over the existing traffic generation and the ability for large vehicles to enter and leave the site.
9. It is therefore considered that the Article 4 Direction to remove this permitted development, would bring the permitted change of use from B1 to B8 where the floor space concerned is below 235 square metres under planning control, anything above this level would require planning permission under the normal procedures. This would enable the Council to give proper consideration to any proposal relating to B8 use within the site in terms of the impact on the residential amenities, the character and appearance of the surrounding area and conservation area and the highway network and existing junction.
10. Whilst it is acknowledged that the Article 4 Direction would appear on any local authority searches; it is not discouraging local business, it is seeking to bring an area of development under planning control so that it can be properly considered and where appropriate conditions imposed to mitigate any potential impacts on the surrounding area and the residential amenities of surrounding properties.
11. The Government and Council priorities in terms of economic development are also acknowledged, however, given the location of the Wrest Park Estate within the Conservation Area, in close proximity to an important listed building, with a sole access in the middle of a small village it is considered that there are overriding concerns that warrant an Article 4 direction of this nature.

Conclusion

17. Wrest Park Estate is made up of a number of buildings, which would all have the permitted development right to change the use of no more than 235 square metres of floor space in the building to Class B8 (Storage and Distribution). It is the cumulative impact of this that may have a detrimental impact on the character and appearance of the surrounding area, the Grade I listed building, the amenities of the neighbouring properties and the Silsoe Conservation Area. It is therefore considered that the Article 4 direction is required to remove the permitted development right to enable the Local Planning Authority to fully consider any proposal of this nature. Confirmation of the Direction is therefore recommended.

Appendices:

- Appendix A – Article 4 Direction & map
- Appendix B - Representations

ARTICLE 4 DIRECTION: Wrest Park Estate, Silsoe, Bedfordshire

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 AS AMENDED

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 APPLIES

WHEREAS Central Bedfordshire Council being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995, are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on the land shown edged red on the attached plan unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990,

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description set out in the Schedule below.

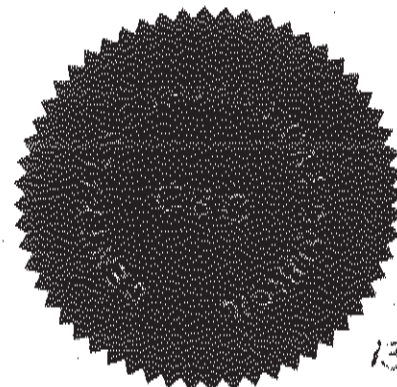
SCHEDULE

Change of use of 235 square metres of floorspace in a building from a use falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class B8 of that Order, being development comprised within Class B of Part 3 of Schedule 2 to the said Order and not being development comprised within any other Class.

The Article 4 Direction will come into force on the 19th September 2011.

Made under the Common Seal of Central Bedfordshire Council this 1st day of August 2011.

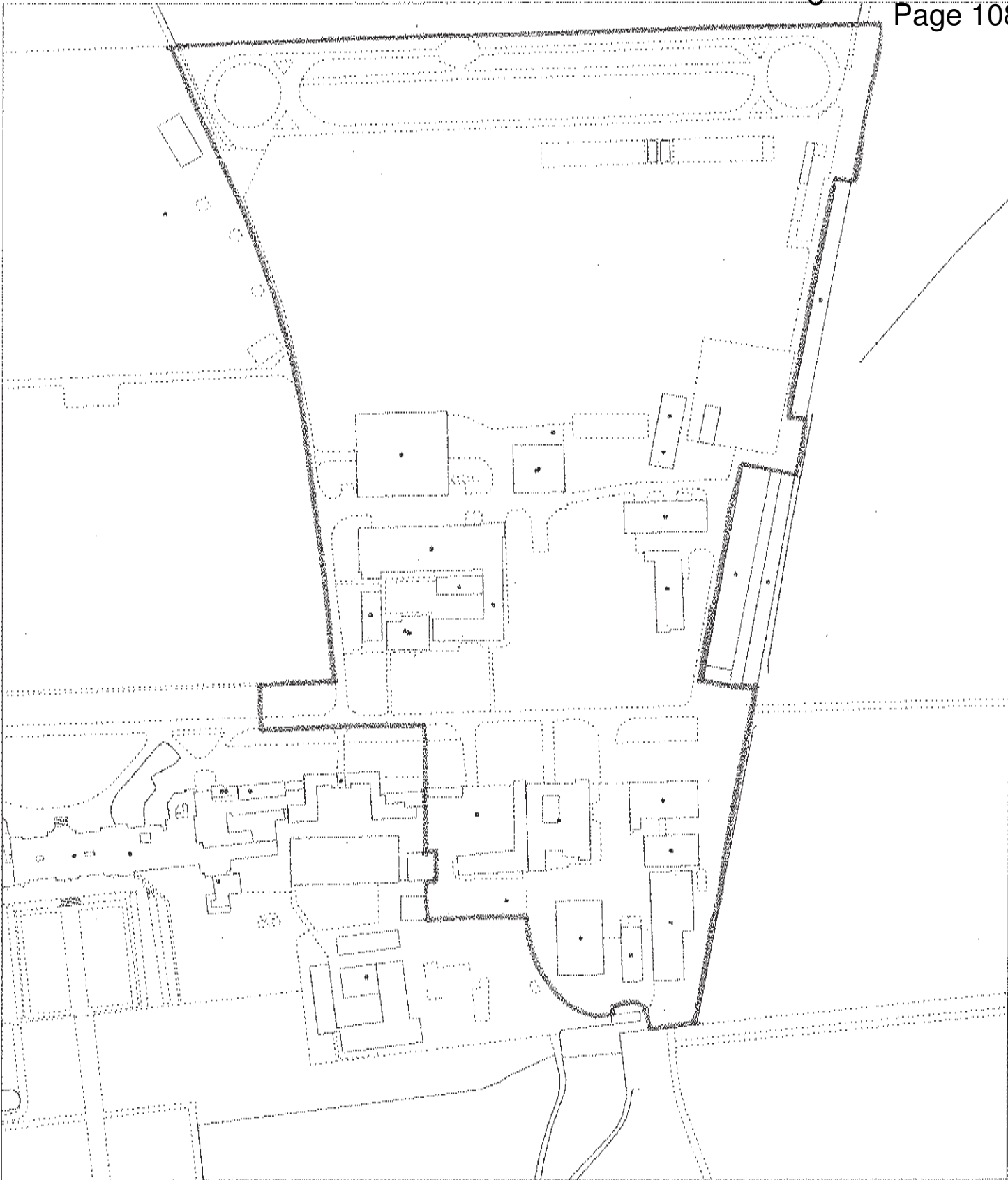
The Common Seal of the Central Bedfordshire Council was affixed to this Direction in the presence of



1362

John A. [Signature]

..... Authorised Officer



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Date: 26:July:2011

Map Sheet No

Article 4 Direction
Wrest Park
Silsoe

Scale: 1:2750

Claire Dodd

From: [REDACTED]
Sent: 22 August 2011 12:32
To: Trevor Saunders; Planning Online
Cc: Lisa Newlands
Subject: Wrest Park - Notice Pursuant to Article 5(1) of an Article 4 Direction
Importance: High

Dear Mr Saunders,

Notice Pursuant to Article 5(1) of the making of an Article 4 Direction

I am writing in respect of a recent letter sent to Occupiers of buildings at the Wrest Park Estate, of which my company is the owner. This letter specifically states that your authority has made an Article 4 (1) Direction on 1st August 2011 and that representations to this Direction can be made within the period 1st August 2011 to 22nd August 2011. This letter was undated and consequently I am unable to verify when this notice was served and whether due process has been adhered to in this regard.

Furthermore, as the owner of the site, I have not received a copy of this letter directly and by chance have only just been informed of this decision, hence my representations by way of e-mail as opposed to a formal letter given the timescales involved in this process.

Prior to discussion of the merits of this Article 4 (1) Direction and my representations against this process, I wish to raise a specific procedural issue, which I believe have not been met in respect of the appropriate serving of notice.

Article 5(1) paragraph (b) of the Town and Country (General Permitted Development) Order 1995 (and Amendment 2010) requires a site notice to be displayed at no fewer than two locations within the area to which the direction relates, or at the site of the particular development to which the article relates. I am unaware that any notices at the site and there is one notice on a lamppost about half a mile from the area edged red.

As a consequence, I currently consider that your authority has failed to adhere to due process as set out within the General Permitted Development Order 1995 and that the serving of this Article may be considered unlawful in this regard and potentially subject legal challenge. I would seek confirmation and documented evidence from you as to whether a site notice has been displayed in accordance with the guidance of Article 5(1) paragraph (b).

Notwithstanding this issue, in respect of the Article 4(1) Direction itself, I have studied Government Circular 9/95 (General Development Order Consolidation) 1995 and in particular paragraph 4-1085 which provides guidance on reasons for a Local Authority to issue an Article 4 Direction. Paragraph 4-1085 specifically states:

'Article 4(1) and the new Article 4(2) of the Permitted Development Order enable local planning authorities to make directions withdrawing permitted development rights given under Schedule 2 to that Order. However, permitted development rights have been endorsed by Parliament and consequently should not be withdrawn locally without compelling reasons. Generally and subject to the guidance in this Appendix, permitted development rights should be withdrawn only in exceptional circumstances. Such action rarely be justified unless there is a real and specific threat, i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should therefore be brought within full planning control in the public interest.' (Own emphasis)

22/08/2011

As a consequence, it is considered even more unfathomable that your authority would seek to impose such a restrictive Direction on the Wrest Park Estate in light of National Government guidance and the need for the planning system to facilitate a swift return to economic growth. The decision to follow a restrictive approach to the Wrest Park Estate, without valid and justifiable evidence, which would discourage local businesses to set up within the Borough represents a fundamentally flawed approach and one that I am wholeheartedly opposed to.

I would seek for these representations to be fully considered and addressed before any future action is taken to confirm the proposed Article 4(1) Direction.

In summary:-

- 1) The due procedure of the Article 4 Direction is questionable and is potentially open to challenge.
- 2) It applies to small units less than 235m² in area (there are a handful of these) but proposes to affect multi-storey offices, warehouses and standard industrial units which could not possibly ever be less than the above size.
- 3) I would very much like a first opportunity to discuss what is hoped to be gained by this Direction and the exceptional circumstances and compelling reasons which your authority consider apply in this instance. I note this cannot be about traffic management by local residents as I have heard neither complaint regarding the situation on the ground nor comment on the traffic management programme despite requests.

I trust this is clear and would seek acknowledgment of my objection.

Regards

[REDACTED]
Director

Wrest Park Limited
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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22/08/2011

Meeting: Development Management Committee

Date: 14th September 2011

Subject: An application to register land described in the Application as “Town Farm Court and Town Farm Orchard”, Henlow as a Town or Village Green

Report of: Director of Sustainable Communities

Summary: The report proposes that Central Bedfordshire Council notify the Applicants that their second application to register the land described as “Town Farm Court and Town Farm Orchard”, Henlow as a Town or Village Green has been rejected.

Contact Officer: Chris Heard – Orders & Commons Registration Officer - 0300 300 6249 Extn: 76249
chris.heard@centralbedfordshire.gov.uk

Public/Exempt: Public

Wards Affected: Arlesey – Cllrs Rita Drinkwater Ian Dalgarno and Richard Wenham

Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Promoting Healthier Lifestyles - by protecting and promoting access to areas of public recreation and leisure.

Financial:

The provisions of the Commons Act 2006 or any other subordinate legislation do not permit the Council to charge a fee for processing applications to register land as a town or village green.

Legal:

See Guide to the Law at Appendix A and Section 15 of the Commons Act 2006 is set out in full in Appendix B.

Risk Management:

No risk management issues have been identified by the author.

Staffing (including Trades Unions):

No staffing issues have been identified by the author.

Equalities/Human Rights: Article 8 of the European Convention on Human Rights states amongst other points that everyone has a right to respect of his home.

No equalities/HR issues have been identified by the author

Community Safety:

No community safety issues have been identified by the author.

Sustainability:

No sustainability issues have been identified by the author.

RECOMMENDATION(S):

That Central Bedfordshire Council notify the Applicants that their second application to register the land described as “Town Farm Court and Town Farm Orchard”, Henlow as a Town or Village Green has been rejected.

