

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

**This meeting
will be filmed.***



**Central
Bedfordshire**

please ask for Leslie Manning
direct line 0300 300 4040
date 11 June 2015

NOTICE OF MEETING

DEVELOPMENT MANAGEMENT COMMITTEE

Date & Time

Wednesday, 24 June 2015 10.00 a.m.

Venue at

Council Chamber, Priory House, Monks Walk, Shefford

Richard Carr
Chief Executive

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

Clrs K C Matthews (Chairman), R D Berry (Vice-Chairman), M C Blair, A D Brown,
Mrs S Clark, K M Collins, S Dixon, E Ghent, K Janes, R W Johnstone, T Nicols,
I Shingler and J N Young

[Named Substitutes:

D Bowater, Mrs C F Chapman MBE, I Dalgarno, Ms A M W Graham,
Ms C Maudlin, P Smith and B J Spurr]

All other Members of the Council - on request

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

**N.B. The running order of this agenda can change at the Chairman's
discretion. Items may not, therefore, be considered in the order listed.**

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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 27 May 2015.

(previously circulated)

4. **Members' Interests**

To receive from Members any declarations of interest including membership of Parish/Town Council consulted upon during the application process and the way in which any Member has cast his/her vote.

REPORT

| Item | Subject | Page Nos. |
|------|--|-----------|
| 5 | Planning Enforcement Cases Where Formal Action Has Been Taken | 7 - 14 |

To consider the report of the Director of Regeneration and Business 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:

**Planning & Related Applications - to consider
the planning applications contained in the
following schedules:**

| Item | Subject | Page Nos. |
|-------------|--|------------------|
| 6 | <p>Planning Application No. CB/15/00209/OUT</p> <p>Address : Land at Moreteyne Farm, Wood End, Marston Moreteyne, Beds</p> <p>Residential development of land to provide up to 365 dwellings, including affordable housing, landscaping, public open space, children's play areas and associated infrastructure, access to be gained from the old A421; up to 0.6ha of land to provide for a care home and up to 0.42ha of land to provide for B1 Business use; and/or A1/A2/A3 uses (gross A1 retail footprint not to exceed 500 sqm); and/or D1 (community uses). Outline (all matters other than access reserved.)</p> <p>Applicant : Hallam Land Management Ltd</p> | 15 - 52 |
| 7 | <p>Planning Application No. CB/15/0111/FULL</p> <p>Address : Larkwood Ltd, Bedford Road, Aspley Guise, Milton Keynes MK17 8DJ</p> <p>Part demolition of existing buildings, erection of 10 dwellings and retention of existing office building on site frontage.</p> <p>Applicant : RBC Property Developments Ltd</p> | 53 - 70 |
| 8 | <p>Planning Application No. CB/15/01166/FULL</p> <p>Address : 9 Bedford Road, Cranfield, Bedford MK43 0EW</p> <p>First Floor rear extension.</p> <p>Applicant : Mr G Lines</p> | 71 - 80 |

13 **Determination of an application to add a claimed bridleway through the Crown Hotel and yard, Biggleswade** 135 - 166

The report proposes that a Definitive Map modification order be made to add a public bridleway to the Definitive Map and Statement through the Crown Hotel and its rear yard between High Street and Church Street, Biggleswade. It is also proposed that enforcement action be taken to remove security fencing that obstructs the bridleway to enable free use of the bridleway ahead of a legal order being made.

14 **Site Inspection Appointment(s)**

Under the provisions of the Members Planning Code of Good Practice, Members are requested to note that Site Inspections will be undertaken on Monday 20 July 2015.

Meeting: Development Management Committee
Date: 24th June 2015
Subject: Planning Enforcement cases where formal action has been taken
Report of: Director of Regeneration and Business
Summary: The report provides a monthly update of planning enforcement cases where formal action has been taken.

Advising Officer: Director of Regeneration and Business
Contact Officer: Sue Cawthra Planning Enforcement and Appeals Team Leader
(Tel: 0300 300 4369)
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

This is a report for noting ongoing planning enforcement action.

Financial:

1. None

Legal:

2. None.

Risk Management:

3. None

Staffing (including Trades Unions):

4. Not Applicable.

Equalities/Human Rights:

5. None

Public Health

6. None

Community Safety:

7. Not Applicable.

Sustainability:

8. Not Applicable.

Procurement:

9. Not applicable.

RECOMMENDATION(S):

The Committee is asked to:

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

Background

10. 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.
11. The list at Appendix A briefly describes the breach of planning control, dates of action and further action proposed.
12. Members will be automatically notified by e-mail of planning enforcement cases within their Wards. For further details of particular cases in Appendix A please contact Sue Cawthra on 0300 300 4369. For details of Minerals and Waste cases please contact Roy Romans on 0300 300 6039.

Appendices:

Appendix A – Planning Enforcement Formal Action Spreadsheet

Planning Enforcement formal action (DM Committee 24th June 2015)

| ENFORCEMENT CASE NO. | LOCATION | BREACH | DATE ISSUED | EFFECTIVE DATE | COMPLIANCE DATE | APPEAL | NEW COMPLIANCE DATE | RESULT | NOTES/FURTHER ACTION |
|----------------------|--|---|-------------|----------------|-----------------|---|---------------------|--------------------|---|
| 1 | Land and grain store building at White Gables Farm, Blunham Road, Moggerhanger. MK44 3RA | Enforcement Notice 4 - change of use of land and grain store building to storage of materials and vehicles for haulage business | 20-Nov-13 | 20-Dec-13 | 20-Jan-14 | Appeal dismissed | 12-Apr-15 | | Compliance required by 05/04/15. Following site inspection 22/04/15 legal advice taken and land owner contacted. Further site check to be carried out on 24/06/15 |
| 2 | Land adjoining Greenacres, Gypsy Lane, Little Billington, Leighton Buzzard. LU7 9BP | 2 Enforcement Notices 1 - unauthorised encroachment onto field 2 - unauthorised hard standing, fence and buildings | 15-Oct-12 | 12-Nov-12 | 10-Dec-12 | | | Not complied | Direct action to be taken |
| 3 | Land at Erin House, 171 Dunstable Road, Caddington, Luton. LU1 4AN | Enforcement Notice - unauthorised erection of a double garage. | 03-Sep-13 | 01-Oct-13 | 01-Dec-13 | Appeal dismissed - high court challenge submitted | 27-Sep-14 | Not complied | Prosecution case being progressed. Counsels advice sought. Direct action possibility being investigated. Next court hearing 28/07/15. |
| 4 | Woodstock Cottage, 44 High Street, Flitton, MK44 5DY | Listed Building Urgent Works Notice - works to Listed Building | 04-Feb-14 | 11-Feb-14 | 31-Mar-15 | | 31/05/2015 | Partial compliance | Thatching underway, further inspection to be carried out |
| 5 | Hawthorns, Leighton Road, Eggington, Leighton Buzzard, LU7 9NE | Enforcement Notice, change of use to a mixed use of agriculture and the sale and storage of motor vehicles | 7-Jul-14 | 8-Aug-14 | 10-Oct-14 | Appeal submitted 7/8/14 | | | Await outcome of appeal |
| 6 | Land at 15 St Andrews Close, Slip End, Luton, LU1 4DE | Enforcement notice - unauthorised change of use of dwelling house to four separate self-contained units | 29-Oct-14 | 29-Oct-14 | 28-May-15 | Appeal submitted 01/12/14 | | | Await outcome of appeal |
| 7 | Plots 1 & 2 The Stables, Gypsy Lane, Little Billington, Leighton Buzzard LU7 9BP | Breach of Condition Notice Condition 3 SB/TP/04/1372 named occupants | 15-Oct-12 | 15-Oct-12 | 12-Nov-12 | | | | Occupied temporarily, await outcome of appeal for Kingswood Nursery - Hearing held on 18/12/14 |

Planning Enforcement formal action (DM Committee 24th June 2015)

| ENFORCEMENT CASE NO. | LOCATION | BREACH | DATE ISSUED | EFFECTIVE DATE | COMPLIANCE DATE | APPEAL | NEW COMPLIANCE DATE | RESULT | NOTES/FURTHER ACTION |
|----------------------|---|--|-------------|----------------|------------------------|--|---------------------|-----------------------------|---|
| 8 | Land to rear of The Farmers Boy PH, 216 Common Road, Kensworth, Dunstable LU6 2PJ | Enforcement Notice - raising and levelling of the land by the importation of waste material | 08-Aug-12 | 10-Sep-12 | 10-Nov-12 | Appeal dismissed 19/7/13 | | Part complied | Work has commenced on the final phase of compliance with the requirements of the notice and should be completed by the end of June. |
| 9 | The Pine Corner, 141 High Street North, Dunstable, LU6 1JW | S215 Notice - untidy land | 30-Oct-14 | 30-Nov-14 | 30-Jan-15 | | | | Redevelopment works have commenced, discharge of condition details submitted. |
| 10 | Land at Site C, The Stables, Stanbridge Road, Great Billington, Leighton Buzzard, LU7 9JH | Enforcement Notice- Unauthorised creation of new access and erection of gates. | 17-Nov-14 | 15-Dec-14 | 15-Mar-15 & 15-June-15 | | | | Unauthorised access not closed - non compliance. All restoration works require to be completed by 15/06/15 |
| 11 | Random, Private Road, Barton Le Clay, MK45 4LE | Enforcement Notice - Without planning permission alterations and extensions to create a new dwelling. | 16-Aug-13 | 16-Aug-13 | 16-Oct-13 | Joint Planning & Enforcement Appeal submitted. | | Enforcement Appeal quashed. | Enforcement notice appeal considered with planning appeal CB/13/01746 for retrospective permission for the extension works carried out. Notice quashed and planning appeal allowed. CBC successfully challenged reasoning in PINS decision letter. PINS to reconsider the appeals. Await outcome of reconsidered appeals. |
| 12 | Millside Nursery, Harling Road, Eaton Bray, Dunstable, LU6 1QZ | Enforcement Notice - change of use to a mixed use for horticulture and a for a ground works contractors business | 01-Sep-14 | 02-Oct-14 | 02-Jan-15 | | 02-Jun-15 | | Compliance period extended to enable the site owners to demonstrate that the future use of the site is solely to be a nursery. |
| 13 | Land at Plot 2, Greenacres, Gypsy Lane, Little Billington, Leighton Buzzard. LU7 9BP | Enforcement Notice - construction of timber building and the laying of hard standing. | 17-Jan-13 | 14-Feb-13 | 14-Mar-13 | | | Not complied | Costs of direct action to be obtained, await joint site visit. |

Planning Enforcement formal action (DM Committee 24th June 2015)

| ENFORCEMENT CASE NO. | LOCATION | BREACH | DATE ISSUED | EFFECTIVE DATE | COMPLIANCE DATE | APPEAL | NEW COMPLIANCE DATE | RESULT | NOTES/FURTHER ACTION |
|----------------------|--|---|-------------|----------------|-----------------|-----------------------|---------------------|--------------|---|
| 14 | Land Adjacent to, Magpie Farm, Hill Lane, Upper Caldecote | Breach of Condition Notice - Condition 1 Boundary wall, Condition 2 Septic tank, outflows and soakaways | 30-Jan-15 | 30-Jan-15 | 01-Mar-15 | | | | Report sent to legal for consideration of prosecution action for failing to comply with breach of condition notice. |
| 15 | Land at Motorcycle track, south of, Billington Road, Stanbridge | Breach of Condition Notice - No more than 7 motorcycles shall use the track at anyone time | 09-Apr-14 | 09-Apr-14 | 09-May-14 | | | | Application CB/14/03678/VOC - Granted at Committee 14/01/15. Decision Notice issued 02/02/15. Site to be monitored. |
| 16 | The Stables, Dunstable Road, Toddington, Dunstable, LU5 6DX | 2 Enforcement Notices - Change of use from agriculture to a mixed use of agriculture, residential and retail sales and building works for commercial purposes | 11-Jul-14 | 15-Aug-14 | 15-Oct-14 | Appeals dismissed | Aug-15 | | Appeals dismissed. Compliance periods of two months unchanged. Check compliance August 2015 |
| 17 | Land at 19a High Street South, Dunstable. LU6 3RZ | Enforcement Notice - Change of use offices to bedsites | 20-Jan-14 | 20-Feb-14 | 20-Aug-14 | | | | Enforcement Notice superseded by planning permission, however no request to discharge conditions this is being followed up. |
| 18 | Land at Long Lake Meadow, High Road, Seddington, Sandy, SG19 1NU | Enforcement Notice - change of use of the land to a gypsy and traveller site and unauthorised creation of hardstanding | 06-Mar-14 | 06-Apr-13 | 06-Jun-14 | Appeal split decision | 05-Nov-14 | Not complied | Lawful caravan area for up to 5 caravans defined. Hardstanding area in field required to be removed now shown to be retained in association with proposed stable development (CB/15/00859/Full) |
| 19 | Clements End Farm, Clements End Road, Studham, LU6 2NG | Enforcement Notice - Change of use from vehicle repairs to a mixed use for vehicle repairs and vehicle sales. | 05-Jun-15 | 03-Jul-15 | 03-Sep-15 | | | | Check compliance 03/09/15 |

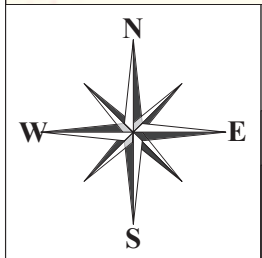
Planning Enforcement formal action (DM Committee 24th June 2015)

| ENFORCEMENT CASE NO. | LOCATION | BREACH | DATE ISSUED | EFFECTIVE DATE | COMPLIANCE DATE | APPEAL | NEW COMPLIANCE DATE | RESULT | NOTES/FURTHER ACTION |
|----------------------|---|---|-------------|----------------|-----------------|---|---------------------|--------|---|
| 20 | 5A - 5B King Street, Houghton Regis, LU5 5DS | Breach of Condition Notice - scheme for the parking of vehicles on the site | 13-Mar-15 | 13-Mar-15 | 13-Apr-15 | | | | Planning officer has requested further details of parking scheme. |
| 21 | 59 Russell Way, Leighton Buzzard, LU7 3NF | Untidy Land - S215 | 09-May-14 | 11-Jun-14 | 11-Aug-14 | | | | At court hearing 19/05/2015 prosecution case withdrawn. Majority of works to accord with the requirements of the notice carried out in May 2015 prior to hearing. |
| 22 | 105 High Street South, Dunstable, LU6 3SQ | Enforcement Notice - the erection of a second storey rear extension | 13-Aug-14 | 13-Sep-14 | 13-Dec-14 | Appeal dismissed | 28-Jul-15 | | Appeal dismissed. Removal of second storey rear extension required to be carried out by 28/07/15 |
| 23 | Land at Glebeland, Sharpenhoe Road, Streatley, Luton, LU3 3PS | Tree replacement notice - Felling of a sycamore tree | 03-Oct-14 | 03-Nov-14 | 03-Mar-15 | Appeal dismissed | 08-Nov-15 | | Appeal dismissed, Tree Replacement Notice upheld. Check compliance 8/11/15 |
| 24 | The Old Rose, 16 Blunham Road, Moggerhanger, MK44 3RA | Section 215 notice - untidy land and buildings | 29-Apr-15 | 30-May-15 | 30-Aug-15 | | | | Check compliance 30/08/15 |
| 25 | 23 Birds Hill, Heath and Reach, Leighton Buzzard, LU7 0AQ | Untidy Land - S215 | 21-May-15 | 22-Jun-15 | 22-Aug-15 | | | | Check compliance 22/08/15 |
| 26 | 6 Denbigh Close, Marston Moretaine, Bedford, MK43 0JY | Enforcement Notice - change of use of the Land from a residential dwelling to a mixed use of office and residential | 13-Aug-14 | 12-Sep-14 | 12-Dec-14 | Appeal dismissed | 27-Oct-15 | | Change of use appeal dismissed. Enforcement notice upheld but time for compliance extended to 6 months. |
| 27 | 25 High Street, Sandy, SG19 1AG | Enforcement Notice - the installation of roller shutters | 13-Aug-14 | 12-Sep-14 | 12-Oct-14 | Appeal submitted 11/09 joint appeal with Planning | | | Retention of roller shutters application CB/14/01750/Full refused. Await outcome of joint appeal. |

Planning Enforcement formal action (DM Committee 24th June 2015)

| ENFORCEMENT CASE NO. | LOCATION | BREACH | DATE ISSUED | EFFECTIVE DATE | COMPLIANCE DATE | APPEAL | NEW COMPLIANCE DATE | RESULT | NOTES/FURTHER ACTION |
|----------------------|--|--|-------------|----------------|---------------------------|---------------------------|---------------------|--------|---|
| 28 | Land at 1 Wing Road, Linslade, LU7 2NG | Section 215 notice - untide land and buildings | 29-Apr-15 | 29-May-15 | 29-Aug-15 | | | | S215 Notice served requiring them to demolish the remainder of the existing building on the site. Date for compliance is 29/08/15. |
| 29 | 5 Fen End, Stotfold, SG5 4BA | Breach of Condition Notice - Non Compliance with Condition 3 attached to planning application CB/13/02896/Full - noise mitigation scheme | 12-Mar-15 | 12-Mar-15 | 18-May-15 | | | | Check compliance in liaison with Environmental Health re noise levels. Enforcement Notice served for the unauthorised change of use from B1 to B2 use. |
| 30 | Land at Asda Store, Church Street, Biggleswade, SG18 0JS | Breach of condition notice - Hours of delivery | 10-Oct-14 | 10-Oct-14 | 10-Nov-14 | | | | No further complaints regarding deliveries, notice being complied with at the moment. Notice will remain in force. |
| 31 | Land to the rear of, 197 Hitchin Road, Arlesey, SG15 6SE | Breach of Condition Notice - Condition 1 not complied with - attached to planning permission 12/03535- use of land as a caravan site by any persons other than gypsies and travellers. | 05-Dec-14 | 05-Dec-14 | 05-Jan-15 | | | | Breach of condition notice to be served in relation to the number of static caravans being exceeded. |
| 32 | Clifton House and outbuildings, Church Street, Clifton, Shefford, SG17 5ET | Repairs Notice - Listed Building in state of disrepair | 08-Jan-15 | 08-Jan-15 | 08-Mar-15 | | 08/04/2015 | | Site inspection carried out which found some minor works having been undertaken but insufficient funds to do major works. To discuss with Legal re: possibility of compulsory purchase. |
| 33 | 6 Bedford Road, Moggerhanger, MK44 3RR | Enforcement Notice - Materials used affecting the appearance of the dwelling | 10-Nov-14 | 10-Dec-14 | 10-Jan-2015 & 10-Feb-2015 | Appeal submitted 03/12/14 | | | Await outcome of appeal. |
| 34 | Land at 28 Royce Close, Durnstable, LU6 2NT | Enforcement Notice - Construction of a raised terrace and fence. | 10-Nov-14 | 10-Dec-14 | 10-Feb-15 | | | | LDC application withdrawn and replaced with a full application, Enforcement Notice held in abeyance until application is determined |