Introduction

1. The Commons Act 2006 (“the Act”) makes provision for the registration of common land and town or village greens. Commons Registration Authorities were created to maintain two registers, one for common land and the other for town or village greens. Central Bedfordshire Council (“the Council”) is the relevant Commons Registration Authority. Section 15 of the Act came into force on 6 April 2007 and made changes to the criteria for the registration of a Town or Village Green in response to a line of cases heard in the upper courts.
2. The Council received an application pursuant to Section 15(3) of the Act (see paragraph 6) dated 29 July 2010 (“the First Application”) from Mr Raymond Rapacchi, a local resident (“the Applicant”) to register a piece of land as a village green, which he described as “Town Farm Orchard” and is located off the High Street, Henlow (“the First Application Land”). The statutory procedures as detailed in the 2 February 2011 report were adhered to and on that date the Development Management Committee considered the Report’s conclusions and recommendation. After careful consideration of the evidence submitted by the Applicant, the Objectors and 23 letters of representation the Council resolved to reject the First Application. The said Committee was satisfied that there was no evidence of use by a significant number of people and that the criteria/test of a locality, or neighbourhood within a locality had not been met.

3. In addition the evidence demonstrated that the use of the First Application Land had not been "as of right". Therefore, the First Application had not satisfied the statutory tests and criteria for registration as a new Town or Village Green under the Commons Act 2006 and the said Committee unanimously agreed the following resolution: "That the applicant be notified that his application to register the land described as Town Farm Orchard, Town Farm Court, Henlow as a Village Green had not been accepted".

The Second Application

4. The Council has now received a further application dated 3 March 2011 ("the Second Application") to register land as a town or village green from Mr Raymond & Mrs Wendy Rapacchi ("the Applicants"), part of which the Applicants described as Town Farm Orchard. The Second Application also includes an additional area of land Town Farm Court, Henlow (which is a private driveway). The Second Application was allocated the application number CBC4/2011 and a copy of the application form is attached at Appendix C.
5. Following consideration of the Second Application the Council requested further information from the Applicants on 23 March 2011, which was received on 1 April 2011 see Appendix D. The Council then gave consideration as to whether the Second Application constituted a "repeat" application and as to whether there was sufficient evidence in support of the Second Application. It was concluded that the Second Application had been "duly made" pursuant to Paragraph 3 of The Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 ("the Regulations") and, therefore, was formally accepted on 4 May 2011.
6. The Second Application has been made pursuant to Section 15(3) of the Act, because the Applicants state that recreational use "as of right" for 20 years or more ended on or after 6 April 2007 but no more than two years before the application was submitted (see Appendix A – heading "As of right" for further details).

Location of the Second Application Land

7. The land which is the subject of the Second Application ("the Second Application Land") is described by the Applicants as "Town Farm Court and Town Farm Orchard" (which is located at the western end of Town Farm Court), Henlow. A plan of the land is shown at Appendix E to this report.

Relevant Law

8. The law relevant to the Second Application is set out in Section 15 of the Act. A guide to the law is attached at Appendix A (including an extract of this Section of the Act at Appendix B), although each element of the statutory criteria/test is addressed in this report. In summary, an applicant must prove that the land has been used by a significant number of local inhabitants for lawful sports and pastimes “as of right” for a period of twenty years.
9. The Regulations apply to all applications made under the Act and govern how town or village green applications should be processed by registration authorities.
10. In dealing with an application to register a new Town or Village Green the Council must consider the following criteria:
 - (i) Whether use of the land has been by a significant number of inhabitants
 - (ii) Whether use of the land has been from a particular locality, neighbourhood or a neighbourhood within a locality?
 - (iii) Whether use of the land has been for the purposes of lawful sports and pastimes.
 - (iv) Whether use of the land has been “as of right”?
 - (v) Whether use has taken place on the land identified in the application.
 - (vi) Whether use has taken place over twenty years or more and when the use ended.

Each of the above criteria in connection with Town Farm Orchard is considered under the heading “The Evidence and Determination in connection with Town Farm Orchard” (see paragraphs 25 -36). Town Farm Court is considered under a separate heading in paragraphs 21 - 24 below.

Relevant Planning History

11.
 - (a) 23 August 1995 – Certificate of Lawful Use or Development (which confirmed domestic use for more than 10 years) issued by Mid Bedfordshire District Council, which included the Application Land.
 - (b) MB/08/02392/FULL – Invalid application for a change of use of land and buildings from private garden to agricultural use and storage.
 - (c) CB/09/06626/FULL - December 2008: Initial planning application for the residential development of 29 dwellings made, which included the Application Land.
 - (d) 4 March 2009 – Initial planning application withdrawn while Mid Bedfordshire District Council sought confirmation of village settlement envelope behind 53 and 55 High Street.
 - (e) 16 December 2009 - planning application reinstated, following the Planning Inspector’s decision that village settlement envelope included all garden behind 53 and 55 High Street.
 - (f) January & February 2010 – Central Bedfordshire Council requested an ecological and archaeological evaluation before the Development Management Committee consider the planning application.
 - (g) CB/09/06930/FULL – Change of use of garden land to agricultural land granted 12 February 2010.

- (h) CB/09/06626/FULL – Residential development of 29 dwellings granted subject to Section 106 Agreement in March 2010.
- (i) CB/09/06630/CA – Conservation Area Consent to demolish the bungalow at No 53 High Street, Henlow granted in conjunction with CB/09/06626/FULL above.

Consultation and Publicity

- 12. In accordance with the Regulations the “Notice of Application” for the Second Application (Appendix F) was placed in the Biggleswade Chronicle on 27th May 2011 and displayed on the land itself. It was also served on the landowners and the Parish Council with a request to place the Notice of Application on their parish notice boards.

Statement of Objection and Representations

- 13. The Second Application Land is private land in the ownership of Mr & Mrs H (“the Landowners”) who have submitted a very detailed Statement of Objection within the statutory objection period. In addition, 17 letters of objection to the Second Application were also received by the Council within the objection period from former and present residents of Henlow, which confirmed their support for one of the Landowners main points of objection, namely, that the land had been used with their permission. The Landowners made a request to the Council that their Statement of Objection and the 21 letters of representation to the First Application should be included as an integral part of their objection to the Second Application. The Landowners have dealt with the Second Application by way of two separate constituent parts. Firstly Town Farm Orchard as garden Area G and secondly Town Farm Court as the private driveway Area A. Therefore, this report will consider Town Farm Court (a private driveway) on a separate basis as well (see paragraphs 21 - 24 below).
- 14. A letter re-dated 7 July 2011 (which is in the same terms as a letter dated 1 November 2010) from a Mr B in connection with Town Farm Orchard states that Mr B was given permission by the Landowners to use an area of Town Farm Orchard as a vegetable garden and was provided with a key to the main gate, following his retirement on medical grounds. He states that he spent much of his time in the vegetable garden and confirmed that the Applicant’s children only gained access with permission and that very few strangers entered the land described as Town Farm Orchard.
- 15. A copy of the Landowner’s key points of objection is at Appendix G and copies of their Statement of Objection and the 17 objection letters are available for public inspection. Henlow Parish Council replied to the Council confirming that their Members did not wish to comment on the Second Application. The Parish Council also stated that they have been in contact with the Applicants concerning a claim on their web site.

16. In compliance with the Regulations, the Council sent copies of the Statement of Objection and the 17 objection letters to the Applicants on 13 July 2011. The Applicants were invited to deal with the issues raised in these documents and were given the opportunity to amend and/or clarify any points and issues set out in the Second Application (copy of the Council's letter is at Appendix H). A copy of the Applicant's reply dated 27 July 2011 (covering letter and written comments on the Landowners Statement of Objection and letters of objection) are attached at Appendix I. Additional documents relevant to this reply are available for inspection.
17. The Applicants have contended that they consider that the Landowners Statement of Objection in connection with the First Application (reference 2/2010) is not relevant evidence as the Second Application is a further and different application from the First Application. They have also commented on each of the other letters of objection. In addition, the Applicants asked numerous questions to be put to the Landowners and the other objectors. These were forwarded to the Landowners and the objectors on 2 August 2011 requesting any further comments that they may wish to make as soon as possible.
18. The Landowners replied on 4 August 2011 to the Applicants response stating that they reject the Applicants request to withdraw comments they consider irrelevant (Appendix J). Additional documents relevant to this reply are available for inspection. The Landowners pointed out that they consider that the Commons Registration Authority is the arbiter and should decide what evidence is valid. Twelve of the 17 objectors have replied most of whom have confirmed that they wished their previous comments to the First Application should again be taken into account in connection with the Second Application.
19. The process undertaken by the Council as outlined in paragraphs 17 and 18 has caused such delay that as a consequence the report on the Second Application could not be issued in time to the members for it to be considered at the Development Management Committee which was held on 17 August 2011. In addition, the Applicants sent a further letter dated 23 August 2011, as detailed in paragraph 20.
20. The Applicants commented on the Landowners response in a letter dated 6 August 2011 (Appendix K) and on the other objector responses in a letter dated 23 August 2011 (Appendix M). Additional documents relevant to the Applicant's first response are available for inspection. The Council has given due consideration to the issue between the Applicants, Landowners and other objectors with regard to what evidence is admissible and it is clear that the Council is relying upon evidence from the parties submitted in respect of the Second Application variously dated between November 2010 and August 2011 insofar as the objectors have either repeated or reiterated their original comments and representations made in respect of the First Application.

Town Farm Court (A Private Driveway)

21. Part of the Second Application Land consists of a private driveway which serves Town Farm Court and is shown on Plan B submitted with the Application. The Neighbourhood, whose inhabitants use of the Land is relied upon to justify registration, is identified and appears to comprise six properties, namely numbers 1, 2 and 3 Town Farm Court and numbers 49A, 49B and 49C the High Street, Henlow. The Applicants have stated that “The neighbourhood have passed and re-passed Town Farm Court for over 20 years on foot, bicycle and vehicle”. There is also reference to “the area being in general use by the neighbourhood rather than sporadic use by trespassers” and continuous use of the land by a local neighbourhood within a locality”.
22. As regards Town Farm Court, examination by the Council of the Land Registry documentation and historic conveyance documents indicate that rights of way to pass and re-pass (with or without motor vehicles or other vehicles) from time to time and at all times hereafter and for all proper purposes over this access road were conferred on the above 6 properties which comprise the Neighbourhood. Clearly private rights have been granted and therefore insofar as the Applicants are seeking to register the Town Farm Court private driveway as a town or village green, the Council considers that in the light of the decision in the case of R v. Oxfordshire County Council and Others, Ex Parte Sunningwell Parish Council, [1999] ‘use’ of the driveway land has been carried on ‘by right’ rather than ‘as of right’ and therefore it would not appear to the Landowner to be the assertion of a right (see paragraph 32 for further details) and the Council therefore does not accept that this part of the Second Application Land is eligible or meets the criteria for registration as a town or village green.
23. Further, as regards Town Farm Court, in a letter dated 7 July 2011 Mr B commented that if any cars or people, occasionally, came into Town Farm Court and appeared “uncertain of their whereabouts”, he would ask if he could help them, letting them know, if necessary, that they were in a private area. On a few occasions he would ask people not to park their cars, as it is a private driveway. Also in the reply from Henlow Parish Council their Members were “puzzled as to how a hard surfaced private access road could be termed as a village green”. The Landowners and other objectors accept that resident’s children do occasionally play on Town Farm Court, but also state that it is primarily a driveway. The Landowners have pointed out that part of the driveway area on the Second Application plan includes a private parking area owned by 49b and 49c High Street.
24. In view of the above the Council cannot accept that this area (Town Farm Court) of the Second Application Land can constitute a locality, or neighbourhood within a locality in which a significant number of its inhabitants used Town Farm Court for lawful sports and pastimes as of right for a period of twenty years.

The Evidence and Determination in connection with “Town Farm Orchard”

(i) Significant Number of Inhabitants

25. The Second Application included Map B (Appendix C) showing the neighbourhood within the locality, which has used Town Farm Orchard and includes the residents of the six properties in Town Farm Court and the High Street, Henlow, (see paragraph 21) stating that this area had been used by them for sports and pastimes (see paragraph 30 for details of claimed use) The Second Application included seven completed evidence questionnaires by the Applicants; Mr G P; Mr N T (signed on his behalf following a telephone interview); Miss L R; Mr N R; Mrs O T and Mrs T S.
26. The Landowners have commented on the evidence questionnaires to the effect that the questions could not be completed in a meaningful manner and have given detailed reasons for this in their Statement of Objection. They also commented that the Applicants sent these questionnaires to all current and several previous Town Farm Court residents and that only Mr G P completed one.
27. The Landowners also point out that Mr G P answered question 29. of the Evidence Questionnaire “Did anyone ever give you permission to go onto the land?” – Yes we were given a padlock key in 1993. However, the Landowners state that he never possessed a key to the gate. The Applicants answered – Yes, we were given a padlock key around 1986 to access the field. The Landowners also point out that following a stroke Mr G P cannot write and has reading difficulties. The Applicants have not commented on this.
28. The Landowners state that Mrs T S and Miss L R are the Applicants daughters and Mr P R is their son. Also they have advised the Council that Mr N T is Mrs Rapacchi’s brother and Mrs O T is her mother. The Applicants have not disputed this information. Therefore, the Council considers that this criteria/test in connection with Town Farm Orchard has not been met.

(ii) Locality, or neighbourhood within a locality

29. The Applicants stated in the Second Application that the residents of the six properties in Town Farm Court, and High Street Henlow (see paragraph 21) had habitually used Town Farm Orchard for over 20 years. However, the Landowners refute this and the Council has not received any letters in support of the Second Application from the residents of the other four properties in Town Farm Court and the High Street, Henlow. Therefore, it is considered that this criteria/test in connection with Town Farm Orchard has not been met.

(iii) Lawful sports and pastimes

30. The Applicants and the other people who completed Evidence Questionnaires state that Town Farm Orchard has been used for allotment gardening, dog walking, community celebrations, children on cycles & games, fishing & herbage, football & cricket, walking, bird watching, fruit gathering, sheep grazing, drawing & painting, picnics and caravanning. Other quoted activities would not qualify.

31. Most of these activities on Town Farm Orchard are consistent with use as a town or village green and fall within the criteria/test of “lawful sports and pastimes”,

(iv) As of Right

32. To meet this criteria/test the Applicants need to demonstrate that the use of Town Farm Orchard has been without force, without secrecy and without permission. The evidence from the Landowners supported by the 17 letters of objection (who confirmed that they had used Town Farm Orchard at the invitation of the Landowners) is that the Applicants and others were given permission by the Landowners to use Town Farm Orchard. There was a “squeeze gate” and the Landowners state that it was merely a 12 inch gap at the north end of the Applicant’s western boundary to Town Farm Orchard until 11th May 2009, when the Landowners closed the said squeeze gate and informed the Applicants that they did not wish them to enter Town Farm Orchard. The Landowners have further stated that as the gap is approx 12 inches wide it would not easily afford access to Town Farm Orchard. On 27 July 2011 the Applicants provided a clearer photograph of this gap (see Appendix L). The Applicants have confirmed that the Landowners gave them a key to the adjacent padlocked main gate to enter Town Farm Orchard (see paragraph 27) and therefore entry was with the Landowners permission.
33. The Landowners Statement of Objection has provided detailed evidence on how they gave permission to certain people to enter Town Farm Orchard to carry out the activities listed in paragraph 30 and that some activities may have been carried out in secrecy. In addition, the Landowners have stated that access to the land described as Town Farm Orchard was generally via their back yard and not through the small gap. The Landowners also explained that the Applicant’s children rarely entered Town Farm Orchard and then only by specific invitation.
34. The Landowners have also indicated that 75% of Town Farm Orchard was fenced off and unavailable for the activities claimed for the first 3 years of the claimed 20 year period and that they gave the Applicants a key to the padlocked gate at the end of Town Farm Court. Therefore, it is considered that use of Town Farm Orchard has not been “as of right”.

(v) Application Land (Town Farm Orchard)

35. The Applicants have clearly identified Town Farm Orchard on the plan marked “A” submitted with their application form. Therefore, it is considered that Town Farm Orchard was capable of being used for the twenty year period for the required recreational purposes.

(vi) For a period of twenty years

36. The Applicants claim a 20 year period from May 1989 to May 2009, when they received a letter from the Landowners which withdrew their permission to enter Town Farm Orchard. This is permitted under Section 15(3) of the Act.

Conclusions

37. Following a very through consideration of the evidence submitted by the Applicants (which the Council considers to lack the necessary quality of independent and cogent evidence), the Landowners Statement of Objection and the letters of objection, the Council as the Commons Registration Authority considers that the Applicants have failed to demonstrate that:
- (i) The Second Application Land has been used for sports and pastimes, as of right during the relevant period; and that
 - (ii) Use of the Second Application Land has been carried on by a significant number of the inhabitants of a locality, or neighbourhood within a locality.
38. Therefore, the Second Application has not satisfied the statutory tests and criteria for registration as a new Town or Village Green under the Commons Act 2006.

Appendices:

Appendix A – Guide to the Law
Appendix B – Extract from the Commons Act 2006 – Section 15
Appendix C – Application to register land as a Town or Village Green
Appendix D – Letter dated 30 March 2011 from the Applicants
Appendix E – Plan of Application Land
Appendix F – Notice of Application
Appendix G – Key points of Landowners Statement of Objection
Appendix H – Letter dated 13 July 2011 to the Applicants with Landowners Statement of Objection and other objections
Appendix I – Applicant’s letter dated 27 July 2011 giving comments on Landowners Statement of Objection and other objections
Appendix J - Letter dated 4 August 2011 from the Landowners
Appendix K – Letter dated 6 August 2011 from the Applicants
Appendix L – Photograph showing the “squeeze gap”
Appendix M – Letter dated 23 August 2011 from the Applicants

Background Papers: (open to public inspection)

- (i) Supporting documents submitted with Application to register land as a Town or Village Green....
- (ii) Statement of Objection and 17 letters of representation/ objection. ...

Location of papers: Priory House, Chicksands

APPENDIX A

Village Green Applications

Guide to the law

The purpose of this Appendix is to provide a guide to the legislation governing the registration of land as a town or village green (referred to throughout the rest of this Appendix as 'Village Green'). The law was revised in 2006 with the introduction of the Commons Act 2006 ("the Act"). This was partly in response to series of cases in the higher courts concerning village green applications and their use in challenging development.

A registered village green has the benefit of the protection of two Victorian statutes: the Inclosure Act 1857 and the Commons Act 1876. The Inclosure Act 1857 s12 prevents nuisances on the land such as the deposit of matter on the land or injury being caused, by giving power to the parish council to bring prosecutions. The Commons Act 1876 s29 sets out that any interference with the soil of a village green will be deemed a public nuisance, unless it is provided for the better enjoyment of the green. It is this section that effectively prevents development on a Village Green.

Central Bedfordshire Council's ("the Council") involvement is that it has a statutory duty to maintain a register of village greens as the Commons Registration Authority ("the registration authority"). This duty was imposed by virtue of the Commons Registration Act 1965 and continues through the provisions of the 2006 Act. This duty includes determining applications into whether land should be included on the register.

The Act does not provide a definition of a Village Green, but does provide that land meeting the criteria below can be registered as a town or village green (an extract from the Act (Section 15) is provided in Appendix B);

An outline of Section 15 of the Act

It is open to any person to apply to the relevant registration authority to register land as a green under Section 15(1). But only the owner of the land may apply to register under Section 15(8).

An application under Section 15(1) must indicate which one of the following criteria is claimed to apply:

- Use continuing – Section 15(2) applies where land has been used "as of right" for lawful sports and pastimes for 20 years or more before the application is made, and this use continues at the date the application is submitted.
- Use ended no more than two years ago – Section 15(3) applies where recreational use "as of right" for 20 years or more ended on or after 6 April 2007 but no more than two years before the application is submitted.
- Use ended before 6 April 2007 – Section 15(4) makes a special transitional provision for cases where recreational use "as of right" for 20 years or more ended before 6 April 2007. In such a case, the applicant must apply within five years of the date the use "as of right" ceased. Other special arrangements apply, in this situation only, where construction works under a planning permission affecting the land began before 23 June 2006.

The registration authority must also look for evidence of:

- the other criteria in Section 15(2), (3) or (4) having been met, namely that:
 - (i) a significant number of
 - (ii) the inhabitants of any locality, or of any neighbourhood within a locality

- (iii) have indulged... in lawful sports and pastimes
- (iv) as of right
- (v) on the land
- (vi) for a period of at least 20 years

- where relevant, the date of cessation of such use;
- where relevant, any interruption of such use owing to statutory periods of closure;
- where relevant, any planning permission affecting the land.

If the criteria for registration are proved to be satisfied in respect of only a part or parts of the Village Green specified in the application, the registration authority may register just that part or parts

An analysis of the criteria required to be met for land to be registered as a town or village green is provided below.

(i) Significant Number

What is a significant number is to be judged on a case by case basis, following the decision in *McAlpine Homes v Staffordshire County Council* (2002). It does not have to be considerable or substantial. The evidence provided in support of the application should show that the purported or alleged Village Green is in general use by the local population rather than sporadic use by trespassers.

(ii) Locality, or neighbourhood within a locality

This is a concept that can be hard to grasp. It is not enough to say that the land is used; the land has to be used by people living near the land. The presence of people from outside the locality is not fatal to an application, but the predominant use should be by the local inhabitants.

A locality has been defined as an area known to the law, such as a parish or an electoral ward. This may lead to evidential problems as the area may be quite large and the question of what is a 'significant number' of that area may be raised.

For this reason the idea of the 'neighbourhood within a locality' has been introduced to the criteria. What the applicant should not do is draw an arbitrary line around all the addresses of the people who gave evidence to delineate a 'neighbourhood'. If the neighbourhood is to be relied on then it must have a certain degree of cohesion, have recognizable features. A small village within a large parish, or a distinct part of a built-up area that has retained such features as local shops, a pub or two, a church or such other features of a settled community could be considered to be a 'neighbourhood'.

(iii) Lawful sports and pastimes

What qualifies as a lawful sport or pastime has been the subject of many Court and Commons Commissioner decisions. Organised sports such as football and cricket qualify, as do informal leisure activities such as dog walking, kite flying and community events such as fetes. There is no need for the same activities to continue throughout the year and again it is how the pattern of use appears to the landowner that is important to determine whether the users appear to be exercising a right.

(iv) As of Right

This criteria used to be referred to by the Latin phrase *Nec vi, nec clam, nec precario* or without force, without secrecy, without permission.

An early case in a series of recent relevant litigation examined the phrase "as of right". In the *Sunningwell* case it was decided that the phrase did not mean that each user has to use

the land with the belief that he is entitled to do so. The court held that what was important was how the use appeared to the owner, not what the users were thinking.

As to the elements: without force – if the land is only accessible through the use of force, by breaking a gate or climbing a fence then the use will not be ‘as of right’.

As to the element without secrecy – the use should be open and overt to the landowner.

The final element without permission – the use of the land must be without the permission of the landowner, which does not need to be written permission. Signs on the land stating that the use was with the permission of the landowner would be enough to negate an application. Signs forbidding entry might be sufficient as the use could be considered to be with force and therefore not ‘as of right’.

A case concerning a Village Green application in respect of land in Sunderland examined the position whereby a local authority who provided sports facilities and seating and kept the grass mown. It was held that this was not sufficient to imply that permission was being granted, and that the land could be registered.

The test, as set out in another case, is how things appear to the landowner and his reactions.

The Act has a built in safeguard for situations where use of the land is challenged, by either fencing or notices. Section 15(3) allows a period of two years from the cessation of use of the land as of right for an application to be made. Section 15(7) covers the situation whereby a landowner seeks to frustrate an application by granting permission for the lawful sports and pastimes to continue once the land has already been used as of right for twenty years; the subsection states that such use is to be regarded as continuing to be ‘as of right’.

(v) Land

The 2006 Act applies to all land in England other than the New Forest, Epping Forest and the Forest of Dean (Section 15(1)). It states that it applies to land covered by water (Section 61(1)) the Interpretation Section), so an application that included a pond could be entertained.

(vi) For a period of twenty years

It is not the case that each user must have used the land (the subject of the application) for twenty years. The use over that time-period can be made up of as many users as is needed to present a picture of continuous use of the land by local residents for at least twenty years.

The application process

The process begins with the applicant completing and submitting a CR44 Form and evidence to the Council. There is a review of the application and then a notification exercise and objection period. The evidence is weighed up and a decision taken.

The determination of the application for a new village green is based on a consideration at the outset of the application form. An application can be rejected if the application is not properly made, or is technically deficient. An opportunity to address such a defect should be afforded to the applicant if the defect is easily remedied.

When an application is submitted it is usually accompanied by user evidence that the applicant has gathered. Sometimes this is in the form of historical research, setting out the history of the land, and sometimes this is in the form of questionnaires completed by users of the land.