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Central Bedfordshire Council
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Date: 10:June:2015

Grid Ref: 498315, 241925

Application No:
CB/15/0209/OUT

Scale: 1:5000

Land at Moreteyne Farm, Wood End, Marston Moretaine, Beds

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Item No. 6

| | |
|--|---|
| APPLICATION NUMBER | CB/15/00209/OUT |
| LOCATION | Land At Moreteyne Farm, Wood End, Marston Moretaine, Beds |
| PROPOSAL | Residential development of land to provide up to 365 dwellings, including affordable housing, landscaping, public open space, children's play areas and associated infrastructure, access to be gained from the old A421; up to 0.6ha of land to provide for a care home and up to 0.42ha of land to provide for B1 Business use; and/or A1/A2/A3 uses (gross A1 retail footprint not to exceed 500 sqm.): and/or D1 (community uses). Outline (all matters other than access reserved.) |
| PARISH | Marston Moretaine |
| WARD | Cranfield & Marston Moretaine |
| WARD COUNCILLORS | Cllrs Morris, Matthews & Mrs Clark |
| CASE OFFICER | Lisa Newlands |
| DATE REGISTERED | 22 January 2015 |
| EXPIRY DATE | 23 April 2015 |
| APPLICANT | Hallam Land Management Ltd |
| AGENT | Januaries Consultant Surveyors |
| REASON FOR COMMITTEE TO DETERMINE | Major application with objection from the Parish Council |
| RECOMMENDED DECISION | <p>It is recommended that subject to the satisfactory completion of a Section 106 Legal Agreement requiring contributions towards those matters set out in the report and provided no new issues are raised then APPROVE planning permission subject to the conditions detailed below. However, if there are any minor changes or adjustments to the conditions considered necessary by the Head of Development Management then it is requested that these changes be delegated to the Head of Development Management or a Planning Manager.</p> |

Summary of Recommendation

The proposal would constitute a sustainable form of development, that would comply with the fundamental principles of Policy MA4 in terms of providing a mixed use development.

Whilst the proposal would result in a loss of employment land; in terms of the planning balance it is considered that the loss of this land would be outweighed by the provision of additional housing and a care home. The remaining smaller, flexible employment area and the care home itself would create additional jobs for the local area.

A significant amount of public consultation was undertaken prior to the submission of this application and informed the illustrative master plan, of which the local residents raised concern about large-scale employment on the site and in particular HGVs travelling to and from the site, preferring a smaller more flexible employment area.

It is considered that the proposal would be in conformity with the National Planning Policy Framework and the ethos of Policy MA4 within the Site Allocations DPD. It is further in conformity with the Core Strategy and Development Management Policies for Central Bedfordshire (North) and the submitted Development Strategy for Central Bedfordshire (2014).

Site Location:

The application site comprises of 20.4 hectares of land located on the western edge of Marston Moretaine. The site, sits between the realigned new A421 on its northern boundary and the old A421 to the south. To the west is Wood End with a small number of residential properties.

Beyond the old A421 is the existing settlement of Marston Moretaine, which has public access to the site by the existing public rights of way/SUSTRANS Route 51 via a bridge. The site is wholly within the open countryside and consists mainly of arable land. The site slightly varies in levels with two watercourses running in close proximity to the site, an ordinary watercourse runs along the northern boundary and in the south the land drains to a culvert beneath the old A421. There are a number of dividing mature hedgerows within the entire site as well as mature tree's and hedgerow forming the boundary along the old A421.

In September 2013 planning permission was granted for employment development on the western part of the site (the employment allocation) and a residential development of 125 dwellings on land to the north-east of the site (allocated for residential). (CB/11/04445/OUT). The remaining portion of the site forms a contingency housing provision site allocation as part of Policy MA4 of the Central Bedfordshire (North): Site Allocations DPD.

The Application:

This application seeks outline permission for the development of up to 365 dwellings, including affordable housing, landscaping, public open space, children's play areas and associated infrastructure, access to be gained from the old A421; up to 0.62ha of land to provide for a care home and up to 0.42ha to provide for B1 business use; and/or A1/A2/A3 uses (gross A1 retail footprint not to exceed 500sqm); and/ or D1 (community uses). All matters are reserved except means of access for which detailed drawings have been submitted.

The application is accompanied by a Design and Access Statement, which indicates key principles for the site including a design concept, illustrative masterplan, land use layout, open space & landscape plan and character areas plan. A number of other technical supporting documents have been submitted including a planning statement, and statement of community involvement.

The net residential development area is 12.16 hectares which provides an average net density of 30 dwellings per hectare. A range of house sizes and types are proposed with 30% as affordable tenure types dispersed throughout the site.

The employment area including the care home element is 1.04 hectares. The care home would equate to 0.62ha, with the remaining being formed of business, employment or community uses. This provides a flexible area to market accordingly. The site is formed of two parcels, the former allocated employment area, and the contingency land as shown within the site allocation. This application would involve the loss of some 5.96ha of employment land to residential, but would ensure that an element of employment remains on the site to provide a mixed use development.

Vehicular access to the site is proposed from a roundabout entrance off the old A421, serving both parcels of land. A hierarchy of roads including shared surfaces and squares would branch off the primary routes into the developments. The old A421 will be narrowed in carriageway width as approved under the previous outline and reserved matters application for the residential parcel of land adjacent to the Little Chef and Travelodge, this will aid in changing the appearance of this previous major trunk road to a more local low key road. The existing public rights of way and SUSTRANS Route 51 will be maintained and enhanced to give further pedestrian/cycle access via the existing bridge into the village.

The application proposes public open space, which includes 2 LEAPs and a number of smaller play areas and a teenage area. Allotments were provided with the previously approved outline and reserved matters application for the residential parcel adjacent to the Travelodge/ Little Chef.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

1. Building a strong, competitive economy
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment

Central Bedfordshire Council's Site Allocations (North) DPD 2011

Policy MA4 Land at Moreteyne Farm, Marston Moretaine

Central Bedfordshire Council's Core Strategy and Development Management Policies 2009

Policy CS1 Development Strategy
Policy CS1 Development Strategy
Policy CS2 Developer Contributions

| | |
|-------------|--|
| Policy CS3 | Healthy and Sustainable Communities |
| Policy CS4 | Linking Communities |
| Policy CS7 | Affordable Housing |
| Policy CS9 | Providing jobs |
| Policy CS13 | Climate Change |
| Policy CS14 | High Quality Development |
| Policy CS16 | Landscape and Woodland |
| Policy CS17 | Green Infrastructure |
| Policy CS18 | Biodiversity and Geological Conservation |
| Policy DM3 | High Quality Development |
| Policy DM4 | Development Within and Beyond Settlement Envelopes |
| Policy DM9 | Providing a Range of Transport |
| Policy DM10 | Housing Mix |
| Policy DM14 | Landscape and Woodland |
| Policy DM15 | Biodiversity |
| Policy DM16 | Green Infrastructure |

Central Bedfordshire Council's Submitted Development Strategy 2014

The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the SoS.

| | |
|-----------|--|
| Policy 6 | Employment Land |
| Policy 19 | Planning Obligations and the Community Infrastructure Levy |
| Policy 22 | Leisure and open space provision |
| Policy 23 | Public Rights of Way |
| Policy 24 | Accessibility and Connectivity |
| Policy 26 | Travel Plans |
| Policy 30 | Housing Mix |
| Policy 34 | Affordable Housing |
| Policy 38 | Within and Beyond Settlement Boundaries |
| Policy 43 | High quality development |
| Policy 45 | The historic environment |
| Policy 56 | Green infrastructure |
| Policy 58 | Landscape |
| Policy 59 | Woodlands, Trees and Hedgerows |

Supplementary Planning Guidance

Design in Central Bedfordshire: A guide for development.

Relevant Planning History

| | | | |
|---------------------|---|------------------|---------------------------------|
| Application: | Planning | Number: | CB/14/04378/RM |
| Validated: | 11/11/2014 | Type: | Reserved Matters |
| Status: | Decided | Date: | 27/02/2015 |
| Summary: | | Decision: | Reserved Matters- Granted |
| Description: | Reserved Matters for residential development pursuant to Outline App CB/11/04445/OUT for appearance, landscaping, scale and layout. | | |
| | | | |
| Application: | Planning | Number: | CB/14/04319/SCN |
| Validated: | 03/11/2014 | Type: | EIA - Screening Opinion |
| Status: | Decided | Date: | 14/11/2014 |
| Summary: | | Decision: | Pre-application Advice Released |
| Description: | EIA Screening Opinion: Mixed use development comprising of housing, a care home and commercial/community units on approx 18.5Ha of agricultural land | | |
| | | | |
| Application: | Planning | Number: | CB/13/00601/OUT |
| Validated: | 26/11/2013 | Type: | Outline Application |
| Status: | Decided | Date: | 26/11/2013 |
| Summary: | | Decision: | Not Proceeded With |
| Description: | Mixed-use development on 14.5 ha, comprising: - Up to 125 new dwellings including affordable housing (Class C3) on 4.15 ha; - Employment Uses (Class B1 and B8) on 7.01 ha; and - Allotments, structural and retained landscaping, balancing ponds and amenity space incorporating LEAP and LAP on 3.34 ha. | | |
| | | | |
| Application: | Planning | Number: | CB/11/04445/OUT |
| Validated: | 28/12/2011 | Type: | Outline Application |
| Status: | Decided | Date: | 19/09/2013 |
| Summary: | | Decision: | Outline Application - Granted |
| Description: | Outline Application: mixed use development on 14.5ha comprising up to 125 new dwellings including affordable housing on 4.15ha, employment uses (class B1 and B8) on 7.01ha, allotments, landscaping, balancing ponds and amenity space on 3.34ha. | | |
| | | | |
| Application: | Planning | Number: | CB/11/02137/SCN |
| Validated: | 17/06/2011 | Type: | EIA - Screening Opinion |
| Status: | Decided | Date: | 14/07/2011 |
| Summary: | | Decision: | Pre-application Advice Released |
| Description: | EIA-Screening Opinion:development of land for mixed use of residential and employment | | |

Representations: (Parish & Neighbours)

| | |
|---------------------------------------|---|
| Marston Moretaine Parish Council (PC) | Objects on the basis that the employment area has been reduced dramatically and as such is too small. |
| Adjacent Occupiers | Two letters of objection from 22 Moat Farm |

Consultations/Publicity responses

| | | |
|----------------|---------|--|
| CBC Protection | Public | No objection subject to conditions. |
| CBC Strategy | Housing | This application provides for 109 affordable homes (30%) which is not in accordance with our current affordable housing policy requirement. I would expect to see 35% affordable housing or 128 affordable units. Further to this, the Strategic |

Housing Market Assessment (SHMA) indicates a required tenure split from developments meeting the affordable threshold being 63% affordable rent and 37% intermediate tenure. This would equate to 81 affordable rent units and 47 units of intermediate tenure from this proposed development.

I would like to see the units dispersed throughout the site and integrated with the market housing to promote community cohesion & tenure blindness. I would also expect all units to meet the code for sustainable homes level 3 and meet all HCA design and quality standards. If these comments are taken on board, I would support this application.

CBC Education

Contributions are sought towards the following:

1. expansion/reconfiguration of the early years setting at Church End Lower School
2. creation of new class bases and/ or reconfiguration of the internal spaces to increase the net capacity at Marston Vale Middle School
3. provision of a new 6th form block on land adjacent to Wootton Upper School - this would free up space in the existing accommodation to accommodate the additional 15 pupils per year group expected to arise from this development.

CBC
Management

Waste

Thank you for sending over this application for comments from Waste Services, please see points for consideration below;

- Full tracking details will need to be provided for all areas of the site that will require access by the refuse vehicles, these vehicles are 11 metres long, so that length will need to be used as a minimum. This is in order to ensure that the completed development is able to safely accommodate the refuse vehicles in order to facilitate waste collections
- I will need to see bin storage solutions for both private dwellings and any proposed communal dwellings, storage will need to be sufficient in size in order to allow residents to store the full compliment of bins, caddies, and bags provided as part of the waste collection scheme currently operated by the Council. Any storage solution will need to allow for the out of view storage of waste bins etc when not presented for collection. I would propose the applicant refers to " Avoiding Rubbish Design" produced by NHBC
- for a development of this scale bin collection proposal will be necessary in order to allow for the long term waste management collection scheme. The applicant will need to propose suitable collection points, how this will be designated on the ground and how access will be achieved. Any on street parking will also need to be taken into account as this can present issues on collection days.

- Whilst the site is in operation and prior to any completed parts of the development being adopted by the Council the Council will not be able to undertake any cleansing operations to detail with detritus, litter or fouling therefore it will be the responsibility of the developer to provide these operations. I will need to see what is proposed in terms of cleansing operations.
- I would look for the developer to provide a bring bank area in order to allow for the residents of this development to have the ability to recycle further materials currently not offered for collection by the Council, this would mainly be in the form of glass waste recycling. I am happy to discuss further with the applicant the design of such a area.
- Please can Waste be included in any financial contributions being sought as part of this development.

CBC Tree & Landscape Officer Proposal is for up to 365 dwellings, associated landscape and infrastructure along with space allocated for a Care Home and Industrial Units.

The site is arable land with little in the way of existing features within it but does have existing field and boundary hedges around the majority of the boundary.

Supplied with the application is a comprehensive tree survey which identifies thirteen individual trees, five groups of trees and fourteen hedgerows. Of these only two individual trees (T1 and T5) both Oaks and two groups of trees (TG4 and TG5) would be considered for retention under BS5837 2012 recommendations, being classified as Category B. However only two individual trees identified as T3 and T4 along with TG2 were considered as being unsuitable for retention regarded as Category U.

The site itself has been classified as being within the Landscape Character Assessment 5D designated as North Marston Clay Vale, the existing planting on and around the site reflects this consisting primarily of Oak, Elm, Field Maple, Willow, Hawthorn, Blackthorn and Ash.

The site is bounded on the north by the new A421 which at this point is on higher ground than the site, west is arable land and scattered houses, south by an existing hedgeline and trees and the old A421 and the east of the site is to be developed for further housing the application for this has been approved.

Realistically the majority of trees and hedges on site could be retained and easily protected throughout site development. It is accepted that there will be removal of part of H16 to allow access and part of H2 the hedgeline that effectively divides

the site north/south. Possibly tree most at risk from development is T5 located in the south corner of the site and indicated as being close to proposed buildings. However protection details of this and other trees/hedges on site will be supplied as part of final layout.

The layout and proposal information in general seems to be fairly well thought out with an emphasis on improving the green corridor on the north boundary and along the adjoining ROW, combined with the SUDS and the consented allotments the potential within this area for improvement is considerable and we should look for extensive use of native tree species suitable for this Landscape Character although there will be issues with Ash planting with regards to Chalara fraxinea and its potential impact in the future. Ash is locally a very common species and potential loss of trees in the future could substantially impact on tree cover in the Marston Vale as such the opportunity for new tree planting to allow for this possibility should be taken at all opportunities. Wetland species and planting around the SUDS.

A community orchard is proposed close to the north boundary which is a very positive idea but as with many similar schemes we will require some idea as to how it should be managed, either as part of the overall landscape management plan or some sort of agreement with Marston Parish Council.

The division between the west and east of the site along with retention of H2 and the inclusion of a green area and planting to enhance and strengthen this feature is also positive. There will be some restriction on planting west of the proposed Care Home because of overhead power lines and as such planting plans will reflect this.

Small SUDS areas on the south boundary close to the new roundabout and access to the site should be utilised as a great opportunity for quality planting as the gateway to this estate. The fact that there will be ample space here because of the SUDS requirement means there is no reason not to utilise it. Opportunity for large specimen quality tree planting.

Summarising :-

Plan showing tree protection fence detail and distance to be supplied.

Quality planting scheme to include locally native trees along north boundary to enhance and make the most of the available space and features of this area. SUDS, allotments, community orchard etc.

Retention of hedges and trees as indicated on Tree Retention Plan Drawing 3701-A-09 Rev A.

Full use of the planting opportunities around the SUDS area close to the main site access. Using tree species that can mature to a large size without issues to adjoining properties.

Street planting and open space planting to include a selection of native and non native species using an imaginative choice of species, not the usual *Pyrus chanticleer*.. Take the opportunity to enhance the main street area planting.

Community Orchard maintenance agreement either as part of the site management plan or as an agreement between the Parish Council to make it a community orchard for the wider community. It must not just become an overgrown area of unmaintained trees.

CBC Archaeology

The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits present on the site, and therefore upon the significance of the heritage assets with archaeological interest. This does not present an over-riding constraint on the development providing that the applicant takes appropriate measures to record and advance understanding of the archaeological heritage assets. This will be achieved by the investigation and recording of any archaeological deposits that may be affected by the development; the provision of a scheme of community engagement, the post-excavation analysis of any archive material generated and the publication of a report on the works.