If an application is initially accepted then the appropriate Town or Parish Councils are notified and the application is advertised by way of notices on the site and public notices in the relevant local newspaper. Anyone identified as a landowner in the application is also

notified. This gives an opportunity for objections to the application to be raised and also further support to be submitted during a six week notification period.

All the information is then considered. Often the evidence is overwhelmingly one-sided and the recommendation is an obvious one. If the evidence is finely balanced then a non statutory public inquiry before an expert or a planning inspector is organised. A report following the inquiry is written by the expert/inspector with a recommendation. This forms the basis of the report to the Committee with a recommendation, which is usually accepted by the Committee.

There is no set method by which an application has to be determined. Some authorities use delegated officer powers, others use a Committee or Lead Member resolution. In reaching a decision on the evidence, again there is no set process. Some authorities rely on officer judgment, others will hold a hearing before Members while others will hold a non-statutory public inquiry into the application in order for a planning inspector or an expert to hear the evidence before coming to a conclusion, which the party determining the application can accept or reject.

Rights of Appeal

When the Council decides to accept an application the land is entered on the Council's register of town or village greens. It is then open to the landowner to make an application to the Secretary of State under Section 16 of the Act to have the land de-registered, provided the land is under 200 square metres, If the land is over 200 square metres the application to the Secretary of State must include a proposal that alternative land is registered in its place. The Council is not involved in this process.

If the Council declines to accept the application the only right of appeal is a judicial review.

APPENDIX B

Extract from the Commons Act 2006

Section 15 Registration of greens

- (1) Any person may apply to the Commons Registration Authority to register land to which this part applies as a town or village green in a case where subsection (2), (3) or (4) applies.
- (2) This subsection applies where-
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
 - (b) they continue to do so at the time of the application.
- (3) This subsection applies where-
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
 - (b) they ceased to do so before the time of the application but after the commencement of this section; and
 - (c) the application is made within the period of two years beginning with the cessation referred to in paragraph (b).
- (4) This subsection applies (subject to subsection (5)) where -
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
 - (b) they ceased to do so before the commencement of this section; and
 - (c) the application is made within the period of five years beginning with the cessation referred to in paragraph (b).
- (5) Subsection (4) does not apply in relation to any land where-
 - (a) planning permission was granted before 23 June 2006 in respect of the land;
 - (b) construction works were commenced before that date in accordance with that planning permission on the land or any other land in respect of which the permission was granted; and
 - (c) the land-
 - (i) has by reason of any works carried out in accordance with that planning permission become permanently unusable by members of the public for the purposes of lawful sports and pastimes; or
 - (ii) will by reason of any works proposed to be carried out in accordance with that planning permission become permanently unusable by members of the public for those purposes.
- (6) In determining the period of 20 years referred to in subsections (2)(a), (3)(a), (4) (a), there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment.
- (7) For the purposes of subsection (2)(b) in a case where the condition in subsection (2)(a) is satisfied-
 - (a) where persons indulge as of right in lawful sports and pastimes immediately before access to the land is prohibited as specified in subsection (6), those persons are to be regarded as continuing so to indulge; and
 - (b) where the permission is granted in respect of use of the land for the purposes of lawful sports and pastimes, the permission is to be disregarded in determining

whether persons continue to indulge in lawful sports and pastimes on the land "as of right".

- (8) The owner of any land may apply to the Commons Registration Authority to register the land as a village green.
- (9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.
- (10) In subsection (9)-
 - "relevant charge" means-
 - (a) in relation to land which is registered in the register of title, a registered charge within the meaning of the Land Registration Act 2002 (c.9);
 - (b) in relation to land not so registered-
 - (i) a charge registered under the Land Charges Act 1972 (c.61); or
 - (ii) a legal mortgage, within the meaning of the Law of Property Act 1925 (c.20), which is not registered under the Land Charges Act 1972;
 - "relevant leaseholder" means a leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.

APPENDIX C

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:

**COMMONS ACT 2006
CENTRAL BEDFORDSHIRE COUNCIL
REGISTRATION AUTHORITY**

DATE..... 4 MAY 2011

Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the **ORDERS & COMMONS REGISTRATION OFFICER**

CENTRAL BEDFORDSHIRE U.C.

Note 1
Insert name of registration authority.

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

Full postal address:

Postcode

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

11th MAY 2009

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

TOWN FARM COURT AND
TOWN FARM ORCHARD

Location:

LAND COLOURED GREEN ON MAP A

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

THE NEIGHBOURHOOD IS WITHIN THE PARISH AND
CONSERVATION AREA OF THE LOCALITY OF
HENLOW, CENTRAL BEDFORDSHIRE.

THE NEIGHBOURHOOD WITHIN THE LOCALITY IS
CLEARLY MARKED ON MAP B

Tick here if map attached:

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

* Only complete if the land is already registered as common land.

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

MAP A



Land Subject to A Village Green Application.

Town Farm Court together with land known as 'Town Farm Orchard Field'

Date: February 2011 Scale 1:1250

B

Shown

Neighbourhood dwellings and garages ●

Pedestrian routes to point A (RoW)

Point A – Pedestrian access

Land subject to Open Space application ●

HIGH STREET





Aerial Photograph of land coloured Green on MAP A (C1986-1992)

shown

- ✓ Bridge at Henlow Brook
- ✓ Caravanning
- ✓ Metalled footpath
- ✓ Traditional Orchard, sheep grazed
- ✓ Allotments on Orchard site
- ✓ Open and stock proof fencing
- ✓ Gate and pedestrian access
- ✓ Car parking on TFC and on orchard



D

Land Registry

Cymraeg



Land Register Online

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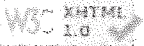
[Aerial land locator](#)

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The Aerial Land Locator shown opposite can be used to find properties within a specified area. Navigate to the area you are interested in and zoom in to a scale of 1:1250 or 1:2500. You will then be able to select the 'Find properties' option at the bottom right of the toolkit. Select the size of the radius and then click on the map to search for properties in that area.

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[Map](#) [Aerial Photo](#) [Both](#)



Scale: 1: 1250

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[Zoom and centre map](#)

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Radius: 10 metres

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7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

The application is made on behalf of a small neighbourhood within a locality. (MAP A) To Establish that Rights of Way Use of Open Space have been established by practice and usage.

The neighbourhood have passed and re-passed Town Farm Court for over twenty years on foot, bicycle and vehicle. Town Farm Court has been used for play, pedestrian access to High Street and to Town Farm Orchard, cycling, delivery vehicles, resident parking, access to those maintaining a private sewerage system within the front garden of 3 Town Farm Court, the unimpeded access of refuse collection and emergency services

Town Farm Court provides access to Town Farm and had been used for recreation "as of right" for 20 years or more by the neighbourhood within a locality.

By a Letter dated 9th May 2009 the right to pass and re-pass Town Farm Court without let or hindrance, and to enter on foot Town Farm Orchard was ended by the current landowner of Town Farm Court roadway. The applicants property was fenced to its Eastern boundary.

This application is made within two years of 9th May 2009 and is therefore within the TWO YEAR limitation of Section 15 (3)

The Applicants' statement together with 8 OSS questionnaires PROVIDES EVIDENCE OF:

(i) The significant number of users. The area being in general use by the neighbourhood rather than sporadic use by trespassers. *McAlpine Homes v Staffordshire CC 2002*

(ii) the courtyard and orchard being predominantly used by the local inhabitants. *maps A and B*

(iii) lawful sports and pastimes

(iv) how the use appeared to the owner, the open use of the land, open pedestrian access and fencing of the land in July 2009.

(v) the land (Town Farm Court and Town Farm Orchard) which is described and mapped

(vi) The use made of the land over a period exceeding twenty years by many users, a picture is presented of continuous use of the land by the local neighbourhood within a locality.

The application is duly made and seeks to protect the utility, and rights of way, leisure use and peaceful enjoyment of Town Farm Court. The application seeks confirmation of the rights of way and access to land coloured green on MAP A.

The application seeks the reinstatement of signage, appropriate fencing, pedestrian and vehicular access and utility as existed in 1984. Under Section 15 (3) of the VILLAGE GREEN & OPEN SPACES ACT of 2006

STATEMENT OF WENDY and RAYMOND RAPACCHI APPLICANTS

1st March 2011

1. Town Farm Court was a Farm Yard to the West side of Henlow High Street. Town Farm Court is an open space providing access and facilities for a small development of six dwellings in the Village of Henlow. Farm Courts are noted in the Conservation Review of Henlow Village as being a characteristic feature of the area. Town Farm Court is mapped on MAP A and its entrance photographed below. The driveway and dwellings are within the Henlow Conservation Area.



see; MAP A, PLAN B

2. 3 Town Farm Court was constructed in 1983, the last of the six dwellings. 3 TFC has provided a family home and business accommodation to the Applicants, without interruption for twenty eight years. The property and its gardens are within the Henlow Conservation area.

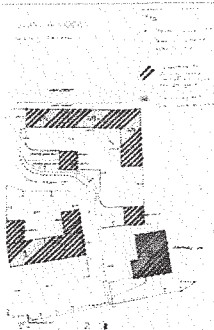


3. The transfer deeds contained legal easements and conditions:
 - a. relating to the vehicular and pedestrian passage to our property and rights in common with other Town Farm Court Users, rights to pass & re-pass 'and for all proper purposes'
 - b. The management of a private sewerage pumping system running from a store under our front garden and through the mid point of the length of Town Farm Court was established. The private sewerage system manages all soil waste from the properties 1, 2 and 3 Town Farm Court.
 - c. An agreement to maintain open and stock proof fencing to our property along its boundary with Town Farm Orchard.
 - d. An agreement to allow onto the Orchard the Land Owner of the Agricultural Land know as Town Farm Orchard
 - e. An agreement to allow the developer to link to the private sewerage system was reserved for 20 years from the Deed date (1983)

The agreement was between ourselves as Purchasers and the Developer/Driveway Landowner1 David Curzon of Dave Curzon Homes Ltd. The drive end was finished by the Developer with an open metal gate and pedestrian access to its side, facilitating access to Town Farm Orchard by all residents of Town Farm Court and 49a,b and c Henlow High Street.



4. The former farm yard was completed by the Developer in 1983 and provided access to 10 purpose built garages attached to 1,2 and 3 Town Farm Court and 49-49c Henlow High Street, pedestrian access from dwellings, and gardens to garages, cycle access, opportunities for outdoor play and vehicle and pedestrian access to Town Farm Orchard. Its wide central area provides a turning circle for emergency, delivery and refuse vehicles. The yard is an area in common and constant use by residents and visitors. No permissions were required before use.



refer: Land Registry Title TL1738SE Proprietor register

5. D Curzon (Property Renovation and Maintenance) Limited Landowner1 finished Town Farm Court by providing an unlocked metal gate (vehicle access) and a pedestrian kissing gate which was approximately 750cm wide. and was used by residents of the neighbourhood for over twenty years. The recreational and leisure use of the neighbourhood over a twenty year period are evidenced by pages 1__ to _27 and eight OSS Questionnaires.



6. In the late 1980s, the landowner of Town Farm Orchard become worried about the possibility of "gypsies accessing his property" JH. The Landowner of Town Farm Orchard removed the bridge over Henlow Brook to block the path which runs across the site preventing vehicle access via the brook. The applicants were given a padlock key in order that they could continue to use the Orchard field, the pedestrian access remained open to the neighbourhood within the locality of Henlow. Landowner1 and Landowner2 of TFC made no contact.



Aerial Photo C and Land Registry Aerial Photo D

7. Allotment gardening, bonfires of garden waste, fruit gathering, walking, dog walking, bird watching, cricket, play, fishing and herbage, children on cycles took place on the Orchard during the years 1983-2009, were enjoyed by the residents of the neighbourhood without incident or complaint. No notices were displayed on the field to indicate that any of the activities were not permitted.

PAGES 1_ to 27__ also Open Spaces Society Interview Sheets (8)

8. The orchard was used on occasion to host wedding receptions and biennial bonfire parties, hundreds of guests accessed the Orchard by the gate to the end of Town Farm Court. Service providers accessed the land by vehicle to prepare for these events by the gate to the end of Town Farm Court.