CBC Ecologist

Looking at the submitted documents I would offer the following comments;

I Welcome;

- 4.26 of the Ecological Appraisal suggests bat 'hop over' features of standard trees where roads intersect hedges though these aren't identified on the masterplan.
- The retention of existing hedgerows, areas of open space and natural habitats. The site layout provides for a good green network and mix of habitats including hedgerows, trees, orchard, wildflower meadow and wetlands.
- SuDs as detailed in the Design and Access statement
- Chapter 5 on GCN mitigation strategy

4.16 and 4.17 of the Ecological appraisal recommend a precautionary approach to removal of tree T1 on the eastern boundary to determine any bat presence prior to felling, this should be noted as an **informative** to ensure the correct procedure is followed.

Page 53 of the D&A discusses reducing the height of hedgerow H8 along the old A421. This was the only one of the 8 hedges on site which met the Hedgerow regulations criteria as being an 'important' hedge and hence I would question the need to reduce its height. It currently contains a good mix of species with regular standard trees and would act as an important wildlife corridor. 4.24 of the Ecological Appraisal recognises this hedge as a 'well used foraging / commuting resource' for bats. Reducing the height to create more of a 'street scene' will change its character completely and could seriously impact on its value for wildlife.

Page 54 of the D&A statement proposes the use of nest boxes on trees but opportunities for further enhancements associated with the built environment such as integral bat / bird bricks and habitat piles such as recommended in 4.28 of the ecological report should be included. A **condition** should be added requiring properties bordering hedgerow H2 in the centre of the site to include integral nest / roost bricks at a rate of 1 brick per dwelling these should also be incorporated into dwellings along the old A421.

Given the likely presence of GCN (Great Crested Newts) on the site a derogation licence will be required from NE (Natural England). The GCN mitigation strategy notes in 5.8 that replacement habitat will be focussed on the southern periphery of the 'employment land'. This is now shown on the masterplan to be residential with potential vehicular access to the south for future development which could compromise proposed mitigation. I would like to see more consideration given to this strategy with greater detail provided on habitat creation and sustainability of the resource and hence recommend the following **condition**;

The provision of an updated Mitigation Strategy and Method Statement detailing GCN trapping, translocation and habitat compensation / mitigation to be submitted to the LPA which would form part an EPS Licence application to NE.

Reason: to ensure favourable conservation status of a protected species is maintained.

CBC Leisure
Services
CBC LDF Team

No objection to the scheme comments to be reported on the late sheet in terms of off-site leisure project.

The application site is located in Marston Moretaine between

the new A421 and Bedford Road (old A421). The site is allocated in the Site Allocations DPD (April 2011) as MA4. This allocation is for a mixed use phased development containing three main elements; residential development of up to 125 dwellings, 7ha of employment land and the remaining land reserved for housing provision of up to 320 dwellings. Outline planning permission was granted in 2013 for the residential development of 125 dwellings on the eastern side of the development.

Planning permission is now sought to develop the reserved land and employment land for up to 365 dwellings, a care home and 0.42ha of employment land. This is a reduction of employment land from the original allocation of 7ha and an increase in approximately 45 additional new homes. These are to include affordable homes and open space.

Due to the allocation, MA4, the principle of development on this site and housing development on the reserved site is accepted in principle. However, the change from employment to housing needs to be considered whether this is acceptable change of use.

Policy MA4 allows for the reserved land to be brought forward after 2016 and as such there are no objections to this element of the planning application.

Policy 8: Change of Use of the emerging Development Strategy is flexible in allowing proposals for non-employment generating uses on employment land where there is a local need for the proposed intended use and there are no strong economic reasons why the proposed intended use would be appropriate. As such it needs to be determined whether these principles apply to this application.

The applicant has stated in their Planning Statement that the site is not a suitable and viable site for employment use; B1, B2 and B8 use. This is due to the constraints of the site in terms of shape and site constraints such as flooding. The site is also considered to have poor access onto the road network and the restrictions on any physical development on the site reduces the viability of the site for users. Also the close proximity to the adjoining residential development will have an impact on the nature of users that are able to occupy the site. The developers have also stated that as a result there has

been little interest in the site whilst it has been marketed.

On consideration of the applicant's comments on the site constraints making it not a very suitable site, it is considered that the site's shape, size and local constraints, in terms of flooding, does impose certain constraints for developing the site in terms of access and layout. As a result access onto Bedford Road is restricted through the reserved site or through the site directly adjacent to the south, however this is not within the control of the applicant. The development of B1, B2 and B8 uses would result in an increase in HGV movement on Bedford Road as there is no direct access onto the A421. Access to the A421 would need to be along Bedford Road through Marston Moretaine or west towards M1 Junction 13.

The restrictions on the site in terms of building height also restrict the type of development on the site and thus excludes a number of uses requiring large buildings. The fact that the site is also located next to residential uses restricts the type of activities allowed on the site so as to reduce the impact on the adjoining residential site. The proposed care home and small scale employment land are more sympathetic uses with the surrounding residential land uses. Both these uses also provide employment opportunities.

The applicant has also stated that the site is not viable due to the location, availability and suitability of nearby employment sites in Bedford and at Junction 13 M1. These sites are better located in terms of access to highway network; A421, M1 and A1 and are located near existing and well established markets in Bedford and Milton Keynes. The availability of larger more accessible sites in these locations makes the application site less viable and attractive more employment uses.

The proposed care home is considered to generate employment opportunities in line with the size of the care home. The proposal of the care home is not wholly in compliance with site allocation Policy MA4, however the need for the provision of residential care places and the level of employment the care home would provide is a material consideration. The employment land, 0.42ha, will also provide employment land for local needs.

The proposed development provides for an additional 45

dwellings from the proposed 320 dwellings from the reserved site. The proposal also provides much needed affordable housing and will contribute to the housing supply for Central Bedfordshire in an area identified in the Site Allocations DPD for housing.

Given the above considerations, the proposal would result in a benefit to the local economy in terms of job provision and care for the elderly population as well as additional housing and much needed affordable housing. This benefit is considered to outweigh the loss of the allocated employment land and the non-compliance with Policy MA4.

The proposal is partially contrary to Policy MA4 of the Council's Site Allocations Development Plan Document (adopted April 2011) which allocated 7 hectares of land at Moreteyne Farm, Marston Moretaine. However the proposed Care Home is considered to outweigh the departure from the plan and would also generate job provision for the local community. It would not have a negative impact on the character of the area or an adverse impact on the residential amenity of neighbouring properties. As such we have no objection to the proposed application.

CBC Sustainable
Transport

This development is located adjacent to an already consented site to the north east of the site bounded by the A421(T) and the former and now much more lightly trafficked A421.

Access is provided off the former A421 by way of a roundabout with adjacent foot and cycleway extending from the site access to the roundabout at the junction of Beancroft Road. This, together with proposals to narrow the existing carriageway and reduce the speed limit in tandem with plans to reduce the hedgerows will serve to create a more visible street frontage and help integrate the site with the existing settlement and also create an environment more conducive to walking and cycling. It is important that an active frontage promoted with natural surveillance and this will only be achieved if the site boundaries appear to be permeable and housing visible, I am therefore fully supportive of this approach. I would emphasise however the need to connect the proposed shared use path with existing cycle routes as this route is part of CBC's strategic cycle route.

A surface access strategy is proposed that provides for access by vehicles, cyclist and pedestrians, using a street

hierarchy and a series of alternative access points for pedestrians and cyclists. I am supportive of the need for additional pedestrian linkages to the former A421 in addition to direct connections to the development to the north east, however these need to be confirmed as some are still regarded as 'potential' only. In order to maximise opportunities for travel by sustainable modes routes need to be direct, secure and accessible.

The site is bounded by the Sustrans cycle route NCN51 which offers connectivity to Cranfield, Bedford and beyond. I am disappointed however that the opportunity has not been taken to route this through the development site. It is currently routed along the public right of way network and I have concerns that if it is not integrated into the development it will become marginalised on the development edge, therefore I would have liked to have seen the opportunity taken to divert it through the development site perhaps via the village green so that it formed part of the development's movement network. If it remains to the outer boundary I would like to see cross sections of the proposed route to ensure that it becomes an attractive corridor for cyclists and is surfaced appropriately. This is particularly important where the route crosses the former A421 and is a key access route to the village.

A network of traffic free routes is provided across the development through the areas of public open space, it is important that these routes are designed to maximise opportunities for use such that they are overlooked, well maintained and suitable for use all year round. Therefore consideration needs to be given to a sealed surface, lighting and vegetation maintenance such that they do not become overgrown and potentially pose a barrier to use in terms of personal security in the future. They are clearly part of the movement strategy of the site and therefore their use needs to be encouraged through long term planning and maintenance.

Discussion is made around car parking provision in the development and yet there is not mention of cycle parking, I would expect that provision is made in accordance with CBC policies, guidance is available at:

<http://www.centralbedfordshire.gov.uk/planning/strategic-planning/transport-strategy/travel-plans/default.aspx>

No consideration seems to have been given to improving accessibility by public transport, it is of some concern therefore that it is acknowledged that the nearest bus stop is approximately 700metres from the centre of the site, the most frequent services being accessed via Beancroft Road. CBC policies dictate that residents should have access to public transport within 400 metres, to this end therefore a dialogue needs to take place with the public transport manager as to the requirements for this particular site as a financial contribution may well be required to ensure the site is accessible by public transport.

CBC Rights of Way
CBC Highways

No objection subject to condition
Fundamentally, as you would expect given the planning history of the entire site I can confirm that there is no overriding highway objection to the residential development on this parcel of reserved land. The application is supported by a robust Transport Assessment detailing the traffic generation and distribution that confirms that the access and surrounding highway network has sufficient capacity to accommodate the traffic movements from the new development. The off-site highway works to 're-characterise' the former A421 have been agreed and will be implemented as part of a Section 278 agreement being negotiated with Bovis as part of the initial phase of the overall Moreteyne Farm development.

With regard to the detail of the application, the proposal is for outline approval with only the means of access to be determined at this stage. Given my earlier comments about the highway works and the fact that the submitted layout plans are for indicative purposes only, I have no specific comments that would have an influence on the determination of the actual application.

Nevertheless I would assume that the layout will be fully compliant with the latest Design Guide including highway design, parking provision and garaging.

CBC Economic
Development
Highways Agency

Concern raised regarding the loss of the employment land.

Whilst I have no objection to the proposals due to the limited impact that it will have on the A421, I note the comment in the Design and Access statement regarding noise. The statement indicates that there may be a need for a noise barrier between the A421 and the development. You should be aware that the Highways Agency has no plans to erect a noise barrier at this location. I would therefore urge you to ensure that the relevant noise assessments are carried out and to also ensure that if a noise barrier is required because of the proposals, then this is added as a condition to the

| | |
|--------------------------------------|--|
| | planning permission if granted. |
| NHS Bedfordshire & Luton | Highlights that there will be an additional need from the development on the Marston/Cranfield surgery. |
| Environment Agency | No objection subject to conditions |
| Internal Drainage Board | No objection subject to conditions. |
| Anglian Water | No objection subject to condition in relation to drainage strategy |
| National Grid | No comments received |
| Police Architectural Liaison Officer | No objection in principle |
| SUSTRANS | No comments received |
| Travel Plan co-ordinator | No objection |
| Fire Services | Water supplies and fire service should meet the requirements of Approved document B5. |
| Sustainability Officer | <p>The energy standard of the CfSH Level 3 is below standard required by the Part L2013 of the Building Regulations. All new development should therefore as minimum comply with the new Part L2013 of Building Regulations and deliver 10% of their energy demand from renewable sources.</p> <p>In terms of water efficiency, the development should achieve 110 litres per person per day (105 litres for internal water usage and 5 litres for external water usage). It is proposed that this standard will be met through installation of water efficient fittings such as low flow taps and dual flush toilets. I would also encourage the applicant to fit all houses with water butts.</p> <p>The Sustainability Statement acknowledges policy DM2 and the emerging Development Strategy's policy 47 (which is re-enforcing requirements of the current adopted policies DM1 and DM2). The Statement proposes compliance with the Building Regulations; and subject to a viability delivery of 10% of energy from renewable sources. The viability of the policy 47 has been tested by the Council's recent viability study and found viable.</p> |
| Urban designer | <p>The indicative layout is consistent with current design policy with strong perimeter blocks arranged in a manner that reflects the organic nature a village. My concerns regarding this proposal are as follows:</p> <ul style="list-style-type: none"> • There is a reasonable hierarchy of streets and spaces throughout the proposed development. However there should be a vehicular link between phase 1 and phase 2 of the development as this would increase the ease of movement and increase legibility between the two |

sites.

- In the remainder of the employment area a number of shops are proposed. If the aim of these shops is to support the development it would be better if they were located more centrally within the development.
- The proposed vehicular access point to serve possible future development to the south west of the site should be a wider road than the neighbouring cul-du-sacs as the road will possibly be much higher up in the street hierarchy at a later date. The possible link should also be clear to residents when purchasing the property.
- The illustrated layout shows a limited number of on street visitor parking spaces.

Adult Social Care

The Council uses the 'More Choice, Greater Voice' forecast model to estimate demand for residential care. According to this model an area should provide 65 residential care home places and 45 nursing care home places per 1000 people over 75.

The proposed residential care home falls within the West Mid Beds locality. West Mid Beds includes Flitwick and Ampthill along with the rural area to their north and west. It includes villages such as Marston Moretaine and Houghton Conquest. According to the model there is a current deficit of 175 care home places in West Mid Beds (based on 2011 figures). With demographic pressures and the Council's intention to see replacement of capacity in the one home that it owns within the area, it is forecast that this deficit will rise to 199 places 2020.

Our view is that the home would be meeting a demonstrable need and support the principle of the development of a care home as part of this application.

We consider that it would be preferable for the siting of the care home to be better placed within the scheme – close to other amenities and visible either from the former A421 or the principal road through the site.

Determining Issues

The main considerations of the application are;

1. Principle of Development
2. Employment
3. Layout, Density and Built Form
4. Impact on Amenities of Existing and Future Residents
5. Highways Implications and Sustainable Transport
6. Flood Risk and Drainage
7. Open Space, Landscaping and Ecology
8. Archaeology
9. Impact on Infrastructure and Services

10. Other Issues

Considerations

1. Principle of Development

Marston Moretaine is identified as a 'Minor Service' centre within the Bedford/Kempston/Northern Marston Vale Growth area as set out in the Core Strategy and Development Management Policies 2009, Site Allocations DPD 2011 and the submitted Development Strategy for Central Bedfordshire. Policy MA4 of the Site Allocations DPD allocates this site for the development of 125 dwellings; 7ha of employment land for B1, B2 and B8 uses; and remaining land reserved for contingency housing provision of 320 dwellings. The policy sets out that the contingency provision will only be brought forward for development after 2016 if the housing trajectory for the whole of the Bedford/Kempston/Northern Marston Vale Growth Area indicates a clear likelihood of a shortfall in housing delivery by 2021.

This application seeks to bring forward the contingency land and the redevelopment of the previously allocated employment land for employment, housing, and the provision of land for a care home.

In the Council's most recent annual Monitoring report for the period 2012/2013 the Council set out a housing trajectory for the forthcoming five year period. With regard to the contingency site allocation the Council indicates that it expects dwellings to begin to be delivered from the site in 2016/2017. It can therefore be seen that the contingency land is now required and can therefore legitimately be brought forward under this policy. Therefore the principle of development in terms of the contingency land is therefore considered acceptable.

In terms of the redevelopment of the employment land, whilst this application would involve a loss of employment land (which will be discussed later in this report), the principle of residential and commercial development for the site has already been established in policy terms.

Representations have raised issues regarding the principle of development including objections about land use, contrary to policy, need and site suitability. However, these issues were considered previously at the site allocation stage.

With regards to the submitted Development Strategy for Central Bedfordshire (2014), weight can be given to the policies contained within it which are consistent with the NPPF. The Development Strategy was submitted to the Secretary of State in October 2014.

Policy requirements in the Core Strategy and Development Management Policies 2009 set out that development on this site will be subject to the following:

- The production of a Masterplan to guide a mixed-use phased development;
- Sensitively designed layout showing integration of the three elements of the site, and integration within the village;
- Provision of an acceptable landscaping scheme for the entire site;

- Safeguarding and enhancement of the Sustrans Route 51 with improvements to existing footpaths and cycle ways within the development and adequately linking the site with the existing settlement;
- Contributions to improvement to transport and traffic movements on the downgraded A421 road within Marston Moretaine;
- Preparation of a Transport Assessment to help identify the impacts of the development on the A421, considering both the 'with' and 'without' contingency site scenarios; and
- Maintenance and enhancement of existing rights of way within the site including Sustrans Route 51.

The policy requires the production of a Masterplan, which the developers have submitted in illustrative form. An illustrative masterplan was submitted with the outline application CB/11/04445/OUT. A further masterplan/ indicative layout has been submitted with this application. This accords with the policy requirement and shows the interaction and connectivity across the whole site.

It is therefore considered that the development would deliver sustainable development that is compliant with other policies and the NPPF.

2. Layout, Density and Form

Site Allocations Policy MA4 required the production of a masterplan to guide a mixed use phased development. The masterplan produced for application CB/11/04445/OUT outlined the broad design principles that have led to the form and type of development proposed and set the application site in context with its surroundings.

The masterplan proposals submitted under this application adequately demonstrates that the design principles for the site can be achieved. The illustrative layout provides a balanced mix use development and enhances existing public right of way and hedgerows. The design of the site will create a sense of place through use of materials, connectivity and legible open space. The elevation fronting Bedford Road (old A421) will be the most visible part of the development, and therefore the design and appearance is critical to the scheme to ensure it will enhance the site and its relationship with the existing Marston Moretaine settlement.

The average net density of 30dph is considered to be appropriate for this site on the edge of the village and would be similar to densities in nearby established residential areas. The development would be dispersed with open space in the form of formal play areas and informal open space. The applicants have stated that a range of house sizes and types will be provided to reflect local need and provide a mixed community.

The employment area adjacent to Wood End, has been kept low key. The proposed siting for the care home has been set off the boundary, with open space surrounding. The adjacent employment area comprises small units offering flexible space with the ability to accommodate a mix of A1, B1 and D1 uses. This would reduce the impact on the properties within Wood End than that

of the previously approved employment area.

The new areas of linear open space provide routes for walking and cycling and provide a number of key linkages between the proposed development, the consented Phase 1 scheme, and the existing cycle route and public footpath that cross the Phase 2 Site. The points of connection to the existing cycle route are particularly important as they assist in maximising integration with the existing areas of the village to the east.

The illustrative masterplan has been designed to show how a clear hierarchy of streets and spaces should be created so that it will be clear for residents and visitors alike where the principal routes are and how to find their way to important routes. The illustrative design is such that it shows a layout could be achieved where each street and route within the hierarchy will be an identifiable type, using the following principles:

- Avenue - principal route leading into the development - signified by being tree-lined and fronted by some of the developments higher density, taller and more formal buildings;
- Spine streets - tree-lined formal streets that, like the avenue, form the principal structural elements of the development, subservient in nature though to the avenue;
- Secondary streets - less formal character, density thresholds clearly subservient to principal routes;
- Lanes, mews and drives - well enclosed and actively surveyed lanes with small private frontages. Low density forms;
- Recreational footways - network of traffic-free routes which provide attractive walks through the development.

An important part of the illustrative master plan's evolution has been the removal of rear parking courts as these are no longer the Council's preferred option. The masterplan therefore illustrates that a mix of car parking solutions have been applied through a combination of on-plot, off-plot and on street parking.

The masterplan takes on board the considerations and principles set out in the Central Bedfordshire Design Guide and has considered the required residential amenity and privacy standards. The illustrative masterplan shows that these levels can be achieved satisfactorily across the site.

This is an outline application, with only access to be considered at present. A condition requiring reserved matters to be submitted in relation to scale, layout, appearance and landscaping will be attached to any grant of planning permission. This will be required to be in accordance with the principles set out in masterplan. In addition to this, there will be a requirement within the conditions for a design code to be produced, this will ensure continuity with the neighbouring residential parcel and a high quality development.

3. Employment

Policy MA 4 as part of the mixed use allocation sought 7.01ha of land for employment. Outline consent was granted under planning reference CB/11/04445/OUT for this provision, subject to a height restriction on the units.

The application puts forward four key considerations in terms of the redevelopment of the employment land to an alternative mix of residential, provision of land for a care home and smaller employment land, these are as follows:

- The need to meet with the identified housing requirements and achieve a satisfactory form of development on the site;
- The viability of large scale B1 and B8 employment uses in this location;
- local attitude towards large scale B1 and B8 employment uses in the village;
- The benefits of the scale and nature of the employment uses proposed.

The need to meet with the identified housing requirements and achieve a satisfactory form of development on the site

The use of some of the 7ha of allocated employment land would be required to for the provision of residential units necessary to meet the Council's target of 320units from the contingency land. A modelling exercise has demonstrated that to achieve an acceptable form and layout of residential development at a level of approximately 30 dwellings per hectare, the allocated contingency land could only provide for 240 dwellings which would be below the minimum number of 320 units required from the site.

The viability of large scale B1 and B8 employment uses in this location

A viability report has been submitted with the application which contains the results and summary of an objective assessment on the viability of large scale B1 and B8 uses on the site. It is also supported by evidence of up to date unsuccessful marketing of the employment land. This has been ongoing since May 2014. The marketing of the employment land was a requirement within the S106 of the outline permission CB/11/04445/OUT. This required the employment land to be marketed for a period of two years.

The submitted report ultimately concludes that in market terms the site is not an appropriate location for large scale B1 and B8 use and the following conclusions were drawn from this:

- Access to the site will be via the old A421 which once narrowed in accordance with the details approved in outline planning permission CB/11/04445/OUT will have the characteristics of a local road and not a trunk road as is currently the case;
- The section of the old A421 serving the site will be subject to a traffic regulation order imposing a 7.5 ton weight restriction together with a 30 mile an hour speed limit - this will limit access for HGV traffic and severely reduce any potential haulage or distribution interest;
- A substantial proportion of the site is restricted to B1 use only;
- The residue available for B1/B8 development is irregular in shape and is therefore constrained in terms of development;
- No building is to exceed 12.5m in height - this will limit the amount of floor space that can be developed on the site and significantly reduces the attractiveness for B8 users;

- Part of the site is traversed by overhead power lines restricting development flexibility;
- There are a number of existing consented B1/B2/B8 schemes in close proximity to the site with fewer site constraints;
- The Local Plan/Core Strategy allocations process has identified a number of significant employment sites with fewer constraints;
- At current market rental/ vacant possession values, pure B1 office development produces negative residual land value and no development profit;
- A mixed B1 Office/ B8 warehouse distribution scheme is potentially more viable albeit still loss making;
- Close proximity to existing residential properties will restrict the operation of employment uses, making it less attractive to potential occupiers;
- An extensive marketing campaign, commencing in May 2014, has generated a limited number of genuine suitable enquiries and has resulted in no formal or informal proposals.

The applicant also makes reference to a similar employment development proposal within the area. In particular Marston Park North, the site was consented for 3ha of B1 employment land, after a marketing exercise that lasted 3 years, it was concluded that there was little interest for such land use in this location. Planning permission was granted in 2014 for the substantial reduction in the overall amount of employment land provided on the site and also the introduction of additional and more flexible land uses (A1, A2, A3, A4, A5, D1 and D2).

Marston Park North is sited within the village of Marston Moretaine and there would be strong market similarities between the two sites in terms of B1 land use.

Local attitude towards large scale B1 and B8 employment uses in the village

Prior to submission of the application, significant community engagement took place between the applicant, the local community, the Parish Council and key stakeholders. This will be discussed in detail in a subsequent section.4

The evidence submitted and the feedback given is such that there is a general feeling amongst the residents of Marston Moretaine that large scale B1 and B8 development is not appropriate for the village and would be harmful to its character. In addition, they would see the provision of such employment as further segregation of the site from the community, when the traffic calming/ changes to the character of the road have sought to bring the site closer to the community.

The benefits of the scale and nature of the employment uses proposed

The proposal still retains over 1ha of employment land, with a number of employment generating uses proposed. This comprises a significant care home facility and some smaller flexible employment space uses.

The care home element has arisen through discussions with the local community and consultation with the Council's Social Care, Health and Housing team. The local community perceived in the community engagement feedback that there was a need for enhanced healthcare facilities in the locality, and in particular, older members of the community expressed concerns regarding moving away from the village due to lack of suitable care and accommodation within the area.

Consultation with the Social Care, Health and Housing service highlighted a predicted substantial deficit of care home places in Central Bedfordshire over the period to 2030. The report provided in support of the application identifies that in the West Mid Beds area (of which Marston Moretaine falls under) the Council identifies a critical shortage of care home spaces by as soon as 2020. It is therefore clear that there is an identified need for care home provision within the immediate area surrounding the site.

In terms of the employment mix proposed as part of this application, the B1 business use floor space would create some 121-242 Full Time Equivalent (FTE) jobs depending on the scale of the buildings. A 60 bed care home would provide some 60 FTE jobs based on information submitted to accompany an application for a care home in Shefford (CB/14/02182/FULL).

Overall, the proposed scheme would therefore have the potential to generate between 181 to 302 FTE jobs in the area.

The Council's Economic Development Officer has raised concern regarding the loss of the employment land in this area, however, given the information submitted above in terms of the planning balance it is considered that the proposed redevelopment would still provide a mixed use development, which would provide a suitable level of jobs for the community and would provide land for a care home, to meet the identified need. The provision of accommodation to meet the needs of the elderly community within Central Bedfordshire is a key priority for the Council. Therefore, in light of the evidence submitted and the information within the application it is considered that the proposed redevelopment of this employment land for a mixed use of residential, care home and flexible employment uses would be acceptable in this instance.

4. Impact on amenities of existing and future residents

Concerns have been raised regarding the increased foot traffic along the existing public rights of way/SUSTRANS Route 51 on the residents that border the footway. This concern has to be balanced with the need to provide a direct route for new residents to the village and facilities in a sustainable mode as well as enhance this existing route.

Subsequent applications for reserved matters will address attention to detail within the scheme so that solutions and measures will be adopted to ensure consideration of privacy, relationships between dwellings, garden spaces and relationships with access roads, footpaths and public spaces. Careful consideration will also need to be given to guidance set out within the Council's adopted planning document 'Design in Central Bedfordshire: A Guide for

Development' (2014).

The Public Protection Officer has not objected to the proposal but suggested a number of conditions be attached to any consent granted to ensure appropriate level of amenity surrounding the employment area. The location of the employment area is such that there are few residential properties adjacent to the site which would reduce any potential impact.

The illustrative masterplan shows that an acceptable level of residential amenity can be provided across the site, however, this would be dealt with in more detail at the reserved matters stage.

5. Highway Implications and Sustainable Transport

Given the planning history of the entire site there is no overriding highway objection to the residential development on this parcel of reserved land. The application is supported by a robust Transport Assessment detailing the traffic generation and distribution that confirms that the access and surrounding highway network has sufficient capacity to accommodate the traffic movements from the new development. The off-site highway works to 're-characterise' the former A421 have been agreed and will be implemented as part of a Section 278 agreement being negotiated with Bovis as part of the initial phase of the overall Moreteyne Farm development.

With regard to the detail of the application, the proposal is for outline approval with only the means of access to be determined at this stage. The access details are considered acceptable.

Given that the application is for outline consent only and that the submitted masterplan is indicative only it is assumed that the layout will be fully compliant with the latest Design Guide including highway design, parking provision and garaging. This will then be assessed in detail at the reserved matters stage.

Other Highway Issues

A combined footway/cycleway has been approved on the northern side of Bedford Road from the Beacroft roundabout up to the point at which footpath no. 24 connects to Bedford Road. A further section has been approved on the southern side to allow pedestrian crossing and to connect with the new footway at Beacroft Road roundabout. The site will link up to this footpath network.

Sustainable Transport

A Framework Travel Plan (FTP) has been developed for the site and approved.

6. Flood Risk and Drainage

A Flood Risk Assessment (FRA) has been submitted in support of this application. The site appears to be split northern catchment and southern catchment. The Bedford & River Ivel Internal Drainage Board (IDB) are the operators and maintainers of watercourses in the northern catchment with Environment Agency (EA) covering the ordinary watercourse in the southern catchment.

The proposal involves two flood berms within the indicative masterplan, both of which formed part of the previous outline application under reference CB/11/04445/OUT.

The EA was consulted on the proposed development and requested a number of conditions be imposed.

The IDB have commented on the application and raise no objection stating that the Board has recently agreed that the surface water drainage strategy for the proposed development is acceptable.

7. Open Space, Landscaping and Ecology

Open Space

The application proposes the inclusion of 3 LEAPs (one including an area for teenage play), a doorstep play and informal open space. The informal open space would include a village green, community orchard and seating area. The open space provision is therefore considered acceptable.

Given the level of residential proposed on the site, there would be a requirement for a level of outdoor sport space within the site. The Leisure Strategy has identified that this should equate to approximately 1.01ha of space. However, given the constraints on the site, it is considered that this would be best provided as an off-site contribution. This will therefore be discussed further in terms of contributions sought in relation to the site.

The masterplan is illustrative, however, it does provide for the required amount of play open space. The precise detail of this would be dealt with at the reserved matters stage.

Landscaping

The illustrative masterplan has retained much of the existing site features and integrated them with new greenspace corridors, this helps to create areas of informal landscape within the development. The illustrative masterplan is indicative only and as all matters are reserved subject to access, the detail of any landscaping would be dealt with at the reserved matters stage.

The application provides a comprehensive tree survey which identifies thirteen individual trees, five groups of trees and fourteen hedgerows. The layout and proposal information in general is well thought out and realistically the majority of trees and hedges on the site could be retained and easily protected. It is accepted that there will be removal of part of hedgerow 16 to allow access and part of hedgerow 2 that effectively divides the site north/south. As stated above a detailed landscaping scheme will come forward at the reserved matters stage to enable further detailed consideration.

Ecology

The site layout provides for a good green network and mix of habitats including hedgerows, trees, orchard, wildflower meadow and wetlands. The Council's

Ecologist has raised concern about the proposed mitigation method for Great Crested Newts and has therefore recommended a condition on this basis. Also, it should be noted that integral nest/ roost bricks at a rate of 1 brick per dwelling should be incorporated into any dwellings bordering hedgerow 2 in the centre of the site and those along the C94. This will be added as an informative.

8. Archaeology

The proposed development site lies within an established archaeological landscape that contains Middle Iron Age to Roman settlement activity and medieval ridge and furrow cultivation remains. Under the terms of the *National Planning Policy Framework* (NPPF) these are all heritage assets with archaeological interest and therefore a material consideration in planning matters.

The application area is known to contain multi-period archaeological remains and the nature of the development proposals are such that they will have a negative and irreversible impact upon those remains. It would appear that the greatest potential at this site relates to the presence of Middle-Late Iron Age and Roman occupation, however, undated and medieval activity has also been recorded at the site. Understanding landscape development and settlement patterns, the relationship between settlement and enclosure (Going and Plouviez 2000, 21 and Oake et al 2007, 11 - 12) and the ritual codes underlying the later prehistoric and Roman periods are regional archaeological research objectives (Oake et al 2007, 12 and Medlycott 2011, 48).

Paragraph 141 of the NPPF states that Local Planning Authorities should require developers to record and advance understanding of the significance of heritage assets before they are lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible (CLG 2012). Policy 45 of the *Submitted Development Strategy for Central Bedfordshire* (pre-submission version, June 2014) echoes this and also requires all developments that affect heritage assets with archaeological interest to give due consideration to the significance of those assets and ensure that any impact on the archaeological resource which takes place as a result of the development is appropriately mitigated.

The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits present on the site, and therefore upon the significance of the heritage assets with archaeological interest. This does not present an over-riding constraint on the development providing that the applicant takes appropriate measures to record and advance understanding of the archaeological heritage assets. This will be achieved by the investigation and recording of any archaeological deposits that may be affected by the development; the provision of a scheme of community engagement, the post-excavation analysis of any archive material generated and the publication of a report on the works. An appropriate condition would be imposed on any grant of planning permission.

9. Impact on Infrastructure and Services

Impact on existing infrastructure and services is another key issue of this application. Community Infrastructure Levy compliant contributions can be secured to ensure that the additional impacts arising from the development can

be mitigated in accordance with the statutory tests for Planning Obligations. Contributions cannot be used to remedy existing deficiencies of infrastructure and services in the area.

The total package to be secured via a Section 106 Agreement would include contributions towards the following:

Education - Early years, Lower, Middle and Upper.

Health facilities - extension/ reorganisation of Marston/Cranfield Surgery

Leisure - outdoor sport space

Education

From consultation and Section 106 negotiations it has been identified that additional educational facilities at all levels would be required. This is to be achieved by securing contributions via a Section 106 legal agreement.

Given that the middle and upper school provisions are provided for within the Bedford Borough Council boundary, the Council will secure contributions on their behalf.

Health Provision

NHS Bedfordshire advise that this additional housing growth will have a severe impact on the current provision of health services within the Cranfield/Marston Moretaine parish and that additional facilities will need to be procured. A financial contribution would be required to provide for an extension/reorganisation of Cranfield/Marston Surgery as necessitated due to the increase demand created by this development.

Leisure

A contribution will be sought towards the provision of 1.01ha of outdoor sport space further details of this scheme will be updated on the late sheet.

Affordable Housing

The proposed affordable housing package consists of 63% Affordable Rent and 37% Shared Ownership tenure types, which is in accordance with the current SHMA. Given the policies within the submitted Development Strategy, and the requirements of the neighbouring site, a provision of 30% affordable housing would be provided in this instance. It is considered that this would be an acceptable level of provision.

10. Other Issues

Management of the community orchard, open space and play areas

The management of these facilities would be secured through the S106 agreement. There would be three options set out, the establishment of a management company, offered to the Parish Council and lastly, offered to the Local Authority. It is therefore considered that the future management of these facilities would be secured.

SuDs (Sustainable urban Drainage system) management

The illustrative scheme is split into two catchments, one flows to the flood storage berm that would be maintained by the IDB, this accounts for the majority of the surface water from the site. The remaining positive SuDs infrastructure on the site (e.g. swales, ponds, culverts etc) management would be secured through the S106 process and would likely be through a management company.

Human Rights

The development has been assessed in the context of human rights and would have no relevant implications.

The Equalities Act 2010

The development has been assessed in the context of the Equalities Act 2010 and would have no relevant implications.

RECOMMENDED CONDITIONS / REASONS

- 1 Application for the approval of the reserved matters shall be made to the Local Planning Authority within three years from the date of this permission. The development shall begin not later than two years from the final approval of the reserved matters or, if approved on different dates, the final approval of the last such matter to be approved.

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

- 2 **No development shall take place until approval of the details of the appearance, landscaping, layout and scale of the development [and any other details required i.e. the landscaping adjoining it] within that area (herein called “the reserved matters”) has been obtained in writing from the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

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

- 3 Prior to the submission of the first reserved matters application for each Phase of the development, a detailed design code for that Phase shall be submitted and approved in writing by the Local Planning Authority. The detailed design code shall demonstrate how the objectives of the Design and Access Statement will be met, and shall be in accordance with the drawings and documents referred to in Condition 17 . The design code shall:

- outline the street network/hierarchy and include cross sections for each street type that outline the various applicable elements within the cross section, including overall range of building line distance(s), set backs/privacy strip(s), cycle lane(s) (if applicable),

verge width(s), pavement width(s) , any on street parking, bus stops (if applicable) and carriageway width(s). Details of surface material type(s) will also be provided.