9. All residents of Town Farm Court and 49a, b and c Henlow High Street have over a period of many years established by custom and practice
 - a. Rights of Way over Town Farm Court.
 - b. Have at all times provided access to the Owner of 51 High Street Henlow the opportunity to use the length of the driveway and to access Henlow Orchard without let or hindrance.
 - c. they have never at any time blocked the Owner of 51 High Street's vehicle access to his private garden, or to the newly erected garages at 51 High Street, or TF Orchard
 - d. By their considerate parking on the driveway the road has never been obstructed.
 - e. By their considerate usage of the driveway children and cyclists have used Town Farm Court without injury.
 - f. No permission is required to use the driveway for a variety of purposes, including parking
 - g. Children do not require permission to play on Town Farm Court

1982-2009 residents and users of Town Farm Court have exercised due care and consideration by their customary use of the Court yard during the tenure of 3 Landowners of the driveway.

10. In a year not known to the applicants, D Curzon of D Curzon Renovation and Mntnc. Ltd (Landowner1) ceased trading, ownership transferred to the Official Receiver. **The residents were not informed of this change.** The driveway was purchased by the owners of 51 High St from the

Official Receiver for £500 on 24th September 2002 - Landowner3. **The residents were not informed of 2nd change of ownership.** Residents were not informed of the possibility of a joint purchase of the driveway., by Landlord1, 2 or 3. Land Registry Title no BD223729 attached.

ITEMS 1 on letter from Landowner3 20/DEC/2003

11. Landowner3 removed signage relating to Town Farm Court, and renamed the road.



12. In 2003 the driveway was resurfaced. Costs were apportioned between the six residents. Landowner3 made no contribution to the costs.

Pages 11 correspondence

13. Central Bedfordshire Council awarded Planning permission to demolish and rebuild a barn within the private garden of 51 High Street. The project adds additional garage space which is currently accessed from Town Farm Court. The residents of Town Farm Court continue to afford access to the new-build via Town Farm Court Driveway.

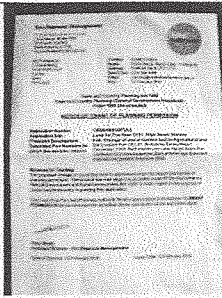


14. In 2009-10 TFC Residents Association notified Landowner3 that no rights existed which would enable the new build to connect or interrupt the use of the private sewerage system under Town Farm Court. The letter was copied to CentralBeds Building Inspector. The building inspector team of Central Beds UC was informed when the road was blocked by construction traffic and craned deliveries to the site. The Building inspector was informed of residents' road safety concerns during the construction phase. Residents were not consulted on any matters relating to access and road safety and children's play during the construction phase. By Landowner1, 2 or 3.



Item 14, letter TFC Residents' Assoc

15. The residents of 2 and 3 Town Farm court made objection to Mid Beds Council when the Landowner3 applied to alter the usage of the Town Farm Orchard from Agricultural to a Private Garden by application to Mid Beds Council. The residents of 2 and 3 Town Farm Court were able to return the Orchard to Agricultural Use on 12th February 2010



Item 15

16. The Orchard became the subject of a Biodiversity Action Plan in October 2008



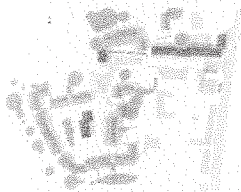
item 16 BedLife HAP

17. The Orchard was damaged in December 2009 by agents of Landowner 3



Item 17 Heritage Statement

18. Landowner3 together with Town Farm Homes Limited using RMA Architects as Planning Agents applied for planning permission to build a mixed housing estate with Socially affordable housing on land to the rear of 53 High Street Henlow, in 2008 and again in 2009 *The orchard area is part of the development site.*



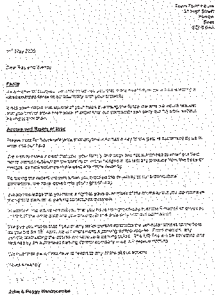
Item 18

19. The Orchard was destroyed by Landowner3's agents 17th April 2009. The felling was investigated by Bedfordshire Police, Insp Canning under the Wildlife Protection Action Section 1.



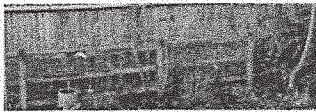
Item Statement Case no 151/18042009

20. The applicants received by recorded delivery, a letter dated 9th May 2009 from Landowner 3. The letter sought to impose parking restrictions and pecuniary clamping fees, deny access to the orchard and to fence the Applicants property with high fencing to its Western boundary and to vary the customary RoW.



Item 20 Letter to Applicants from Landowner3

21. On 16th June 2009 a high length of fencing was erected against the western boundary of our property, obscuring the open and stock proof fencing, by Landowner3.



Additional photos available

22. On 16th June 2009 the pedestrian access was fenced, and the pedestrian access to all residents of Town Farm Court was closed on that date



Additional photos available

23. On 1st February 2010 D Curzon, Landowner1 acting as an agent for the Landowner3 on the

Orchard site dug deep trenches were cut to the site, making the open space that was Town Farm Orchard unsuitable for Agricultural, recreational or leisure use.



Item 23: email from Hannah Firth to D Curzon 13th January 2010.

24. The land remains derelict, March 2011 as the trenches have never been made good.

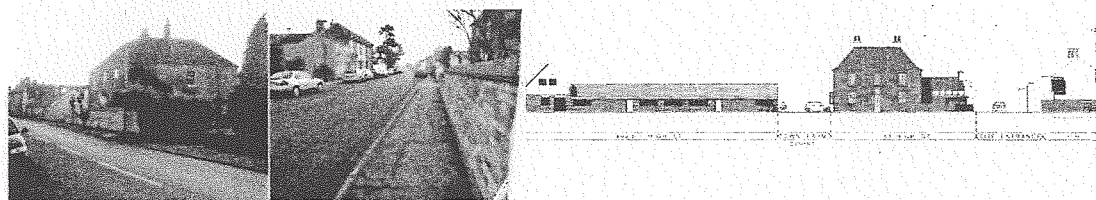


additional photos available

25. 24th March 2010 Central Bedfordshire UC grant Conditional Conservational Area Demolition Consent to Landowner3 and others to demolish 53 High Street Henlow. CB/09/06630/CA



26. In March 2010 Central Bedfordshire UC granted Conditional Planning Permission to develop a mixed housing development, including socially affordable housing on land to the rear of 53 High Street Henlow to Landowner3 and others. The development will be accessed from the High Street with close proximity to Town Farm Court. CB/09/06626/FULL



27. Town Farm Court is unsuitable for use by heavy construction traffic during the construction phase. Which conflict with the RoW of children pedestrians, cyclists and all using the courtyard. Additionally the Courtyard open space is habitually used by toddlers and children at play and the health and safety of all would be severely compromised if Town Farm Court were again used to accommodate construction plant under easements granted by Landowner3 and others to their agents.



ITEM 27 letter from landowner 3
Summary refers.

SUMMARY:

By presenting to Central Bedfordshire Rights of Way Team a factual history of the land use of a Neighbourhood within the locality of Henlow we have demonstrated the Rights of Way and Use of Open Space on land marked Green on MAP A Over a period exceeding 20 years. Statements 1-8

The neighbourhood was unaware of the changes of ownership of the land they used by custom for access, leisure and recreation and in the absence of direction the residents have established the customary usage over all the land coloured green. Statements 9-10

Landowner3, between 2002 and 2009 damaged, arranged a change of use, renamed and blocked access on the land coloured green on MAP A. The Landowner's actions were based on a continuity of land and ownership rights, responsibility and easements that were assumed and not within his gift of.

This application is made under section 15 subsection 3 of the Village Green & Open Spaces Act of 2006, within the prescribed limitation of two years from 9th May 2009 after the Applicants received notice of discontinuation of RoWs, Access and the peaceful and unhindered use of the Land Coloured Green on MAP A. Item 20. Landowner 3 purported to have been the long term Landowner to neighbourhood who had afforded to the Landowner considerate usage and who were not afforded consideration themselves.

Landowner3 changed, restricted and damage the land coloured green on Map A in June, 2009, December 2009 and February 2010 at times when the Landowner should have contributed to the common use peaceful enjoyment of the Land. Statements 11-19

The Application seeks to secure recognition under the 2006 Act Section 15.3 to protect in perpetuity the RoWs and usage of the Land Coloured Green on Map A and to protect the land from further damage, restriction or further loss of biodiversity

It is hoped that the Landowner will:-

- **make restitution to residents and restoring the Rights of way and utility which were available to residents in 1983.**
- **Protect residents from further damage and loss of quiet and peaceful enjoyment by not parking construction vehicles in close proximity to homes in Town Farm Court**
- **Protect the underlying utility pipes from damage by heavy vehicles by not allowing construction traffic to pass over Town Farm Court**

- Replace with low stock-proof fencing and remove the high fence to the eastern boundary of 3 Town Farm Court as required by Conveyance to them 1983
- Re-open the pedestrian access to TF Orchard and enable the land's continued use by residents
- Clarify the new parking arrangements and charges to be imposed on Town Farm Court
- Return Town Farm Court signage
- Work in common with the residents to improve and maintain the Courtyard and Orchard and to improve the safety of children and pedestrians and aided pedestrians using the Courtyard

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

LANDOWNER 1 D. CURZON, 33 HIGH ST. HENLOW
LANDOWNER 3 J/P M. HANDSCHEBE 51 HIGH ST. HENLOW SG16 6AA
OPTION HOLDERS DIRECTORS TOWN FARM HOMES LTD. R/O THE ROOKERY
THR BD203622 PRACH, BENNINGTON, HERTS SG2 7BU
MORTGAGEES BARCLAYS BANK. PO BOX 187, LEEDS LS11 1AN
TITLE NO BD203622, 22/08/2009

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

NOT VOLUNTARY REGISTRATION

10. Supporting documentation

MAP A AND STATEMENT attached.
PLAN B
AERIAL PHOTOS C+D
OPEN SPACES SOCIETY COMPLETED QUESTIONNAIRES
ITEMS 1-27 LISTED SEPERATELY.

11. Any other information relating to the application

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

It is expected that the following may wish to challenge this application.

PARTIES to a 106 Declaration Agreement on land at 53 High Street Henlow. D Corgan, Mr J Handscombe K+A Everton, and CENTRAL BEDS U.C.

LANDOWNERS 1, 2 and 3 TOWN FARM CRT.

THE DIRECTORS OF TOWN FARM HOMES LTD.

J Handscombe, D Corgan and other newly appointed

THE OWNER OF 53 HIGH STREET, HENLOW

CENTRAL BEDS U.C. PLANNING DEPT

FULL DETAILS ON SEPARATE SHEET. ITEM 28

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

3rd MARCH 2011

Signatures:

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name (and address if not given in the application form).

I, ~~_____~~ solemnly and sincerely declare as follows:—

² Delete and adapt as necessary.

1.² I am (~~the person~~ (one of the persons) who (has) (~~have~~) signed the foregoing application)) (~~the solicitor to (the applicant)~~)³ one of the applicants).

³ Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in the case of voluntary registration (strike through if this is not relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

WP
JB
Cont/

4 Continued

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

DR. JB

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

..... ok JB

Declared by the said)
WENDY RAPACCHI)
at)
Sharman Law Bedford)
this 3rd day of March 2014)

Signature of Declarant

Before me *

Signature:

Address:

Sharman Law
1 Harpur Street
Bedford
MK40 1PF

Qualification:

FILE X

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

Raymond Rapacchi B.Ed Hons

The Keeping, Town Farm

Henlow

Bedfordshire SG16 6AZ

Telephone: 01462 811020

thekeeping@homecall.co.uk

30th March 2011

Mr C Heard Orders and Commons Registration Officer

Central Bedfordshire Council, Technology House

239 Ampthill Road

Bedford MK42 9BD

Dear Mr Heard,

VILLAGE GREEN APPLICATION _ TOWN FARM COURT & ORCHARD HENLOW COVERING LETTER

Many thanks for your letter. We enclose copies of the additional evidence requested.

The correspondence and abstracted Conveyances evidence Statement 3. David Curson of Henlow Renovations Ltd. Was the developer and landowner (1) referred to in our application. John and Margaret Handscombe Landowner 3. The evidence shows:-

RoW were granted to all residents over the Land known as Town Farm Court by Landowner 1. On or before 1983. There was a contractual duty to provide footways and to finish the road, these works were not undertaken and Landowner 1 took no further part in finishing, managing and maintaining land at Town Farm Henlow. The development company ceased trading.

RoW were established by the users of the Court over this unmanaged period, over a period exceeding twenty years users passed and re-passed Town Farm Court on foot, pedal and by car and the Courtyard used by children at play. Users and their children accessed freely the orchard on foot by a permanently open space to the left of a white gate at the end of Town Farm Court for the purposes of leisure and recreation. A key to the padlocked gate was provided for vehicular access to the orchard.