- identify any character areas within which the following design principles shall be identified:
 - public realm including details of landscaping, public art opportunities, public realm material types (landscape, street furniture etc) and refuse collection.
 - block principles including ranges for plot widths and depths, building lines, frontages and set backs, any on plot or other parking, cycle parking, servicing and storage and collection of waste.
 - boundary treatments including types to front, side and rear boundaries.
 - building types & uses.
 - building densities and heights.
 - key gateways, landmark buildings, vistas and frontages.
 - architectural detailing and materials including key roofscape principles, building material types & design details: including signage and lighting (where applicable).
 - environmental and sustainability standards including details of any sustainable urban drainage system (“SUDS”) serving that area. The development of each area shall be carried out in accordance with the approved design code for that area.

Reason: To ensure that the details and appearance of the development are acceptable to the Local Planning Authority in accordance with Policy DM3 of the Central Bedfordshire (North Area) Core Strategy and Development Management Policies (2009) and Policy 43 of the Submitted Development Strategy for Central Bedfordshire.

- 4 **No development shall commence until the highway works previously approved and shown on plan number 1369/HL/01 have been completed in full unless otherwise agreed in writing by the Local Planning Authority.**

Reason & justification: To ensure the provision of appropriate access arrangements and associated off-site highway works in the interests of highway safety.

- 5 Any subsequent reserved matters application shall include the following:
- Estate roads designed and constructed to a standard appropriate for adoption as public highway.
 - Pedestrian and cycle linkages to existing routes;
 - Bus-stop provision on the C94 to be agreed;
 - Vehicle parking and garaging in accordance with the council's standards

- applicable at the time of submission;
- A Construction Traffic Management Plan detailing access arrangement for construction vehicles, routing of construction vehicles, on site parking and loading and unloading areas;
- Materials storage areas;
- Wheel cleaning arrangements;

Reason: To ensure that the development of the site is completed to provide adequate and appropriate highway arrangements at all times.

- 6 Details of the layout and design of the play areas shown on the approved drawing, including the equipment, furniture, surfacing and boundary treatment to be installed, shall be submitted to and approved in writing by the Local Planning Authority. The details thereby approved shall be implemented prior to any houses being first occupied and retained thereafter.

Reason: To ensure the provision of adequate play and children's recreation facilities.
(Policy 43, DSCB)

- 7 **No development shall take place until a written scheme of archaeological investigation, has been submitted to and approved in writing by the Local Planning Authority.**

The written scheme shall include details of the following components:

- **A method statement for the investigation of any archaeological remains present at the site;**
- **An outline strategy for post-excavation assessment, analysis and publication;**
- **A strategy for community engagement.**

The said development shall only be implemented in full accordance with the approved archaeological scheme and this condition shall only be fully discharged when the following components have been completed to the satisfaction of the Local Planning Authority:

- **The completion of the archaeological investigation, which shall be monitored by the Local Planning Authority;**
- **The implementation of a programme of community engagement;**
- **The submission within eight months of the completion of the archaeological investigation (unless otherwise agreed in advance in writing by the Local Planning Authority) of a Post Excavation Assessment and an Updated Project Design, which shall be approved in writing by the Local Planning Authority.**
- **The completion within two years of the approval of the Updated Project Design (unless otherwise agreed in advance in writing by the Planning Authority) of the post-excavation analysis as specified in the approved Updated Project Design; the preparation of the site archive ready for deposition at a store approved by the Local Planning Authority, the completion of an**

archive report, and the submission of a publication report.”

Reason: In accordance with paragraph 141 of the NPPF; to record and advance the understanding of the significance of the heritage assets with archaeological interest which will be unavoidably destroyed as a consequence of the development and to make the record of this work publicly available. In accordance with Policy 45 of the emerging *Development Strategy for Central Bedfordshire* (pre-submission version, June 2014); to give due consideration to the significance of the heritage assets with archaeological interest and ensure that any impact on the archaeological resource which takes place as a result of the development is appropriately mitigated.

- 8 Development shall not begin within the portion of the site termed the 'Southern Catchment' until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall be based on the principles detailed in the Flood Risk Assessment (FRA) dated 14 January 2015, ref. 10298, compiled by Brookbanks Consulting Ltd.

Reason: To ensure an acceptable surface water drainage scheme is provided in the southern part of the site and to ensure there is no increase in flood risk at the site or elsewhere as a result of the development.

- 9 **No development shall commence until a scheme for surface water disposal has been submitted to and approved in writing by the Local planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approved details.**

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

Justification: The water environment is potentially vulnerable and there is an increased potential for pollution from inappropriately located and/or designed infiltration sustainable drainage systems (SuDS).

- 10 **No development shall take place until details of the method of disposal of foul and surface water drainage have been submitted to and agreed in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved drainage scheme has been implemented.**

**Reason: To ensure that adequate foul and surface water drainage is provided and that existing and future land drainage needs are protected.
(Policies 43 and 44, DSCB)**

Justification: The water environment is potentially vulnerable and there is increased potential for pollution. The details are required prior to commencement to ensure that a effective system is in place and taken into account during the construction process.

- 11 Any reserved matters application shall include an updated Mitigation Strategy and Method Statement detailing the GCN trapping, translocation and habitat compensation/mitigation has been submitted to and approved in writing by the Local Planning Authority. This would form part of an EPS Licence application to Natural England.

Reason: To ensure favourable conservation status of a protected species is maintained.

- 12 Any reserved matters application shall include a scheme for the provision of Public Footpath numbers 24, 33, 34 and also Public Bridleway number 81. The following details shall be included:
- the design of access and improvement of Public Footpath numbers 24, 33, 34 and also Public Bridleway number 81 (including landscaping, width and surfacing)
 - proposals for diversion of public rights of way (where necessary);
 - the temporary closure and alternative route provision (where necessary) of any existing right of way.

Reason: In the interests of the amenity of pedestrians, equestrians and other non motorised users and to ensure safety of users is not compromised by the traffic associated with the development.

- 13 The promotion of sustainable travel associated with this development needs to be implemented in accordance with the approved travel plan of March 2015.

Including the following measures:

- Agreed targets for modal shift from single occupancy vehicle trips
- Marketing and promotion of sustainable transport choices to residents, including the provision of welcome packs. Welcome pack to include:
 1. Site specific travel and transport information,
 2. maps showing the location of shops, recreational facilities, employment and educational facilities
 3. Details of relevant pedestrian, cycle and public transport routes to/ from and within the site.
 4. Copies of relevant bus and rail timetables.

- Action plan for implementation of measures designed to promote travel choice.
- Plans for monitoring and review annually for a period of 5 years at which time the obligation will be reviewed by the planning authority.
- Provision of cycle parking in accordance with Central Bedfordshire Council guidelines.
- The appointment of a travel plan co-ordinator

No part of the development shall be occupied prior to implementation of those parts identified in the travel plan.

Reason: To reduce reliance on the private car by promoting sustainable modes of transport including walking, cycling and public transport.

- 14 Any reserved matters application shall include a phasing plan for the development. The development shall be carried out in accordance with the approved phasing plan.

Reason: To ensure that the development is undertaken in a co-ordinated manner.

- 15 No work shall commence on the construction of the buildings hereby approved until a scheme for protecting the proposed dwellings from noise from road traffic noise adjacent to the site has been submitted to, and approved in writing by the local planning authority. None of the dwellings hereby approved shall be occupied until such a scheme has been implemented in accordance with the approved details, and shown to be effective, and it shall be retained in accordance with those details thereafter.

Reason: To protect the amenities of future residents.

- 16 Prior to the use of any of the buildings within the identified employment area for a use falling within use classes A3 or D1, an appropriate scheme shall be submitted to and approved by the Local Planning Authority to mitigate any potential impacts arising from noise and odour. Any such approved scheme shall be fully implemented in accordance with the agreed scheme and shown to be effective. Any such scheme shall thereafter be maintained in perpetuity.

Reason: To protect the amenities of future occupiers.

- 17 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers CSa/2391/102 Rev B; CSa/2391/115 Rev G; CSa/2391/116; 1369/HL/01 Rev D; Design and Access Statement (January 2015); Planning Statement; Archaeological Evaluation (November 2014); Aborigicultural Assessment (January 2015); Landscape and Visual Appraisal (January 2015); Geo-Environmental Phase 1 Desk Study; Sustainability Statement; Soil resources and Agricultural Use and Quality of Land at Marston Moretaine; Flood Risk Assessment; Air Quality Assessment; Statement of

Community Involvement; Noise Impact Assessment; Ecological Appraisal; Transport Assessment.

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

Notes to Applicant

1. 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.
2. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. Further details can be obtained from the Development Management Group, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ. (HN viii)
3. The applicant is advised that if it is the intention to request Central Bedfordshire Council as Local Highway Authority, to adopt the proposed highways as maintainable at the public expense then details of the specification, layout and alignment, width and levels of the said highways together with all the necessary highway and drainage arrangements, including run off calculations shall be submitted to the Development Management Group, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ . No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.
4. The applicant is advised that no highway surface water drainage system designed as part of a new development, will be allowed to enter any existing highway surface water drainage system without the applicant providing evidence that the existing system has sufficient capacity to account for any highway run off generated by that development. Existing highway surface water drainage systems may be improved at the developer's expense to account for extra surface water generated. Any improvements must be approved by the Development Management Group, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ.
5. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol/ oil interceptors be fitted in all car parking /washing/ repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute

an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

6. The applicant is reminded that all legal agreements with the IDB, agreement for a commuted sum for future maintenance and consent for the flood storage berm must be in place before work begins on site.
7. Opportunities for further biodiversity and enhancement exist within the site. Any reserved matters application should include integral nest/roost bricks on any dwellings bordering hedgerow H2 in the centre of the site at a rate of 1 brick per dwelling. These should also be incorporated into dwellings fronting the C94.
8. The applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

The Equality Act 2010 requires that service providers must think ahead and make reasonable adjustments to address barriers that impede disabled people.

These requirements are as follows:

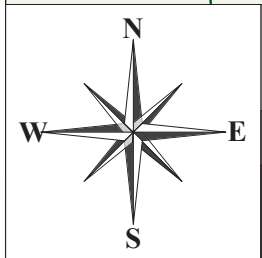
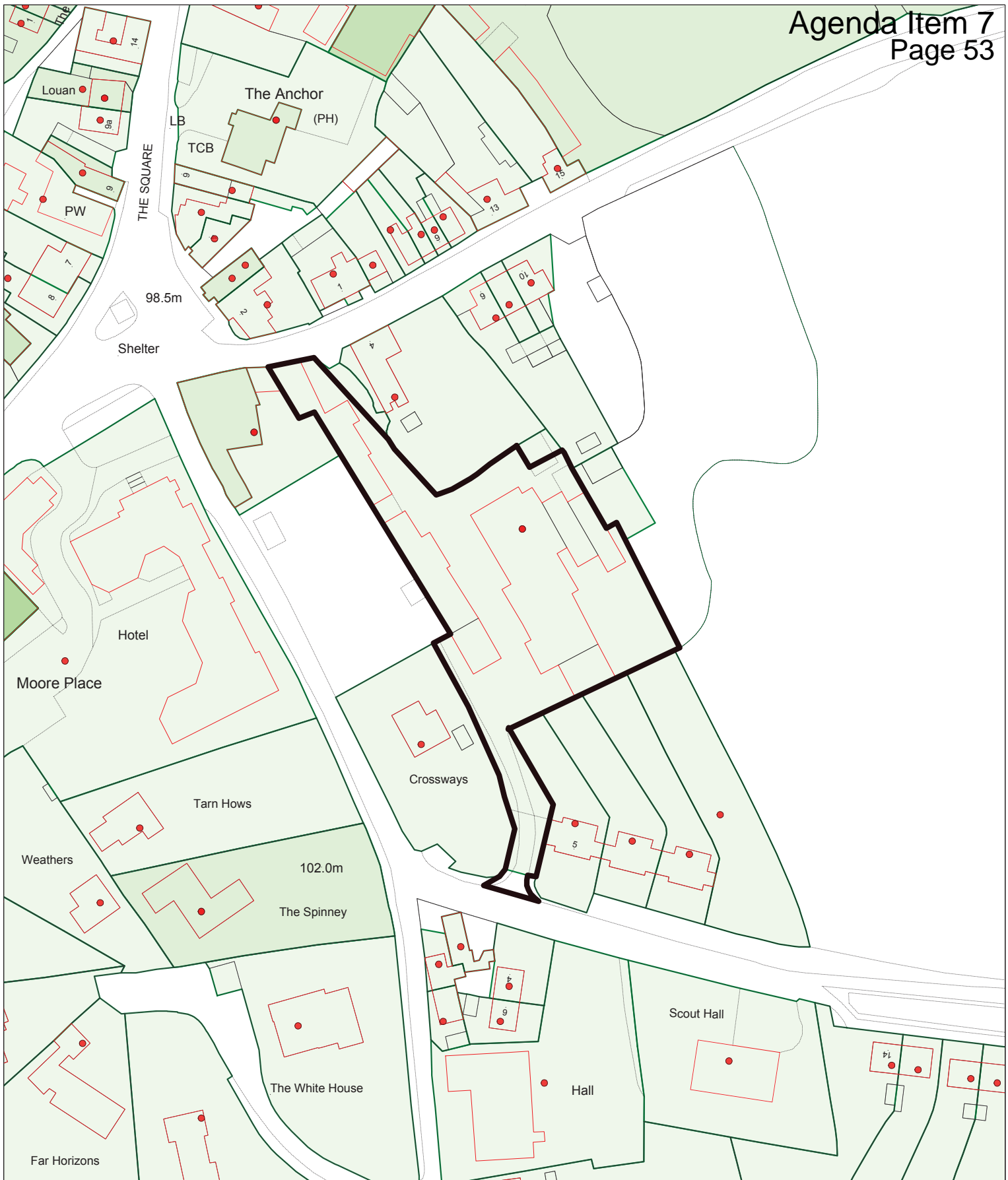
- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;
- Where a physical feature puts disabled people at a substantial disadvantage to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function;
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage to provide that auxiliary aid.

In doing this, it is a good idea to consider the range of disabilities that your actual or potential service users might have. You should not wait until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment.

For further information on disability access contact:

The Centre for Accessible Environments (www.cae.org.uk)
Central Bedfordshire Access Group (www.centralbedsaccessgroup.co.uk)

Planning permission has been granted for this proposal. The Council acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.



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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 08:June:2015
Grid Ref: 494095, 235987

Application No:
CB/15/01111/FULL

Scale: 1:1250

Larkwood Ltd, Bedford Road, Aspley Guise, Milton Keynes, MK17 8DJ

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Item No. 7

| | |
|--|--|
| APPLICATION NUMBER | CB/15/01111/FULL |
| LOCATION | Larkwood Ltd, Bedford Road, Aspley Guise, Milton Keynes, MK17 8DJ |
| PROPOSAL | Part demolition of existing buildings, erection of 10 dwellings and retention of existing office building on site frontage. |
| PARISH | Aspley Guise |
| WARD | Aspley & Woburn |
| WARD COUNCILLORS | Cllr Wells |
| CASE OFFICER | Lisa Newlands |
| DATE REGISTERED | 13 April 2015 |
| EXPIRY DATE | 13 July 2015 |
| APPLICANT | RBC Property Developments Ltd |
| AGENT | DLA Town Planning Ltd |
| REASON FOR COMMITTEE TO DETERMINE | Major application with objection from the Parish Council |

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|---------------------------------|---|
| RECOMMENDED DECISION | It is recommended that subject to no new issues being raised then APPROVE planning permission subject to the conditions below. However, if there are any minor changes or adjustments to the conditions considered necessary by the Head of Development Management then it is requested that these changes be delegated to the Head of Development Management or a Planning Manager. |
|---------------------------------|---|

Summary of Recommendation:

The planning application is recommended for approval, the design of the dwellings would be in accordance with Central Bedfordshire Core Strategy and Development Management Policies DM3, CS1, CS2, CS5, DM4, DM13, CS15. It would not have a significant impact upon the residential amenity of any adjacent properties, the significance or the setting of the adjacent Listed Buildings, or the Aspley Guise Conservation Area and would result in a new development suitable for the location. It is considered that the design is in accordance with the Central Bedfordshire Design Guide and the submitted Development Strategy and National Planning Policy Framework.

Site Location:

The site is located to the east of the main village centre, to the south of Bedford Road, within the Aspley Guise Conservation Area. Access to the site is taken from Bedford Road, with a pedestrian/ vehicular access on to Spinney Lane. At the entrance to the site is an existing residential property Rose Cottage and a restaurant the 'Blue Orchid' previously known as the Bell Inn. This is a listed building. The timber clad building at the front of the site fronting Bedford Road, is attached to the neighbouring Listed Building and is included within the listing for the building. There

are a mix of dwellings within the area, both in the centre of the village, adjacent within Bedford Road and properties within Spinney Lane.

The existing workshop/ showroom buildings on the site formed part of the former timber yard use. This use has now ceased and therefore the site is now a redundant brownfield site.

The Application:

This is a full application for the part demolition of the buildings, erection of 10 dwellings and retention of existing office building on site frontage. This has been revised from that previously proposed which was the demolition of all existing buildings and erection of 11 dwellings. However, issues were raised regarding noise and odour in terms of cottage 1, and that the frontage building is actually attached to the adjacent Listed Building (and included within the listing) resulted in this building now being retained and used as an office.

RELEVANT POLICIES:

National Policy

National Planning Policy Framework (March 2012)

Core Strategy and Development Management Policies - North 2009

- DM3 High Quality Development
- DM6 Infill Development within the Green Belt Infill boundary
- CS14 High Quality Development
- CS15 Heritage
- DM13 Heritage in Development
- CS1 Development Strategy

Submitted Development Strategy for Central Bedfordshire 2014 (Submitted October 2014)

The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the SoS.

- Policy 43 High Quality Development
- Policy 45 The Historic Environment.
- Policy 37 Development within Green Belt Infill boundaries.

Supplementary Planning Guidance

Design in Central Bedfordshire: A guide for development

Aspley Guise Conservation Area document dated 19/03/2008

Planning History

Application: Planning
Validated: 03/05/2007
Status: Decided
Summary:
Description: Advertisement Consent: Retention of 1 no. hanging sign, 1 no. fascia sign and 2 no. wall signs (retrospective)

Number: MB/07/00481/ADV
Type: Advertisement
Date: 12/06/2007
Decision: Advertisement - Refused

Application: Planning
Validated: 15/06/2000
Status: Withdrawn
Summary:
Description: FULL: RETENTION OF CANOPY OVER LOADING BAY

Number: MB/00/00975/FULL
Type: Full Application
Date: 04/07/2001
Decision: Application Withdrawn

Application: Planning
Validated: 16/11/1995
Status: Decided
Summary:
Description: FULL: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A NEW BUILDING FOR THE PURPOSES OF STORAGE AND POLISHING OF FURNITURE

Number: MB/95/01441/FULL
Type: Full Application
Date: 30/01/1996
Decision: Full Application - Refused

Application: Planning
Validated: 08/05/1990
Status: Decided
Summary:
Description: FULL: DEMOLITION OF OUTBUILDINGS AND ERECTION OF STORAGE/POLISHING UNIT

Number: MB/90/00504/FULL
Type: Full Application
Date: 03/07/1990
Decision: Full Application - Granted

Application: Planning
Validated: 20/12/1988
Status: Decided
Summary:
Description: FULL: EXTENSIONS TO FORM ADDITIONAL SHOWROOM AND STORAGE FACILITIES

Number: MB/88/01653/FULL
Type: Full Application
Date: 14/02/1989
Decision: Full Application - Granted

Application: Planning
Validated:
Status: Withdrawn
Summary:
Description: OUTLINE: EXTENSIONS TO EXISTING UNIT AND SHOWROOM

Number: MB/88/00703/OA
Type: Outline Application
Date: 12/09/1988
Decision: Application Withdrawn

Representations: (Parish & Neighbours)

Aspley Guise Parish
Council

Objects to the application on the following grounds:

- The access to the site is inadequate and will worsen the existing serious traffic problems on Bedford Road;
- Spinney Lane access should be blocked to stop vehicles being able to use it;

- Neighbours
- Concern regarding Spinney Lane residents being overlooked.
- 6 representations received raising the following issues:
- concern regarding vehicle access into Spinney Lane
 - overflow parking from the site onto Spinney Lane and the village hall
 - No additional residents parking will be allowed within the Village Hall car park
 - cramped development
 - price of houses
 - traffic implications
 - supportive of the proposal to incorporate some smaller properties in the development
 - concern regarding the height of the dwellings in south-east corner of the site and impact on residents within Spinney Lane
 - privacy concerns regarding properties at rear of site overlooking those in Spinney Lane
 - overdevelopment of the site
 - add to parking problems and congestion
 - concern regarding removal of conifers

Other representations:

- Woburn Sands and District Society
- Object on the following grounds:
- Impact on the Grade 11 listed building
 - Access on to Bedford Road
 - Height of the Buildings - not inkeeping to have 2.5 storey buildings within the Conservation Area
 - Affordable Housing - question viability
 - Tree Clearance - clearance already commenced.

Consultations/Publicity responses

- Highways
- No objection to residential scheme - Awaiting comments on revisions - to be updated on the late sheet
- Conservation and Design
- No objection - have been involved during the pre-application process and the scheme involves high quality materials and good design.
- Archaeology
- Comments to be updated on the late sheet
- Trees and Landscape Officer
- No objection although concern raised regarding the loss of the onsite trees and need for landscaping scheme.
- Historic England
- Do not consider the proposed development would necessarily result in harm to the significance of the conservation area in terms of the NPPF. Although some concerns over the vertical emphasis on some of the dwellings
- Public Protection
- Raised concern regarding noise and odour to plot 1; this has now been removed and office being retained. The objection in terms of odour has been removed. Although concern over noise from restaurant and car park on Plot

| | |
|-----------------------------|--|
| Housing Development Officer | 2. Recommend condition. The viability of the scheme has been assessed and it concludes that the scheme would be unviable with the inclusion of affordable housing. As the residential scheme has been reduced to 10 dwellings - there would no longer be a requirement in this instance for affordable housing. |
| Leisure | No off-site contribution required in this instance |

Determining Issues

The main considerations of the application are:

1. Principle of Development
2. Impact on the character and appearance of the surrounding area, Listed Building and Conservation area;
3. Impact on amenities of neighbours
4. Access, Parking
5. Tree considerations
6. Any other considerations

Considerations

1. Principle of Development

The site lies in the centre of Aspley Guise near the historic core of the village. Aspley Guise is categorised as a Small Village - where excluded from the Green Belt - under Policy CS1 of the Core Strategy. Policy DM6 of this policy document states that the principle of infill development is acceptable in the defined Green Belt Infill boundary. Infill development can be described as small scale development utilising a vacant plot which should continue to compliment the surrounding pattern of development. Policy 37 of the submitted Development Strategy for Central Bedfordshire states that the Council will consider infill development acceptable in principle within the defined Green Belt boundaries and that particular attention will be paid to assessing the quality of development proposed and the likely impact on the character of the settlement and its surroundings.

Policy CS14 of the Core Strategy states that the council will require development to be of the highest quality by respecting local context, spaces and building in design... as well as focusing on the quality of buildings individually. Policy CS15 of the Core Strategy states that the Council will protect, conserve and enhance the integrity of the local built and natural environment. Policy DM13 of the Core Strategy and Development Management Policies for Central Bedfordshire (North) states that planning applications for development within the Conservation Areas will be assessed against the Conservation Area appraisals and that inappropriate development will be refused.

In view of the above, there are no objections in principle to the proposed development. The building at the front of the site is attached to the adjacent Listed Building and is included within the listing. It is therefore proposed to retain this building and demolish the remaining buildings on the site.

2. Impact on the character and appearance of the surrounding area, Listed Building and Conservation area;

The proposed development would sit to the rear of the existing entrance, with the front building and the existing dwelling being retained at the front of the site; therefore from Bedford Road, there would only be partial views of the development through the entrance.

The development has been designed to be of high quality materials, and reflect a mews style development. It is therefore considered that it would preserve and to an extent enhance the character and appearance of the Conservation Area, with the demolition of the large commercial/ workshop style buildings on the site.

There would be views of the site from Spinney Lane and the adjacent open space to the east. However, it is considered given the design of the proposal that it would not have a detrimental impact on the character and appearance of the area, from these views. In addition to this, on the grant of any planning permission a condition would be imposed requiring the submission of a landscaping scheme. This would further aid in softening the views of the development from these views.

The frontage building now shown as retained, is attached to the former Bell Inn (now the Blue Orchid). This is a listed building and the attached frontage building is included within the listing description. The retention of this front building has therefore minimised the impact on the neighbouring listed building and addressed concerns raised by both Historic England and a number of public representations in terms of previously proposed cottage in this location.

It is therefore considered that the proposed development would preserve the character and appearance of the Conservation Area, and Listed Building; and would not have a detrimental impact on the character and appearance of the surrounding area. The proposal is therefore in conformity with Policy DM3 and DM13 of the Core Strategy and Development Management Policies for Central Bedfordshire (North).

3. Impact on amenities of neighbours

The proposed development is accessed off Bedford Road, and is set behind the retained office building and the existing residential property on the frontage. Immediately adjacent to the site fronting Bedford Road is a Cottage and the Blue Orchid (formerly the Bell Inn). Opposite the site is a number of residential properties within Bedford Road. To the rear of the site is Crossways and a number of residential properties within Spinney Lane.

In terms of the properties within Bedford Road, whilst they are opposite the development and will have views of the development through the access, the proposed dwellings would be a considerable distance from these properties and therefore it is not considered there would be any material impact in terms of light, privacy, outlook or causing an overbearing impact.

Impact upon Light:

There are a number of residential properties within Spinney Lane which bound the site. The distance from the boundary of the site at this point and the rear elevations of the existing dwellings is some 25m at the closest point, increasing to some 45m at the furthest point. The proposed dwellings on this boundary are set off the boundary by some 10m at a minimum; therefore providing an overall separation distance from the existing properties of some 35m increasing to 55m. It is considered that this is an adequate separation distance to ensure that there would be no detrimental loss of light to these dwellings.

Plot 11 set on the boundary of the application site with the existing residential cottage - Rose Cottage, would be set some 26 metres from the closest elevation of this neighbour. It is therefore considered that this would be adequate separation to ensure that there would be no loss of light to this dwelling.

Impact upon Privacy:

Concern has been raised from the dwellings within Spinney Lane regarding loss of privacy and overlooking from plots 3 - 8, as a number of these are 2.5 storey and have dormer windows within the roof. The separation distance exceeds the guidelines set out in the Council's design guide (which is 21m) for back to back distances and therefore whilst it is acknowledged that these properties are currently not overlooked, there would be no detrimental loss of privacy arising from the proposed development.

Similarly, given the design of plot 11 and the separation distance with Rose Cottage on Bedford Road, it is not considered that there would be any detrimental loss of privacy to this neighbouring property arising from the proposed development.

It is considered that there would be no undue loss of privacy to adjoining properties.

Impact upon Outlook and the causing of an overbearing impact:

Whilst the outlook for the properties within Spinney Lane that back on to the site will alter, given the separation distance and the design of the overall scheme, it is not considered that this would result in a detrimental impact that would warrant refusal of the scheme. The proposal provides a mix of residential development, with some terrace, semi-detached and detached dwellings and would result in the demolition of the existing workshop buildings on site.

The proposal would not result in any detrimental overbearing impact on any neighbouring residential properties.

Representations

A number of representations have been received in relation to the scheme, these are generally supportive of the redevelopment of the site, however, they

believe that the proposed development appears cramped and would result in a loss of privacy to adjacent residential properties within Spinney Lane.

As stated previously, it is not considered that there would be any detrimental loss of privacy with the residential properties to the rear given the sufficient separation distance.

It is appreciated that the outlook of these properties within Spinney Lane would be altered and that they have enjoyed the benefit of not previously being overlooked. However, there is a minimum of 35m separation distance, which far exceeds our guidance which states a figure of 21m.

4. Access and Parking

The existing buildings on site extend to some 1311sqm. A review of the TRICS database suggests that a B1(c) use of this scale could generate some 92 vehicle movements per 12 hour day, with 15 to 20 movements occurring in each of the peak periods. The residential development is likely to generate some 55 to 60 movements per 12 hour day, with 7 or 8 movements in each of the peak periods.

It is therefore considered that the development is unlikely to result in an adverse impact on the local road network. The development is shown to be served via a 4.8m wide shared surface access road terminating in a turning area. This is considered to be acceptable to serve the scale of the development proposed.

The retained office at the front of the site would have 5 parking spaces to the rear, this is considered sufficient in terms of parking standards.

The access road into the site and the site road is not proposed to be adopted by the Local Authority. The Highways Officer has raised no objection to the proposed scheme and is content that the proposal provides sufficient parking and adequate turning to ensure that there is no overspill into the highway.

The access onto Spinney Lane would be pedestrian only and there would be no vehicular access through to Spinney Lane from this development.

5. Trees and Landscaping

The Tree Officer has commented on the application and whilst not objecting to the application, has raised concern regarding the loss of the onsite trees and in particular one on the boundary of Rose Cottage and Plot 11.

The application states that there would be further landscaping to soften the development and a landscaping scheme condition would be imposed on any grant of planning to ensure a satisfactory scheme be implemented.

It is considered that whilst the retention of the existing trees may have aided in terms of softening the development, the removal of these trees would not warrant refusal of planning permission and that a landscaping scheme condition would ensure an adequate level of landscaping within the development.

6. Other Considerations

Ecology

The Council's Ecologist has raised concern regarding the potential for bats within the buildings on the site due to the open field/ area adjacent. A further bat survey is in the process of being undertaken. Any further comments in relation to this matter and the need for any mitigation measures will be updated on the late sheet.

Archaeology:

The proposed development site lies within the historic core of the settlement of Aspley Guise and is considered to be a heritage asset with archaeological interest.

The site has been subject to previous development and ground works. The Heritage Statement says that this may have had an impact on any archaeological deposits the site contains but acknowledges that there is evidence that archaeological remains survive in this type of situation. The Heritage Statement identifies groundworks associated with the construction as posing a threat to any archaeological deposits at the site. While there may have been some truncation of archaeological deposits as a result of later development within the application area; it is now well proven that archaeological deposits can and do survive at this sort of location in other villages in Central Bedfordshire.

The proposed development will have a negative and irreversible impact upon any surviving archaeological deposits present on the site, and therefore upon the significance of the heritage assets with archaeological interest. This does not present an over-riding constraint on the development providing that the applicant takes appropriate measures to record and advance understanding of any surviving heritage assets with archaeological interest. This will be achieved by the investigation and recording of any archaeological deposits that may be affected by the development and the scheme will adopt a staged approach, beginning with a trial trench evaluation, undertaken after the existing structures on the site have been demolished, which may be followed by further fieldwork if appropriate. The archaeological scheme will include the post-excavation analysis of any archive material generated and the publication of a report on the investigations.

Contributions

The development falls below the threshold for requiring an element of affordable housing. The Ministerial Statement of 28 November 2014 set out the Government's new policy that affordable housing and tariff-style planning obligations should not be sought for certain small developments (10 dwellings or less or 1,000 square metres of gross floorspace). This is a material consideration of significant weight to be taken into account in decision-making on planning applications.

However, significant weight should also be given to the National Planning Policy Framework, which calls for the achievement of the three dimensions of sustainable development: economic, social and environmental. It is considered that Policy 19 of the emerging Development Strategy for Central Bedfordshire is in accordance with the National Planning Policy Framework. This states that developers are required to make appropriate contributions as necessary to offset the cost of providing new physical, social, community and environmental proposals. It is considered that the proposal would not conflict with the requirements of the National Planning Policy Framework to provide sustainable development, and with policy 19 of the emerging Development Strategy for Central Bedfordshire, therefore financial contributions are not required in this instance.

Contamination

As the site is of long historic use there may be unexpected materials or structures in the ground. The Contaminated Land Officer has raised no objection to the application and suggested an informative is added to any grant of planning permission outlining that it is the responsibility of the Applicant to ensure safe and secure conditions, so a watching brief for signs of contamination should be considered and any indications of potential contamination problems should be forwarded to the Contaminated Land Officer.

Human Rights issues

There are no Human Rights issues

Equality Act 2010

There are no issues under the Equality Act

Conclusion

The proposed development is within a sensitive site, located in a constrained location. The development proposed is considered to be of a suitable quality and a satisfactory form of development which safeguards the residential amenity of neighbouring residents, the character of the Conservation Area and the setting of Listed Buildings. It is judged that the proposal would comply with the Central Bedfordshire Design Guide, the Aspley Guise Conservation Area Appraisal Document, the policies within both the Core Strategy (2009) and the Development Strategy (Submitted 2014) and conforms with the sustainable principles set out within the National Planning Policy Framework (2012).

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby permitted 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 All existing onsite buildings and other structures shown to be demolished, shall be demolished and all resultant detritus completely removed from the site prior to the commencement of building works except the timber clad frontage building which is shown as retained on the approved plans.

Reason: In the interests of the visual amenities of the area.
(Policy 43, DSCB)

- 3 Prior to occupation of the approved development, all access and junction arrangements serving the development shall be completed in accordance with the approved in principle plans and constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction.

Reason: To secure a satisfactory access appropriate to the development, in the interest of public safety and convenience.

- 4 The entire on site vehicular areas shall be constructed and surfaced in a stable and durable and 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 so as to safeguard the interest of highway safety and reduce the risk of flooding and to minimise inconvenience to users of the premises and ensure satisfactory parking of vehicles outside highway limits.

- 5 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015, or any amendments thereto, the garage accommodation on the site shall not be used for any purpose, other than as garage accommodation, unless permission has been granted by the Local Planning Authority on an application made for that purpose.

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

- 6 **No development shall commence until such time as a Construction Management Plan has been submitted detailing access for construction vehicles, loading and unloading areas, wheel wash facilities, on-site parking of contractor's vehicles, and material storage areas.**

Reason: To ensure the safe operation of the surrounding road network

in the interests of road safety.

Justification: Given the constrained nature of the site, it is considered that such a plan would be necessary prior to commencement of development to ensure minimal impact on the surrounding highway network.

- 7 The proposed development shall be carried out and completed in all respects in accordance with the access, parking and vehicle turning area layout illustrated on the approved plan and defined by this permission and, notwithstanding the provision of the Town and Country Planning General Permitted Development Order 2015 (or any Order revoking or re-enacting that Order) there shall be no variation without the prior approval in writing of the Local Planning Authority.

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

- 8 Prior to work commencing on the construction of the dwellings hereby approved a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.

Reason: To ensure an acceptable standard of landscaping.
(Policies 43 and 58, DSCB)

- 9 The development shall be carried out in accordance with the materials detailed on the approved plans, unless otherwise agreed in writing.

Bricks: Marsworth Mix; Aldwick Blend; Culford Mixture
Roof tiles: Spanish Sarria Slate tiles; Aylesham Mix (Marley Ashdowne Clay Tiles); Ashurst (Marley Ashdowne Clay Tiles)
Brick work detail: Westley or Witham Red (orange/ red brick)
Bond detail: Flemish bond

Reason: To control the appearance of the building in the interests of the visual amenities of the locality.
(Policy 43, DSCB)

- 10 Notwithstanding the approved plans, all new rainwater goods shall be of black painted [cast iron/aluminium] and shall be retained thereafter.