Previously submitted evidence proves that on 1st February 2010 Landowner 1 (Acting as agent for Landowner 3) together with Bedfordshire Archaeological Services trenched the Orchard making it unsuitable for the purposes of leisure and recreation. Throughout 2009 and 2010 the Court was heavily used by Construction vehicles

which parked on the Orchard site making the Court unsuitable and dangerous for pedestrians and children at play.

The HAPs Biodiversity site was destroyed by Landowner 3 and his agents

On 9th May 2009 Landowner 3 gave notice to residents of Town Farm Court that their use and access of **orchard site was now prohibited**, and that they had no rights to park on Town Farm Court. Parking penalties were threatened and the residents were asked to seek permission to drive over a five meter strip across Town Farm Court to access their own driveway or to enter the **Orchard site**.

This Application seeks to secure clarify and to secure the RoW, access and use established by the residents of a small community within a neighbourhood in Henlow; to secure protection from damage and further loss of amenity by development works across the whole piece and to restore lost amenity under Section 15 subsection (3) of the Open Spaces and Village Greens Act 2006.


Perhaps you could confirm that the potential objectors listed in Application Form 44 have been noted before considering the appropriate form of hearing for this action.

We confirm the date of the application as 2nd March and confirm that our evidence is complete.

If Council or Counsel require any further evidence we shall be most happy to provide this.

Many thanks for all your help,

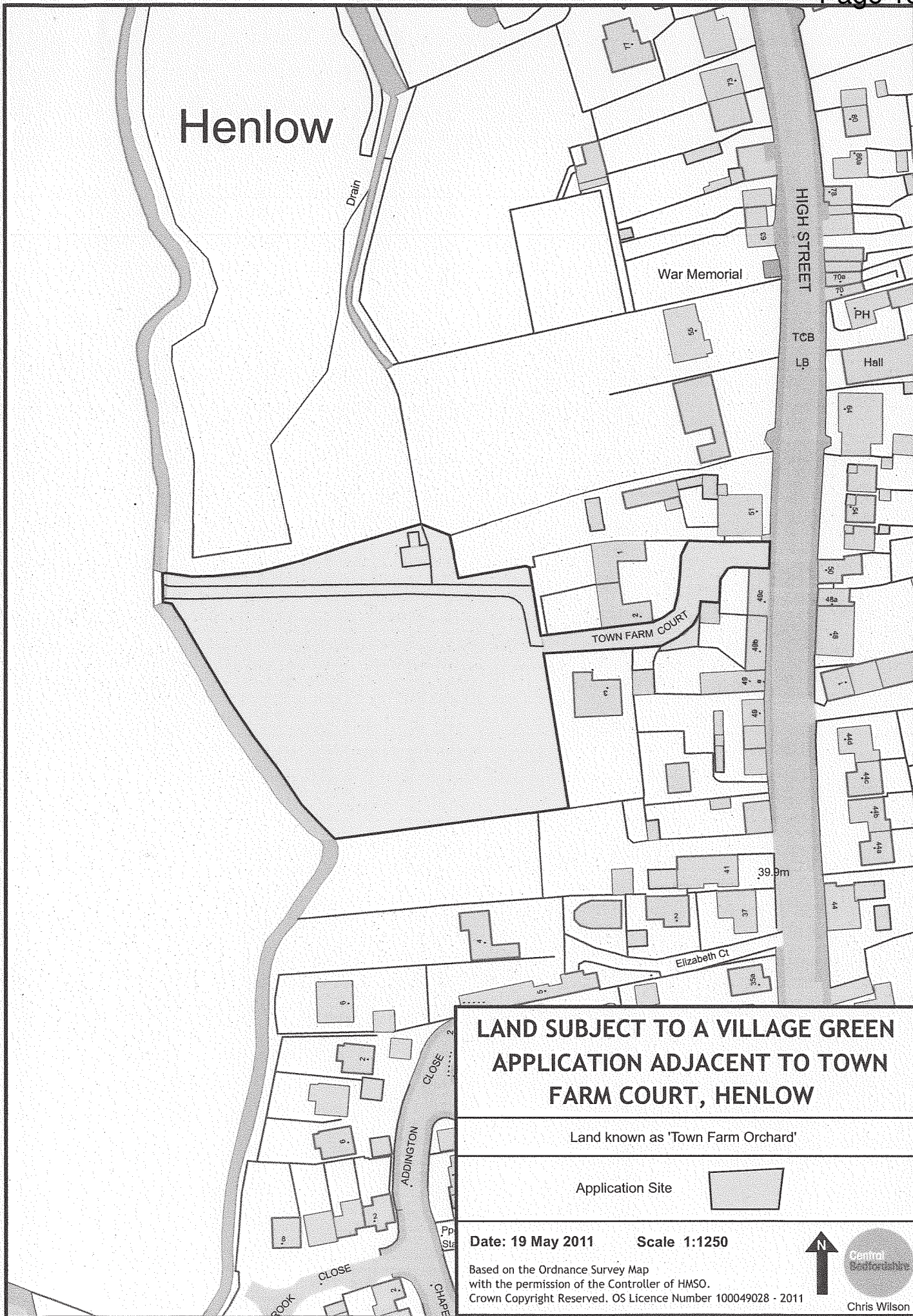
Yours sincerely,



Ray and Wendy Rapacchi

Encs: labelled:

- 3a Title no: BD2033622 John and Peggy Handscombe (later -Landowner 3) RoW over Town Farm Court
- 3b Conveyances Detailing RoW easements and restrictions conveyed by Landowner 1 to properties Forming the small community within a neighbourhood in 1981. The route of the extinguished footpath is marked in purple. The orchard is bounded pink.
- 3c Mid Beds Planning Restrictions on boundary fencing, walls and hedges to properties in Town Farm Court, and public safety and convenience regulations on access to the area west end of Town Farm Court
- 3d Acknowledgment of David Curson of Property Renovation and Maintenance Ltd to Wendy and Ray Rapacchi to produce documents 3a and 3b which relate to the inter alia right of way (in common with other users) over Town Farm Court. The documents were produced to the Applicants solicitors and prior to completion and the Transfer deeds to 3 Town Farm Court contained reference to the RoW and detailed that the boundary of their property to the orchard be maintained by the applicants, with open and stock proof fencing.



**LAND SUBJECT TO A VILLAGE GREEN
APPLICATION ADJACENT TO TOWN
FARM COURT, HENLOW**

Land known as 'Town Farm Orchard'

Application Site



Date: 19 May 2011 Scale 1:1250

Based on the Ordnance Survey Map
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Chris Wilson

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COMMONS ACT 2006 – SECTION 15(3)

Central
BedfordshireNOTICE OF AN APPLICATION FOR THE REGISTRATION OF LAND AS
A TOWN OR VILLAGE GREEN

To every reputed owner, lessee, tenant or occupier of any part of the land described below, and to all others whom it may concern.

Application has been made to the Registration Authority, Central Bedfordshire Council, by Raymond and Wendy Rapacchi under section 15(3) of the Commons Act 2006 and in accordance with the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 for the inclusion in the Register of Town or Village Greens of the land described in the Schedule below, which it is claimed to have qualified for registration as a Town or Village Green by virtue of the use of the land for the purposes of lawful sports and pastimes "as of right" and without challenge by the landowner for a period of over 20 years.

The application, which includes a plan of the land proposed for registration, may be inspected at the offices of Central Bedfordshire Council at the address below by appointment. **Please contact the Orders & Commons Registration Officer on 0300 300 6249 to make an appointment prior to visiting to ensure that a member of staff is available to assist you.** Copies of the application and plan may also be inspected during normal opening hours at Shefford Library, High Street, Shefford.

If the Registration Authority is satisfied that the land described in the Schedule below qualifies for registration as a Town or Village Green, it will so register the land.

Any person wishing to object to the registration of the land as a town or village green should send a written and signed statement of the facts on which the objection is based to the **Orders & Commons Registration Officer, Countryside Access Team, Central Bedfordshire Council, Technology House, 239 Ampthill Road, Bedford MK42 9BD so as to arrive not later than 11th July 2011.**

Any representations that are to be taken into account by the Authority in reaching a decision on the application cannot be treated as confidential and will be copied to the applicant for comment and may be disclosed to other interested parties, and dealt with in accordance with the Regulations.

Date: 27th May 2011

Technology House
239 Ampthill Road
Bedford MK42 9BD

David Leverington
Rights of Way Team Leader

ScheduleDescription of the land claimed to have qualified for registration as a Town or Village Green

Land described in the application as Town Farm Court, Henlow and Town Farm Orchard, Henlow (which is situated at the western end of Town Farm Court), comprising of approximately 6,580 square metres (1.626 acres) or thereabouts, the Ordnance Survey Grid Reference of which is centred on TL 1759 3835.

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Town Farm Court and rear garden of
Town Farm House, 51 High Street, Henlow

Application to Register as a Village Green (4/2011)

Key Points of Objection

- 1) This is the second Application to register part of our property as a Village Green; the first Application was designated 2/2010 and was refused by the CBC Development Management Committee.
- 2) The subject area of 2/2010 (part of our garden) forms 80% of this Application. Town Farm Court (TFC), our private driveway, forms the remainder. For clarity, we will call our **garden Area G** and the **driveway, Area D** (see map overleaf). The previous Application was for area **G**.
- 3) We believe the only reason this Application was accepted is that it covers a different area from the first Application. The difference is that area **D** has been added. The Applicants claim that by virtue of colouring both areas the same on a map, this makes them an entity. They offer no justification or logical grounds for combining them.
- 4) We submit that these two areas have no logical linkage and nothing in common.
 - a) They have always been separated by a locked gate
 - b) They are physically different - 80% (**G**) is our garden and 20% (**D**) is a tarmaced driveway, which is also our property, leading to our back yard and rear garden
 - c) They are separate legal entities (separate land registrations)
 - d) The pattern of use is totally different (area **G**: private use by owners/family/invited friends and others with permission or by invitation, vs area **D**: regular vehicular/foot access to TFC properties)
 - e) Rights of way are different: no ROWs exist over area **G** whereas easements (legal rights) exist for residents to pass over the driveway - area **D**.
- 5) **Three reasons for refusal of 2/2010**
 - a) It failed the criteria/test for a neighbourhood. **(The neighbourhood cited in this Application is the same)**
 - b) It failed to prove that a significant number of inhabitants used the area
 - c) It failed to prove that access to area **G** was 'as of right'

We submit that on these same points, this Application is also fatally flawed.

6) **Submission under Section 15(3) of The Act**

2/2010 (covering area **G**) and this Application have both been submitted under Section 15(3), which is predicated on the cessation of access to an area previously available to a neighbourhood. We proved in our Objection to 2/2010 that only one household was subject to the restriction, i.e. the Applicants'. The situation pertaining to the remainder (5 out of the 6 properties) of the defined neighbourhood in respect of Area **G** was and is unchanged. As the Officers were aware of this (from our Objections to 2/2010), we believe this Application should not have been accepted because area **G** clearly does not qualify under Section 15(3).

Furthermore, as we have placed no restrictions on the use of area **D**, this area does not qualify either.

7) Driveway rights

- a) The Applicants now attempt to prove that a (non-compliant) neighbourhood has earned prescriptive access rights over area D and then appear to argue that these rights extend into area G. We maintain that access rights over area D have not been earned but are legal rights, i.e. 'with permission', by virtue of easements which attach to their properties. Case law (*Laing Homes*) clarifies that 'by right' or 'of right' does not constitute 'as of right'. On this point alone, the Application fails to meet the requirements of Section 15(3) of The Act with respect to area D.
- b) There is no logic for claiming that 'rights' can be arbitrarily extended from one area to another simply because the Applicants draw a line around the greater area. As the previous Application covering area G has already been refused, we believe that for several reasons, this Application fails in its entirety.
- c) The above points notwithstanding, we submit that to register a private driveway as a Village Green is not only stretching the intentions of The Act beyond what a reasonable person would think was its intention, but would cause major problems to residents by effectively opening it to allcomers.