Reason: To safeguard the special architectural and historic interest of this statutorily listed building.
(Policy 45, DSCB)

- 11 **No development, including demolition of existing structures, shall take place until a written scheme of archaeological investigation; that adopts a staged approach and includes post excavation analysis and publication, has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in full accordance with the approved scheme.**

**Reason: To record and advance understanding of the heritage assets with archaeological interest which will be unavoidably affected as a consequence of the development (and to secure that protection and management of archaeological remains preserved in situ within the development).
(Policy 45, DCSB)**

- 12 The windows within the dwelling known as Plot 2 (cottage 2) shown on plan number PI02 Rev C shall be triple glazed and remain as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the future occupiers in terms of potential noise from the adjacent restaurant.
(Policy DM3 of the Core Strategy and Development Management Policies for Central Bedfordshire (North) and Policy 43 of the Submitted Development Strategy)

- 13 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers PL01 A; PL02 C; PL04 A; PL05 A; PL06 A; PL07 A; PL08 A; PL09 A; PL10 A; PL11 A; PL12 A; PL13 A; PL14 A; PL15 A; PL16 A; PL17 A; PL18 A; PL19 A; PL22

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

Notes to Applicant

1. 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.
2. The applicant is advised that no works associated with the modification of the vehicular access should be carried out within the confines of the public highway without prior consent, in writing, of the Central Bedfordshire Council. Upon receipt of this Notice of Planning Approval, the applicant is advised to contact Central Bedfordshire Council's Highway Help Desk on

03003008049. This will enable the necessary consent and procedures under Section 184 of the Highways Act to be implemented. The applicant is also advised that if any of the works associated with the construction of the vehicular access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) then the applicant will be required to bear the cost of such removal or alteration.

3. The applicant is advised that parking for contractor's vehicles and the storage of materials associated with this development should take place within the site and not extend into within the public highway without authorisation from the highway authority. If necessary the applicant is advised to contact Central Bedfordshire Council's Highway Help Desk on 03003008049. Under the provisions of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of construction of the development hereby approved.
4. The applicant is advised that Central Bedfordshire Council as highway authority will not consider the proposed on-site vehicular areas for adoption as highway maintainable at public expense. Prior to first occupation of any development the applicant will be required to erect signage at the entrances to the development, to accord with Section 31 of the Highways Act 1980 confirming the fact that the area is private.
5. The applicants attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

The Equality Act 2010 requires that service providers must think ahead and make reasonable adjustments to address barriers that impede disabled people.

These requirements are as follows:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;
- Where a physical feature puts disabled people at a substantial disadvantage to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function;
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage to provide that auxiliary aid.

In doing this, it is a good idea to consider the range of disabilities that your actual or potential service users might have. You should not wait until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment.

For further information on disability access contact:

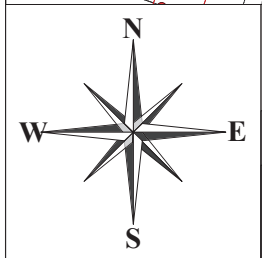
The Centre for Accessible Environments (www.cae.org.uk)
Central Bedfordshire Access Group (www.centralbedsaccessgroup.co.uk)

6. As the site is of long historic use there may be unexpected materials or structures in the ground. It is the responsibility of the Applicant to ensure safe and secure conditions, so a watching brief for signs of contamination should be considered and any indications of potential contamination problems should be forwarded to the Contaminated Land Officer, Andre Douglas, for advice, on 0300 300 4004 or via andre.douglas@centralbedfordshire.gov.uk.

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

Planning permission has been granted for this proposal. The Council acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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Date: 09:June:2015

Map Sheet No

Application No:
CB/15/01166/FULL

Scale: 1:1250

9 Bedford Road, Cranfield, MK43 0EW

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Item No. 08

APPLICATION NUMBER CB/15/01166/FULL
LOCATION 9 Bedford Road, Cranfield, Bedford, MK43 0EW
PROPOSAL First Floor rear extension.
PARISH Cranfield
WARD Cranfield & Marston Moretaine
WARD COUNCILLORS Cllrs Morris, Matthews & Mrs Clark
CASE OFFICER Sarah Fortune
DATE REGISTERED 24 March 2015
EXPIRY DATE 19 May 2015
APPLICANT Mr G Lines
AGENT Mr D Swanston
REASON FOR COMMITTEE TO DETERMINE Called to Committee by Councillor of Central Bedfordshire

RECOMMENDED DECISION Full Application - Granted

Summary of Recommendations:

The planning application is recommended for approval as the proposed first floor rear extension is considered to be in accordance with Central Bedfordshire Core Strategy and Development Management Policy DM3 and the Central Bedfordshire Design Guide. It will not have an adverse impact on the character of the property or on the amenities of neighbours.

Site Location:

The application site is 9 Bedford Road in Cranfield. The site supports a 2½ storey mid terrace residential property having a pebble dashed finish. The property benefits from a loft conversion/flat roof dormer to the rear and single storey rear extension.

The Application:

This application seeks permission for the construction of a first floor rear extension to accommodate a bedroom and bathroom with velux windows. A recent planning application under ref: CB/15/0212/FULL for an addition of greater depth (2.9m deep) was refused on grounds that the proposals would result in an undesirable and unacceptable form of development by way of having an adverse impact on the amenities of neighbours by way of loss of outlook and light to the occupiers of number 7 and 11 Bedford Road. It was therefore considered to be in conflict with planning policies in the Core Strategy and Submitted Development Strategy for Central Bedfordshire dated 2014.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

7 Requiring good design

Central Bedfordshire Councils Core Strategy and Development Management Policies (2009)

Policy DM3 High quality development

Submitted Development Strategy for Central Bedfordshire (2014)

The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the SoS.

Policy 43 High Quality Development

Having regard to the National Planning Policy Framework, weight is given to the policies contained within the Submitted Development Strategy for Central Bedfordshire, which is consistent with the NPPF.

Supplementary Planning Guidance

Central Bedfordshire Design Guide – 7. *Residential Development* (2014)

Relevant Planning History

MB/08/01650 Full: Single storey rear extension with pitched roof to replace existing flat roof – Approved 23.10.2008

CB/15/00212 Full: First floor bedroom/bathroom with velux windows above existing single storey extension.
Refused: 16/03/2015

Representations: (Parish & Neighbours)

Cranfield Parish Council Objects on grounds that is overbearing to neighbours, may set a precedent, loss of amenity by way of light and privacy, will make the dwelling into a three storey one, access for construction is via shared driveway, lack of parking space for a five bedroomed property. If officers are minded to approve request that it is brought to Committee.

Adjacent Occupiers 1. Occupiers of 11 Bedford Road: Object on grounds that will

result in loss of light into rear bedrooms and conservatory and access to the site is an issue. All building materials will have to be delivered around the rear of neighbouring properties to the site. This may lead to damage to neighbour's property. There is a tree near to the site so a tree survey is required. Lack of adequate on site parking. The construction work will create noise in conflict with the Human Rights Act.

1. Occupiers of 7 Bedford Road: Concerns about the gap between their addition and this proposed extension and how their roof will be safeguarded. (This has now been resolved)

Consultations/Publicity responses

CBC Archaeology No objections (previous application)

CBC Tree Officer No objections (previous application)

Site Notice posted 30/03/2015

Determining Issues

The main considerations of the application are;

1. The effect on the character and appearance of the surrounding area
2. The impact on the residential amenity of neighbouring properties
3. Any other implications of the proposal
 - *Tree Implications*
 - *Access Implications*
 - *Parking*
 - *Gap between 7 Bedford Road and the application property.*

Considerations

1. Effect on the character and appearance of the area

The proposed development is to the rear of the property and therefore will not form part of the street scene. The property currently benefits from a flat roof rear dormer (constructed under Permitted Development rights) and a single storey rear extension. Planning permission was granted in 2008 to pitch the existing extension but to date this has not been implemented.

The recent application for a similar addition would have resulted in a two storey rear extension projecting 2.9m from the rear elevation and although not as high as the ridge line of the host dwelling it was to be 5.0m to eaves height and 6.4m where it met the dormer window. It was proposed that materials would match those of the existing host dwelling.

In view of the concerns raised about the potential impact of this addition on the amenities of neighbours the applicant has submitted this revised application

which has reduced the depth of the addition at first floor level by 0.7m. The ground floor that protrudes beyond this is to have a mono pitched roof.

It is considered that the proposed extension would not have an adverse effect on the character and appearance of the area and that it complies with the design guide on House Extensions and Alterations as well as policies in the Core Strategy and Development Management Planning Document dated 2009 and policies in the Submitted Development Strategy for Central Bedfordshire dated 2014.

2. Impact on the residential amenity of neighbouring properties

The principal properties that may be affected by the proposal are no's. 7 and 11 Bedford Road. All other properties are well removed so as not to be affected.

The rear extension is proposed to be built very close up to the shared boundaries with both properties on either side. There is the provision for a first floor rear window to bedroom 4 and 2 no. velux windows - one to serve the bath/shower room and the other to be over new bedroom 4.

Privacy Issues

The rear gardens to this row of terraces are long and linear and given that the proposed windows will have no greater impact on the privacy of the neighbouring properties, it is considered that there would be no significant loss of privacy.

Overbearing Impact

The proposed first floor extension will extend 2.2m from the rear elevation so that it is set back from the rear building line of the current single storey extension. Although the side elevations are not abutting the shared boundaries they are close. The neighbouring properties both have single storey rear extensions but at first floor the large window in both of these neighbouring properties appears to serve 2 no. bedrooms therefore the window closest to the application site will have the 2.2m expanse of wall in close proximity. It is therefore considered that the proposed first floor extension would have an acceptable impact and would not cause demonstrable harm.

Loss of Light

The proposed extension is located to the north of the host dwelling with no. 7 being to the west and no. 11 being to the east. When assessing the proposal against the Design Guide for Central Bedfordshire 45° rule (Section 7.04.05), it will now not create an overbearing visual impact in terms of bulk and proximity or result in overshadowing to the bedroom windows of both neighbouring properties.

3. Any other implications

Tree Implications

It was noted on site and by the representations received that there was tree near to the site and development area. The Tree Officer was consulted on this and raised no objections.

Access Implications

The neighbouring property at no. 11 has raised concerns with regards to the access to the rear of the site during the building works. This issue is a civil matter and cannot be considered within the planning determination. The applicant would need to obtain the relevant permission from land owners to exceed any of their current rights to access their property.

Parking Provision

Concerns have been raised by the parish council on the level of parking for the development as it would result in a larger four bedroomed house. The property currently is a 4 bedroom dwelling and appears that the only off road parking is to the front, which could accommodate up to 2 no. vehicles. It is considered that a further bedroom/study would not significantly impact on the current parking provision.

Gap between number 7 Bedford Road and the application property.

The occupiers of number 7 Bedford Road have raised concerns about the gap of 114mm that will be left between the proposed extension and their property. There will also have to be an alteration to the roof of number 7 Bedford Road if the extension is built.

In view of these concerns the applicant has submitted a revised plan and sent an e. mail to confirm that he is to seal the ground floor cavity and then fill from above with a vermiculate type insulation poured down from above. He is to continue the wall for the first floor on top of the ground floor building. The top of the cavity is to be sealed with a lead flashing from the first floor addition to number 7's ground floor building and on top of this he is to instruct the company known as Rooftec to re do the fibreglass material that currently exists on both ground floor buildings and this will in turn keep up the 50 year guarantee to number 7's flat roof - as requested by the occupiers of number 7 Bedford Road.

The neighbour at number 7 Bedford Road raises no objections to the proposals provided that the above works are carried out. A Party Wall agreement has been signed between the applicant and neighbour. It is considered that the above matters are a civil matter and not material to the determination of the application.

Human Rights

Concern has been raised by the neighbouring property that should the development take place, it shall contravene the right for them to enjoy their property peacefully. The Courts have indicated that the process of planning decision should not be overturned just because of the effects of particular decision on householders who already have rights to make representations to a

democratic body within the planning system. It is noted that any development may result in some level of noise and disturbance but this would also be the case if the development could be constructed under permitted development rights without the Councils permission.

Therefore, in the context of human rights there would be no relevant implications to prevent the development.

The Equalities Act 2010

The development has been assessed in the context of the Equalities Act 2010 and would have no relevant implications.

Recommendation

That Planning Permission be granted subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby permitted 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 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 the existing building in the interests of the visual amenities of the locality.
(Policy 43, DSCB)

- 3 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, number Drawing Number 3/C, CBC01, CBC02 and Drawing Number 1.

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

Notes to Applicant

1. **Will a new extension affect your Council Tax Charge?**
The rate of Council Tax you pay depends on which valuation band your home is placed in. This is determined by the market value of your home as at 1 April 1991.
Your property's Council Tax band may change if the property is extended. The Council Tax band will only change when a relevant

transaction takes place. For example, if you sell your property after extending it, the new owner may have to pay a higher band of Council Tax. If however you add an annexe to your property, the Valuation Office Agency may decide that the annexe should be banded separately for Council Tax. If this happens, you will have to start paying Council Tax for the annexe as soon as it is completed. If the annexe is occupied by a relative of the residents of the main dwelling, it may qualify for a Council Tax discount or exemption. Contact the Council for advice on **0300 300 8306**.
The website link is:

www.centralbedfordshire.gov.uk/council-and-democracy/spending/council-tax/council-tax-charges-bands.aspx

2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

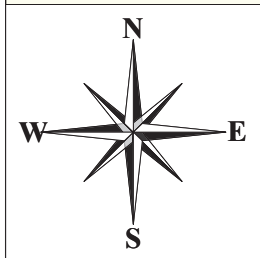
Statement required by the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 - Article 31

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant prior to submission of the application and during the application which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

DECISION

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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 09:June:2015
Grid Ref: 513355; 220237

Application No.
CB/15/01204/FULL

Scale: 1:5000

Land North of Chiltern Green Farm (Lawrence End Park North Herts),
Hyde, Luton, LU2 9PN

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|-------------------|
| Item No. 9 |
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| APPLICATION NUMBER | CB/15/01204/FULL |
| LOCATION | Land North of Chiltern Green Farm (Lawrence End Park North Herts) Hyde, Luton, LU2 9PN |
| PROPOSAL | Installation and operation of a solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, access tracks, pole-mounted CCTV cameras and fence. |
| PARISH | Hyde |
| WARD | Caddington |
| WARD COUNCILLORS | Cllrs Collins & Stay |
| CASE OFFICER | Abel Bunu |
| DATE REGISTERED | 27 March 2015 |
| EXPIRY DATE | 26 June 2015 |
| APPLICANT | Lightsource SPV 180 |
| AGENT | Lightsource Renewable Energy Ltd |
| REASON FOR COMMITTEE TO DETERMINE | Major application and Departure from Development Plan |
| RECOMMENDED DECISION | Full Application - Recommended for Approval |

Reasons for Granting

Whilst the proposed development would be inappropriate in the Green Belt and would be harmful to its openness, it is considered that very special circumstances exist to outweigh the harm by reason of inappropriateness and any other harm. In reaching this conclusion, great weight has been placed on the NPPF's presumption in favour of developments for renewable energy which requires that Local Planning Authorities recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources',(paragraph 97). Principally, this national advice stresses that very special circumstances in such cases may include the wider environmental benefits associated with increased production of energy from renewable sources,(paragraph 91). Furthermore, Paragraph 98 makes it clear that 'when determining planning applications, Local Planning Authorities should,' ...approve the application if its impacts are (or can be made) acceptable.' In this case, the suggested mitigation measures which would be secured by planning conditions are considered satisfactory. In taking this approach, the Local Planning Authority (LPA) is mindful of the NPPF advice at paragraph 203 which makes it clear that LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Taking into account all the other benefits to be had from approving the development which include, farm diversification, biodiversity, regeneration of agricultural land, contribution to the rural economy, new hedgerow planting along the site boundaries and the fact that the development is temporary being capable of complete reversal, it is considered that on balance, the proposal has passed the tests for renewable energy development set out in Policies SD1, BE8, NE3, NE10, R15 (SBLPR) and

Policies 1, 3, 23, 36, 43, 46, 49, 50, 57 and 58 (DSCB) and the CBC 'Guidance Note 2: Solar Farm Developments and national advice within the NPPF and PPG.

Site Location:

The application site which falls within the Hyde Parish area, is part of a larger site that straddles two Local Planning Authority boundaries, viz CBC and North Hertfordshire (North Herts). It comprises two fields (identified in this report as Fields 1 & 2 for ease of reference), with a total area of 13.1 hectares. Field 1 extends over an area of 6 hectares of which only about 5 hectares of the site falls within Central Bedfordshire and is classed as lower grade agricultural land (Grade 3b). Field 2 falls wholly within North Herts and measures approximately 7 hectares. The part of the application which falls within CBC is bounded by Chiltern Green on its western boundary, and the remainder of Field 1 which extends towards the east and is itself separated from Field 2 by a dense woodland which stretches towards the south east. Field 1 opens out into the countryside in the north and south. The site is washed over by the Green Belt and is classed as an Area of Great Landscape Value (AGLV).

The Application:

seeks planning permission for the construction of a Solar Farm which would be operated over a period of 30 years and 6 months, including access and associated infrastructure. The solar panels would be installed in four distinct areas, two in each field. The total area of land covered by infrastructure within CBC is estimated to be 1.1 hectares and the rest would be situated in North Herts. The area within Central Bedfordshire would accommodate 3636pv solar panels, the District Network Operators substation, which would be situated next to the access to allow easy access by the District Network Operator maintenance of that piece of infrastructure, the site access and deer fencing around the perimeter of the site. The details of the proposal are summarised below:

Installation of Photovoltaic panels

The panels and associated infrastructure would occupy about 22.5% of the total site (Fields 1 & 2) in order to leave sufficient gaps between the rows of panels to avoid one row shading another and to make sure that there is adequate separation distances with the boundary vegetation to avoid further shading. The panels would be fixed onto mounting frames in fixed rows running in an east-westerly direction at an angle of 25 degrees so that they would face a southerly direction. The mounting frames would be pile driven into the ground to a depth of 1.5 metres and no concrete or foundations would be required. The mounted solar panels would be spaced at 3.5 metre distance apart, have a maximum height of 2.1 metres above ground level and 0.8 metres at the lower end to allow for sheep to graze underneath. The total estimated output from both fields is **5MW** which would provide approximately 1,424 households with their total electricity needs and avoid approximately 2,430 tonnes of CO² emissions per year. Of this generating capacity, approximately 1.9MW would be generated within the Central Bedfordshire District area, enough energy to power approximately 544 typical homes and save approximately 927 tonnes in CO₂ emissions per annum.