8) No mandate

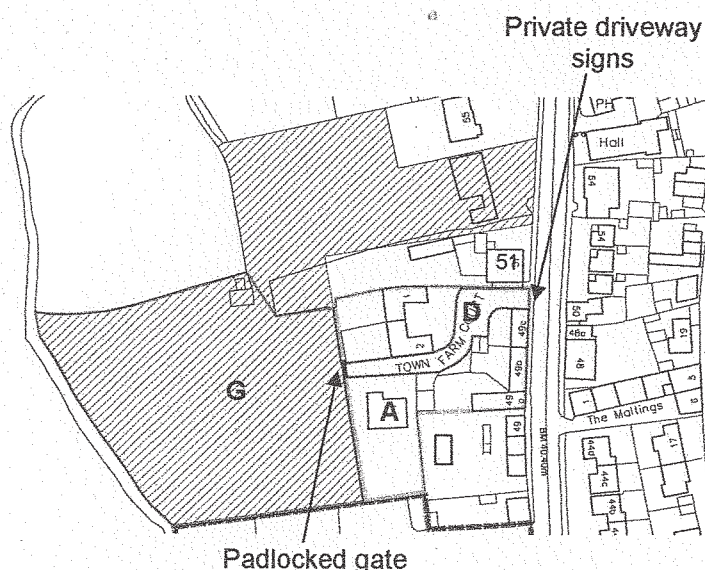
The Applicants had no mandate from the neighbourhood to make the previous Application; they have no mandate to make this one. They make it solely for their own ends and no independent evidence has been submitted in support of their claims.

9) Consequences & purpose

The consequences of approval are so much at variance with the Applicants' obvious sensitivity to usage and maintenance costs of area D that we believe they expect this Application to fail, thus supporting our belief that their sole purpose is to delay or otherwise frustrate the approved development adjacent to their property.

John & Margaret Handscombe

4th July 2011



The Application covers our rear garden and our driveway

G is our garden (red boundary)

D is our driveway (red boundary)

'Neighbourhood' is defined as properties within green boundary

A is where the Applicants live

Planning approval
CB/09/06626/FULL
applies to shaded area



Central
Bedfordshire

Mr & Mrs Rapacchi
The Keeping
Town Farm Court
Henlow
Beds
SG16 6AZ

Your ref:

Our ref:

Date:

CH / VG

Application No
04/2011

13 July 2011

Dear Mr & Mrs Rapacchi

Commons Act 2006: Section 15(3)

**Application for the registration of land as a Town or Village Green -
Land described in the application as Town Farm Court and "Town Farm
Orchard", Henlow, Bedfordshire**

I refer to my e-mail dated 7 July 2011 and confirm that Central Bedfordshire Council ("the Council") has received one Statement of Objection from the landowners and a further 17 letters of objection in response to your application to register the above land as a Village Green.

By virtue of paragraph 6(3) of The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 (2007 Regulations) the Council must provide you with copies of every objection received and any other matters which appear to afford possible grounds for rejecting the application.

Therefore, pursuant to paragraph 6(4) of the 2007 Regulations I now enclose copies of the landowners Statement of Objection and letters of objection received and you now have the opportunity of dealing with the issues contained in the landowners Statement of Objection and the objection letters.

The Council requires you to advise please precisely which allegations in the landowners Statement of Objection (which is very comprehensive) and the letters of objection you accept and those which you propose to challenge. Where the objector alleges that the application or supporting evidence is inadequate, you now have the opportunity to amend and/or clarify any points and issues set out in your application.

Without prejudice to the requirement for you to deal with every point made in the landowners Statement of Objection and the letters of objection, Central Bedfordshire Council (the Commons Registration Authority), as pointed out in my previous letter dated 2 December 2010 in connection with your first village green application, has to be satisfied that the application meets the required criteria under Section 15(3) of the Commons Act 2006 as follows:

- (i) a significant number of
- (ii) the inhabitants of any locality, or of any neighbourhood within a locality
- (iii) have indulged... in lawful sports and pastimes
- (iv) as of right
- (v) on the land
- (vi) for a period of at least 20 years

And they continued to do so until 11 May 2009.

You have indicated that the Open Spaces Society will assist you with your reply in connection with these complex legal issues.

I should be grateful if you will please submit your written comments on the landowners Statement of Objection and the letters of objection, together with any further evidence which you may wish to forward by 27th July 2011. The Council will then have to give the objectors an opportunity to comment on your response, before a report is submitted to the Council's Development Management Committee for determination of the application. It is anticipated that a report can be presented to the Committee on 17th August 2011.

Yours sincerely

Chris Heard

Orders & Commons Registration Officer

Direct telephone 0300 300 6249

Email chris.heard@centralbedfordshire.gov.uk

Please reply to:

Countryside Access Team

Central Bedfordshire Council

Technology House

239 Ampthill Road

Bedford MK42 9BD

The Keeping, Town Farm

Henlow

Bedfordshire SG16 6AZ

Telephone: 01462 811020

thekeeping@homecall.co.uk

27th July 2011

Mr C Heard, Orders and Commons Registration Officer

Central Bedfordshire Council Technology House

239 Ampthill Road, Bedford MK42 9BD

Dear Mr Heard,

Response to Landowner (3) Objectors to Village Green application CB4/2011

Thank you for progressing this file. We note the authority's requirement to make reply to all items. By making a full written reply, requesting withdrawal of some comments and requesting any evidence the objector has not yet put forward we are fully compliant with the requirement. Colours indicate:-

- BLUE Not relevant to CB4/2011, withdrawal requested/inadmissible
- BLACK Derogatory or personally offensive material redacted
- RED C all or part of the text is challenged as untrue and without evidence

We are pleased to accept Landowner 3's confirmation that some of the requirements of registration under Section 15 (3) b of the Commons Act are correct all other items are challenged.

No new evidence has been presented and we have requested Further and Better Particulars for clarification of challenged items.

The Objectors have presented an extremely emotive response and we are sensitive to the stress they are currently under; however, the inclusion of any untrue personal information of the Applicants is not conducive to the need for an open and fair hearing on 17th August. We would ask Mr and Mrs. Handsome to withdraw immediately all untrue or unfounded opinion. Items 1, 2 and 3 of the Schedule provide clarification for the Objector ahead of the hearing date.

19 items of additional evidence are included.

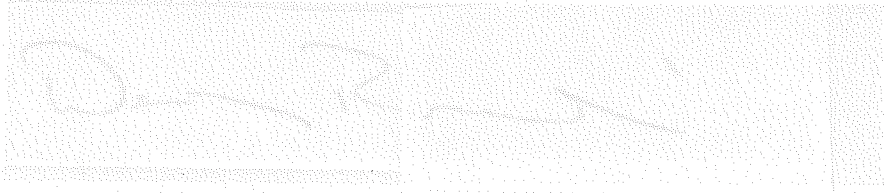
Representations

Thank you for passing to us the Representations which show the usual public misconceptions that Village Greens are about building leisure grounds for a village. As the replies are generic, always including a reference to CB2/2010. We have used the same colour coded referencing system and requested Further and Better Particulars where it is felt that those making representation have withheld information which would be valuable to an Open and Fair Consideration.

All Representations are challenged to some degree and we have therefore used for clarity the same Colour code referencing system. I am sure that you will apply the guidelines given to those making Representation to Central Bed UC regarding the inclusion of personal comment.

If we can be of any further help as you begin consideration of CB4/2011 please contact us.

With kindest regards,

A handwritten signature in blue ink, appearing to read "Wendy and Ray Rapacchi", is written across a light blue horizontal line. The signature is somewhat cursive and spans most of the width of the line.

Wendy and Ray Rapacchi

Town Farm House
51 High Street
Henlow
Bedfordshire
SG16 6AA

01462 814009

Mr C Heard
Orders and Commons Registration Officer
Central Bedfordshire Council
Technology House
239 Ampthill Road
Bedford
MK42 9BD

4th August 2011

Dear Mr Heard,

Commons Act 2006: Section 15 (3)

**Application for the registration of land at Town Farm Court, Henlow
as a Village Green: CBC4/2011**

Thank you for the copy of Mr & Mrs Rapacchi's letter and their written comments on our Statement of Objection.

We would like to make a few further comments.

We reject the Applicants' request to withdraw comments they consider irrelevant. All information included has been carefully considered and is entirely relevant either as background information or as a response to the Application and comments made by the Applicants. We also reject the Applicants' request to withdraw the comments they consider derogatory or personally offensive. This was not our intention but we stand by all the information we have provided, and it is supported in our evidence.

The Commons Registration Authority is the arbiter in this process and it is for that body to decide what is true and valid and what is not.

We attach a response to their challenges in a separate document, "Owners' Comments to Applicants' Comments Regarding Owners' Objection". This document also includes answers to questions asked of "Margaret and Peggy Handscombe".

Applicants' Written Comments of 27th July 2011

- The Objectors' private garden *does* include the "agricultural land forming part of application CB4/2011". The change of use sought by the Applicants did not change the fact that it is still our private garden (23/MB/95/705/LDC), and it is irrelevant because it is not in the timescale of this application and has been superseded by CBC09/06626/FULL.

- The Owners' rights over the whole subject areas are legally documented in our conveyances, kindly supplied by the Applicants.
- The Applicants' defined "locality within a neighbourhood" or rather, "neighbourhood within a locality" is the same as the previous application.
- The Applicants refer many times to the Application being "validated" by CBC or by the Registration Authority. This is certainly true, but that does not mean that the Application has been tested nor that the contents merit registration.
- We believe that the legal easements as noted in property conveyances preclude any accrual of rights (case law).
- The Applicants' concerns over the maintenance cost and the safety of the driveway are surely at odds with their wish to welcome allcomers to the Village Green. Their concerns over construction vehicles using the roadway have proved to be unfounded. Indeed the owners of 1 TFC were pleased to be able to access the rear of their property via the roadway and our rear garden when they recently had work done to their patio and trees. We have given assurances on several occasions that we will not permit construction traffic to access the planned development through TFC, neither would this be permitted by the local authority.
- A statement from the Police has not been submitted, just an inaccurate and libelous report written by the Applicants.
- TFCRA is an informal group to which the owners of six of the seven Town Farm properties were invited. The Applicants' website lists two members, one of whom has left the area.

Much of the above is irrelevant to a Village Green Registration Application and has more to do with a dispute between neighbours over a planned development of an adjacent piece of land. The fact remains that to register land as a Village Green it has to be proven that a significant number of inhabitants of a neighbourhood within a locality has used the land for legal sports and pastimes for a period of at least twenty years, as of right, without permission, force or secrecy.

The subject area is made up of two quite distinct areas: the driveway of Town Farm Court, over which all residents of Town Farm have a **legal easement** to pass and repass; and the land west of the locked gate, which has already been the subject of a failed registration application.

No evidence has been produced to show any support outside the Applicants' family for this application and no evidence has been produced to show that any legal sports or pastimes have taken place anywhere on the subject area without the permission of the landowners.

Indeed, none of the residents that the Applicants claim to represent have even seen a copy of the Application, nor been apprised of the consequences of its approval and loss of privacy in Town Farm.

The CRA Guidance states that the burden of proof that Section 15(3) applies rests on the Applicant for registration. It is no trivial matter for a landowner to have land registered as a green, and that accordingly all the criteria for registration must be properly and strictly proved and careful consideration must be given by the decision-maker to whether that is the case. Those *dicta* were approved by Lord Bingham and Lord Walker in the Beresford case. The standard of proof is the usual civil standard, that is, the balance of probabilities.

I trust that the evidence we have already supplied will demonstrate that the application is unsound and on the balance of probabilities it is clear that Town Farm cannot be registered as a Village Green.

Yours sincerely,



John Handscombe



Margaret Handscombe

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Raymond Rapacchi B.Ed Hons

The Keeping, Town Farm Henlow

Bedfordshire SG16 6AZ

Telephone: 01462 811020 thekeeping@homecall.co.uk

6th August 2011

Mr C Heard Orders and Commons Registration Officer

Central Bedfordshire Council, Technology House

239 Ampthill Road Bedford MK42 9BD

Dear Mr Heard,

VILLAGE GREEN APPLICATION _ CB4/2011

Thank you for passing to us Mr and Mrs. Handscombe's final replies. We have marked in green any irrelevant comment or opinion, untrue replies are marked in red, those that are defamatory are again marked in black.

It would appear that our statement to the Police has not been made available to the Objector, perhaps you could forward a copy to the Objector. We rely on this Document to prove loss of amenity and the destruction of the HAPs site by the Landowner's Agent.

No new evidence has come forward regarding:- the destruction of the Biodiversity Site, loss of amenity, accrual of RoW, fencing of our property, closure of the frequently used pedestrian access and the threats to our Rights of Way over and along Town Farm Court and onto Town Farm Orchard, a threatening letter, May 2009. We therefore have no further questions.

The replies to our specific questions have clarified the role of Mr. and Mrs. Handscombe as the most recent Landowners. (September 2002 onwards)

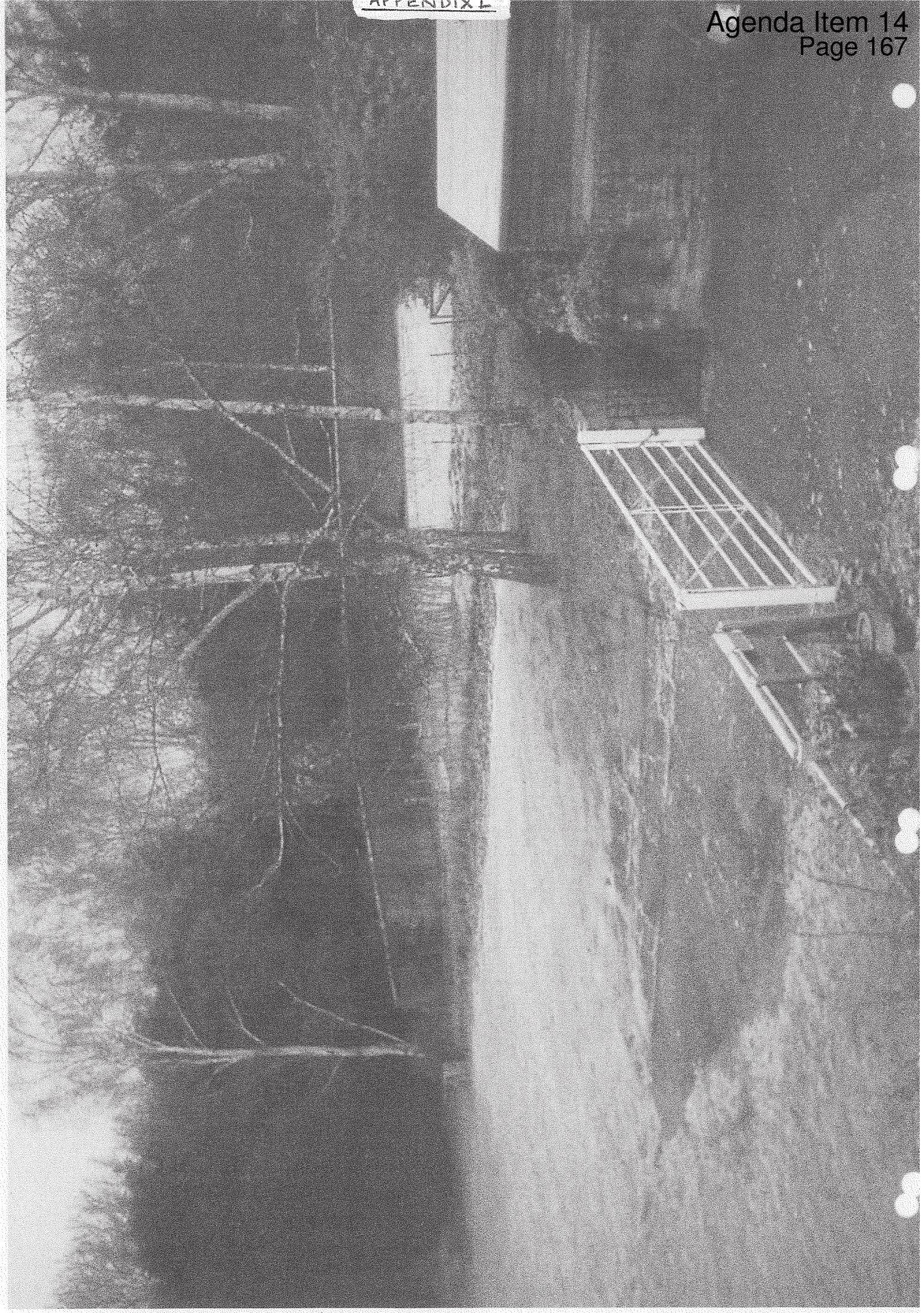
We are most disappointed that Mr. and Mrs. Handscombe wish to pursue this action with so much personal rancour, defamatory and irrelevant comment, not only against ourselves but also our Parish Council, Unitary Council or Residents who have decided for whatever reason not to offer their support. When considering the evidence we hope that our clear indication of what we consider to be defamatory will be similarly marked by your legal team as contrary to CBC's anti-bullying and equal opportunities policies.

We repeat our request that all such comment be struck out and that only evidence is considered. We hope this will lead to an open and fair decision being made on 17th August.

Yours sincerely,

Ray and Wendy Rapacchi

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The Keeping, Town Farm
Henlow
Bedfordshire SG16 6AZ

Telephone: 01462 811020

Mobile: 07870 648307

thekeeping@homecall.co.uk

23rd August 2011

Chris Heard,
Central Beds Open Countryside Officer
Technology House, Amptill Rd
Bedford

Dear Mr Heard

Village Green Application CB4/2011

We write to complete our replies to the request for additional information from those making representation to the above application. The final responses arrived by email, the last receipt being that from Ian Bland. See attached table.

As we proceed to determination of this case we wish to reiterate

1. that we have redacted all comments which we have found to be personally derogative and which have caused the applicants offence. The redacted comments are irrelevant to consideration of an application under section 15. 3 B of the Countryside Act of 2006 and should remain redacted despite the wish of those making derogatory comments to be able to repeat them in public forum.
2. that application CB4/2011 is significantly different from an earlier application CB2/2010 in terms of (a) the area mapped and (b) the limited and defined neighbourhood within the community of Henlow. Only evidence relevant to consideration CB4/2011 should therefore be considered as CB2/2010 may be subject to appeal to the Planning Inspectorate.
3. that Form 44 listed Central Beds as a possible objector to our application *as the Council were parties to a 106 agreement to build socially affordable housing on a contiguous site and that the council had an involvement with the destruction of a Biodiversity site in the Spring of 2009.* We requested that special consideration be given to the provision of an open and fair determination being provided by the Registration Authority.

Yours sincerely,



Wendy and Ray Rapacchi

Synopsis Applicants' Comment on Representations to CB4/2011

21st August 2011

Representation made by	Reply	Note
Bland Ian	* **	9 th August (rec)
Bevan Anthony	* **	4 th August
Bevan Dr P	** ***	NO REPLY
Buckland Colin	** ***	5 th August
Cleghorn John	** ***	NO REPLY
Curson Angela and David	** ***	NO REPLY
Downe Graeme	** ***	NO REPLY
Engineers Arms, K Machin	** ***	5 th August
Everton Kay and Adrian	* ** ** (RoW)	4 th August
Kelly David and Beverley	** ***	NO REPLY
Handsome Sam	** ***	NO REPLY
Handscombe Zoe	** ***	NO REPLY
MacDonald Bob	*	5 th August. We had hoped that Mr. MacDonald would have had information to contribute on RoW. He denies that he acts for the Landowner. We attach docs. RMA 1 & 2 which indicate that Mr. MacDonald did act, at one time for the Landowner. We accept his answers to our additional questions as a Non response.
Oldroyd David	**	NO REPLY
Sawyers Carol	* ** *	5 th August
Wicksteed John and Vilma	* **	NO REPLY
Winch Chris	** ***	NO REPLY

NOTE * No additional representation has been made regarding the use of the pedestrian access Town Farm Court/Town Farm Orchard, the use made of the Orchard by the Residents and garage owners of Town Farm Court.

NOTE ** Derogatory and or Irrelevant Comment redacted by the applicant

NOTE *** No reply made to request for additional information made on 27th July 2011

The Landowners have referred to our application as being unrepresentative of the long term residents of Town Farm Court. There are three houses in the Court and the council accepted documents GP1 and AS1 as representations to planning applications made in the weeks leading up to the curtailment of Rights of Way in March 2009. They identify the strength of feeling and unanimity of this small neighbourhood within the Community of Henlow. No representations have been made by any residents in objection to application CB4/2011.

W2
21st August 2011.

Application for Planning Permission.
Town and Country Planning Act 1990

08 / 02 25 6

Publication of planning applications on council websites

Please note that with the exception of applicant contact details and Certificates of Ownership, the information provided on this application form and in supporting documents may be published on the council's website.

If you have provided any other information as part of your application which falls within the definition of personal data under the Data Protection Act which you do not wish to be published on the council's website, please contact the council's planning department.

Please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

CAR HENLOW BULLOCK SUPPLIES LTD

1. Applicant Name and Address

Title: First name:

Last name:

Company (optional):

Unit: House number: House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

2. Agent Name and Address

Title: First name:

Last name:

Company (optional):

Unit: House number: House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

3. Description of the Proposal

Please describe the proposed development, including any change of use

Has the building, work or change of use already started? Yes No

If Yes, please state the date when building, work or use were started (DD/MM/YYYY): (date must be pre-application submission)

Has the building, work or change of use been completed? Yes No

If Yes, please state the date when the building, work or change of use was completed: (DD/MM/YYYY): (date must be pre-application submission)

Godwin Eweka

From: Bob Macdonald [B.Macdonald@rmaarchitects.co.uk]
Sent: 03 March 2009 16:37
To: Godwin Eweka
Cc: Info; John Handscombe; Sam Handscombe
Subject: Town farm

Dear Godwin,
I have been asked by my client the applicant, to withdraw the application for Town Farm.
Regards Bob

Bob Macdonald
Partner

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If you have any difficulty viewing the site download the latest version of Adobe Flash [here](#).

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 Before printing, think about the environment

Kate Barker

MID-BEDS

From: DISTRICT COUNCIL AchieveForms [AchieveForms@midbeds.gov.uk]
Sent: 27 January 2009 19:28
To: Planning Processing
Subject: Online Form Submitted

Importance: High

Attachments: AF16180E.html



AF16180E.html (28 KB)

A submission for Comments on Planning Application has been made on 27 Jan 2009 19:10:34.

The submission reference for the form is AF16180E

The status of this form is: New

Form Data:

Title: Mr
Forename: ADRIAN
Middle Name(s):
Surname: STALHAM
Telephone:
Fax:
Mobile:
Email Address:
House No. or Business Name:
Address line 1: 1
Address line 2:
Street Town Farm Court
Town or City: Henlow
County: Beds
Postcode: SG166AZ
: No
Application Number: 08/02392/FULL
House No. or Property Name: 51
Address line 2:
Street Name: High Street
Town or City: Henlow
County: Beds

. Land to the rear of 51 High St - Change of use of land and buildings from private garden to agricultural use and storage
. As a neighbour of the land in question, I would fully support this proposal which outlines subsequent use of this land as a "village orchard" to be enjoyed by the village community for a variety of activities.

It would maintain a beautiful piece of land whilst also giving something back to the village. What a great idea for helping keep village communities together.



Gary Price
2 Town Farm Court
Henlow Bedfordshire

13th December 2008

The Director of Environmental and Planning Services
Priory House
Chicksands, SHEFFORD
SG17 5TQ

Dear Mr. Alderson

Re: 08/02256/FULL single storey rear extension & demolition and rebuilding of barn
08/02257/CAC demolition of barn

I am a neighbour of Town Farm House, 51 High Street Henlow and the proposed development will impact on my property.

Amenity

A large two storey barn will now overlook both my back and front garden, it will cause me a loss of daylight to my home and gardens. The development is very large and I think it more than doubles the size of 51 high street. I am very concerned that there will be a back gate to this development onto Town Farm Court.

Design

I think the new buildings are a mish-mash of styles to the back of a fine Georgian Town Farmhouse. I don't think they enhance in any way the Henlow conservation area.

Highways

I am very concerned that the new roadway will produce lots more of traffic onto the High Street and that it will make it much more difficult to drive onto the High Street from Town Farm Court. The new road is too close to my road. I am very worried that the back gate onto my road will encourage parking for the new homes and that they may store rubbish bins there, or even use it as a pedestrian access.

Policies

I think that the development does not comply with the Mid Beds Structure Plan or with the Conservation Area Policy for Henlow.

History

I live in the oldest house in Henlow, a converted Tithe Barn. To the back it has a rural outlook. When we bought the property we were told that it would never change. The roadway was too narrow to ever allow development on the orchard and the courtyard was in the Conservation Area.

I have paid a small fortune to upkeep the private road and now find that another road is being built to help developers build all around my property.

We officially objected to Mid Beds Council on the Orchard's change of use as we were always afraid this development would happen.

Please keep me informed

Yours sincerely

Gary Price

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