DNO substation

This would be situated next to the Chiltern Green Road access and would measure

5.5 metres long, 5 metres wide and 4.4 metres high.

Erection of boundary fencing

A 2 metre high agricultural timber and wire fence would be erected around the perimeter of the site. A 5 metre wide clear zone would be provided between the hedgerow and the fence and the same clearance would be maintained between the fence and the solar panels.

CCTV cameras

CCTV cameras would be mounted on steel poles not exceeding 2.4 metres in height.

Access

Field 1 would be accessed from an existing access on Chiltern Green Road and Field 2 would be accessed from Dane Street via an existing agricultural access. Both accesses would be upgraded.

Landscaping

This is detailed in the Planting Plan and would include new hedgerows grown to a height of 3 metres.

The application is supported by the following documents:

- Planning, Design and Access Statement - 23 March 2015
- Statement of Community Involvement - 25 March 2015
- Agricultural Land Classification Assessment - March 2015
- Biodiversity Management Plan - March 2015
- Archaeology and Cultural Heritage Assessment - February 2015
- Landscape and Visual Impact Assessment - February 2015
- Planting and Maintenance Specification - February 2015
- Flood Risk Assessment - March 2015
- Construction, Decommissioning and Traffic Management Method Statement - 25 March 2015
- Transport Assessment - March 2015
- Glint Assessment - February 2015
- Preliminary Ecological Appraisal - April 2015
- Plans

The application was the subject of pre-application discussions with North Herts and the officer's advice which was positive, is included as part of the application documents. A screening opinion was also sought and the officer confirmed that the proposal would not constitute EIA development. No similar consultations were carried out with CBC.

RELEVANT POLICIES:

National Planning Policy Framework (March 2012)

The National Planning Policy Framework (NPPF) was published on 27th March 2012 and replaced most of the previous national planning policy documents, PPGs and PPSs. The following sections are considered directly relevant:

- Section 1 : Building a strong, competitive economy
- Section 3 : Supporting a prosperous rural economy
- Section 4 : Promoting sustainable transport
- Section 7 : Requiring good design
- Section 8 : Promoting healthy communities
- Section 9 : Protecting Green Belt Land
- Section 10 : Meeting the challenge of climate change, flooding and coastal change

South Bedfordshire Local Plan Review

The NPPF advises of the weight to be attached to existing local plans for plans adopted prior to the 2004 Planning and Compulsory Purchase Act, as in the case of the South Bedfordshire Local Plan Review. Due weight can be given to relevant policies in existing plans according to their degree of consistency with the Framework. It is considered that the following policies are broadly consistent with the Framework and significant weight should be attached to them.

- SD1 Keynote Policy
- BE8 Design Considerations
- NE10 Agricultural Diversification
- R15 Retention of Rights of Way Network

Development Strategy for Central Bedfordshire

(The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the Secretary of State.)

- Policy 1 : Presumption in Favour of Sustainable Development
- Policy 3 : Green Belt
- Policy 23 : Public Rights of Way
- Policy 36 : Development In the Green Belt
- Policy 43: High Quality Development
- Policy 46 : Renewable and low carbon energy development
- Policy 49 : Mitigating Flood Risk
- Policy 50 : Development In the Countryside
- Policy 57 : Biodiversity and Geodiversity
- Policy 58 : Landscape

Supplementary Planning Guidance

- CBC Guidance Note 2 (2014): Solar Farm Development in Central Bedfordshire
- South Bedfordshire Landscape Character Assessment
- Central Bedfordshire and Luton Borough Councils Joint Committee Sustainable Development and Adaptation and Mitigation of Climate
- Central Bedfordshire Renewable Energy Guidance (2013)

Other Guidance

Change Study (Parsons Brinckerhoff, 2010)

Planning History

CB/15/01484/OAC - Pending. Installation and operation of solar farm, associated infrastructure including photovoltaic panels, mounting frames, inverters, transformers, sub stations, communications building, access tracks, pole mounted CCTV cameras and fence (North Herts reference : 15/00845/1).

Representations: (Parish & Neighbours)

Parish Council No objection.

Neighbours

1-2 Laburnum Cottages, Objection for the following reasons:

1 Rose Cottages,

Chiltern House, Chiltern

Green,3 The Green,

Peters Green

1. The area is rich in wild life and herds of deer are seen travelling through these fields. The erection of the fence to allow small animals to travel through will stop the deer from free access.

2. This will be the start of further developments of the ugly solar blight across the area, I frequently travel along the M4 where vast acres have been lost to solar farms. Also in Newmarket, hundreds of acres of metal & panels are blighting the land in clear view of the roads.

3. The public meeting was poorly communicated and only a limited number of houses in the area notified. There was no real effort from Lightsource to engage with the local community and to keep the event as low key as possible.

4. We have had no formal notification that this planning application has been made, how is a community to become engaged in the planning process when the applicant is doing all that is possible to fly under the radar.

5. The access to the site is very rural, one of the access routes was not included in the area of the mail out for the application. The roads to this site are unsuitable for HGV traffic and will cause damage to the roads and hedgerows getting to the site.

6. It is not the best use of our land. This land is capable of the widest variety of crops and can produce the highest yields. It does not necessarily matter what is grown on it as long as it is still in crop production and can respond to the demands and opportunities of the next 25 years. Once there are solar panels on the land, it cannot respond to anything other than producing electricity. There are better places to put solar panels, as well as wildflower meadows and sheep grazing.

7. I argue that a proposed flower meadow would be difficult to establish on this site as Nitrogen and Phosphate levels are likely to be too high following intensive arable farming techniques and this is more smoke and mirrors to try to detract from the ugly metal and glass structures that will cover the fields.

8. The visual aspect from the country roads will change dramatically. The proposal to plant new hedgerows is not going to hide the fact that thousands of tonnes of steel, glass, concrete & wires have been put onto agricultural land. This development is overbearing and out of character with the rural community and area surrounding the site.

9. Current government thinking is showing a lack of support for these new developments, the revenue generated will not be used in any way to help the local community, and the only people to benefit are Lightsource as they continue to rape the land.

10. We do not need more solar farms, information from developers show how inefficient they are, ref: <http://www.itv.com/news/anglia/update/2015-03-04/newmarket-solar-farms-branded-a-waste-of-money/> where 2/3s of the energy is lost when transported.

11. The Photoshop altered images do not give a true representation of solar fields and how ugly they are.

12. Unnecessary use of Green Belt when there are many other places more appropriate for this type of development i.e. brown field sites and roof tops.

13. Development is out of character for the site. The eyesore of reflective black panels is not in keeping with our floral and fauna and the development would be detrimental to the environment.

14. No public notice has been displayed by the Council nor has the applicant informed the residents. Information had to be requested.

15. Loss of local farmland heritage currently being eroded by other developments.

16. Contrary to the applicant's claims, much of the site can be viewed when passing. By proposing additional planting, this would in fact remove the ability of the landscape to be seen.

17. Residents have a right to view the dimensions of the proposed ancillary structures.

18. Unacceptable level of disruption and inconvenience during the construction phase. It is unclear how the applicant would move more than 150 HGVs along rural roads with a 7.5 tonne weight limit.

19. Contrary to the applicant's claims, most residents were not very supportive of the proposal.

20. A precedent could be set if permission were to be granted.

Dane Street Farm

Support.

- The solar farm would power 1,424 households with clean, locally produced energy reducing the carbon footprint of the district.
- The additional planting would improve natural screening and provide new habitats, food resources and better connectivity for wildlife.
- The woodland bounding the site would be protected and disturbance to bats and birds would be minimised with day time construction and a 15 metre no construction buffer between the woodland and the site.
- The proposal also includes measures for biodiversity enhancement.
- We all need to use electricity but continued reliance on fossil fuels will pollute the planet and remain vulnerable to volatile price fluctuations of the global fossil fuel markets.

Consultations/Publicity responses

Environmental Policy
Manager

The national and local planning policy context is set in the following document, which has been adopted by the Council as technical guidance for Development Management purposes. Key points are detailed below.

Guidance Note 2: Solar Farm Development in Central Bedfordshire (available at:

<http://www.centralbedfordshire.gov.uk/planning/strategic->

[planning/renewable-energy.aspx](#))

The guidance has had input from specialists from across the Council and provides 'key principals' for consideration. Detailed responses, specific to the proposal, will be provided directly from the specialist officers as part of the consultation in relation to the key themes covered in the guidance.

Comments on key aspects of application are provided detailed below.

Agricultural land quality: The Agricultural land classification indicates this area to be grade 3a and 3b with 80% of the proposed solar farm area being in the lower quality 3b. For grades 3a we would usually ask for further justification (see P9 of the Solar Farm guidance) as well as details of how complimentary use of the land for agriculture (grazing of sheep) and habitat creation will happen alongside the Solar Farm. A Biodiversity Management Plan is provided, although the content of which will need to be assessed with the Council's Ecologist.

Landscape: The site falls within an area highlighted as having low landscape sensitivity to solar development. This in itself does not make the proposal acceptable without additional consideration will need to be given to mitigation of landscape impacts. The Landscape Officer will provide a more detailed assessment of landscape impacts and whether the impact can in fact be adequately mitigated and whether the proposed mitigation is acceptable.

Glint and Glare: The assessment made of the possible impacts of glint and glare covers everything that I would expect and I am satisfied with the conclusions it reaches.

Securing the Solar Farm: The measures proposed to secure the solar farm, namely fencing and CCTV are within scope of what would normally be expected for a development of this type.

Community engagement: Community engagement has happened and is detailed in the Statement of Community Engagement. It is not clear whether a package of 'community benefits' has been proposed.

Normally I would expect to see an annual payment by the developer to either the Parish Councils or into a community grant fund. Typically this sum is usually equivalent in total to £1,000 per MW of installed capacity per year, so in this case £5,000 per year. It is important to

stress that this would not be a planning consideration and whether any fund is or isn't included should not have any bearing on the planning decision made.

Weight to given to 'Guidance Note 2: Solar Farm Developments in Central Bedfordshire': This document has been adopted by Executive as Technical Guidance for Development Management purposes. It therefore does not have the weight that a supplementary planning document (SPD) would have. It does also however provide a more detailed understanding of how aspects such as landscape etc should be considered. These have been identified in the 'Planning Practice Guidance for Renewable and low carbon energy' and Guidance Note 2 could therefore be considered as providing local clarification to some of the issues raised in this document, which itself would be a material consideration.

Conclusion: I have reviewed the papers and evidence provided:

- The proposed development of the solar farm is supported by the UK national planning guidance on sustainable development and Renewable energy set in the National Planning Policy Framework (2012).
- The project would contribute towards achieving UK's renewable energy generation and carbon emission reduction targets set in the UK Renewable Energy Strategy (2009).
- The site is identified as being in an area of low sensitivity to solar development in the Council's technical Guidance Note 2: Solar Farm Development in Central Bedfordshire, however, as always consideration should be given the Landscape Officers comments regarding landscape impact and mitigation.

In summary, the development contributes to decarbonisation of electricity production and, assuming any other impacts can be adequately mitigated (heritage, ecology etc). I have no objections to planning permission being granted. This is also dependant on whether the Landscape Officer is satisfied with the mitigation proposed to limit landscape impact.

Solar Farms in particular the inverters and sub stations are known to give rise to noise. However, given the locality of the solar farm adjacent to other noise sensitive land uses and the fact that they tend to not operate 24hrs a day I do not wish to raise an objection subject the imposition of the following condition to protect the residential amenity of residents :

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

Landscape Planner

I have no objection to the proposals in principle but I do have the following comments:

The proposed development to the north-east of Withstocks Wood would be screened effectively by Birch Spring Wood to the west but having been out on site and looking at the layout and topography I am concerned that the proposed arrays will be visible from Dane Street Farm and wider field to the north even with proposed hedgerow planting therefore I would suggest that a more wooded edge be introduced along this northern site boundary or the arrays are reduced away from this northern edge.

Screening of proposed development to the western site area parallel to Chiltern Green Road is dependent on the existing western boundary hedgerow and proposed gapping up - which I fully support - but I was unable to find details on visibility splay requirements for proposed access which may require removal of part of the hedgerow. More information is required on this.

At present the field access is a low key agricultural access with no kerbing or signage -further details of design and treatment of access are required.

The proposed hedgerow screening to the northern boundary of the western site area will assist in screening views from the north.

Given the number of built structures shown to the southern site boundary - potentially up to 3 metres in height and up to 4.5metres in length - I would request an additional hedgerow is included to screen any views from the south and from Chiltern Green Road. Hedgerows are described as being managed at between 2.5 and 3metres height; given that arrays panels will be at 2.2 metres height and structures up to 3 metres height I would recommend that hedgerows be managed at 3 metres minimum height.

Tree and Landscape Officer

Further to the landscaping comments already made in respect of the external impact on the Bedfordshire Countryside, I advise you that I have no further comments to make.

Ecologist

This application straddles the CBC and North Herts

boundaries and hence I am primarily commenting on that part of the application which falls within CBC. Having read through the well considered Biodiversity Management Plan I am satisfied with the proposals. I approve of the grassland mix beneath the panels and of the proposed management for this and associated hedgerows. I note there is to be 15m buffer strip between the panels and the existing woodland to the east and this is welcomed. Overall I have no objections to the proposal but would suggest that the BMP is made a planning condition to ensure the construction and future operation of the site is undertaken in a way so as to achieve a net gain for biodiversity.

Public Rights of Way
Officer

No Public Right of Way as shown on the Council's Definitive Map is directly affected by this proposal. Please find attached a copy of the map showing the location of the nearest public rights of way to this land - public bridleways nos. 2 and 3, Hyde, which lie on the other side of Chiltern Green Road. I note that the solar farm may be visible in some way from these public rights of way but am happy to be led by the Council's Landscape Officer's opinion in this regard. I therefore have no public rights of way objection to this proposal.

Highways Officer

The proposal is for a solar farm at the above site which takes access from the public highway at two points. The northern most access is not within this authority's jurisdiction and for that reason I will not comment further, while the westerly access from Chiltern Green Road is within this authority's jurisdiction.

While I have not got an objection in principle I am very concerned at the lack of vehicle to vehicle intervisibility from the proposed access from Chiltern Green Road.

This visibility can be improved by moving the access northerly along Chiltern Green Road but even then I would be concerned at the degree of visibility at this access.

I understand that access for the entire site can be gained from the northerly access from Dane Street and I believe that this is the most appropriate way forward.

If this is not possible then I feel that further investigation should be carried out as to the suitability of an alternative location of an access along Chiltern Green Road before permission is granted.

Alternatively it could be placed in the management plan that either an acceptable access proposal to take access from Chiltern Green Road is made and accepted or the entire site is accessed from Dane Street. An appropriate

condition can be attached to the planning permission in this regard.

With exception to the point of access from Chiltern Green Road I would not have an objection to the proposal.

London Luton Airport

No objection. We have concluded from the Glint and Glare Assessment that there would be no adverse effects to pilots on approach or takeoff based on the proposed layout and angles of the PV panels. However, based on Air Navigation Orders, articles 137-221-222, the owner will be fully responsible for the correct maintenance and alignment of the PV panels and that if pilot distraction is reported, the owners will have to make any adjustments as requested by LLAOL at their cost.

Cranfield Airport

No objections as the site falls outside of our safeguarding area.

Public Protection

Solar Farms in particular the inverters and sub stations are known to give rise to noise. However, given the locality of the solar farm adjacent to other noise sensitive land uses and the fact that they tend to not operate 24hrs a day I do not wish to raise an objection. However, a noise condition is recommended in order to protect the residential amenity of residents.

Natural England

No comments to make but advises as follows:

Unless there are additional local consultation arrangements in place, Natural England **should** be consulted for all developments where:

- The proposal affects a protected species not covered by the [Standing Advice](#) (further details available [here](#)).
- The proposal requires an [environmental impact assessment](#).
- The proposal is likely to damage features of a Site of Special Scientific Interest (SSSI).
- The proposal is likely to have a significant effect upon Special Area of Conservation (SAC), Special Protection Area (SPA) or Wetland of International Importance under the Ramsar Convention (Ramsar Sites).
- The proposal could lead to the loss of more than 20 ha of the [best and most versatile agricultural land](#).
- Any minerals and waste development where the land will be restored for agriculture

Bedford Group of
Drainage Boards

No comments .

Determining Issues

The main considerations of the application are;

1. Principle of the development - Green Belt considerations
2. Agricultural Land Quality and Use
3. Impact on the character and appearance of the open countryside including biodiversity
4. Impact on residential amenity
5. Impact on highway safety
6. Other Matters

Considerations

1. Principle of the development

Green Belt considerations

The site is within the Green Belt and the proposal involves engineering operations which would result in a change of use in the land from agricultural to mixed agricultural/energy generation. The main issue therefore is whether or not the development constitutes inappropriate development in the Green Belt and if so, whether or not there are very special circumstances justifying approval of the scheme. National advice contained within the National Planning Policy Framework (NPPF) (and echoed in Policy 36 of the emerging Development Strategy for Central Bedfordshire) lists the developments that are not considered inappropriate in the Green Belt. Paragraph 90 of the NPPF states that other forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. In this case, the development would result in loss of openness to the Green Belt (in the sense that land previously not occupied by a development would be occupied by the solar panels and other associated structures) and encroachment into the countryside. For these reasons, the development would, by definition, be considered inappropriate in the Green Belt and as such, very special circumstances (VSCs) would need to be established to permit the development.

In an attempt to prove the existence of very special circumstances, the applicant has submitted the following information :

VSCs

- Paragraph 91 of the NPPF accepts that the wider environmental benefits of increased production of energy from renewable sources could be considered as very special circumstances.
- The development is estimated to produce sufficient power to satisfy the requirements of 1,424 households with their total electricity needs and avoid approximately 2,500 tonnes of CO² emissions per year.
- The UK is committed to meeting its legally binding target of 15% of all energy consumption being from renewable sources by 2020. The strategy includes a target of producing 30% of the UK's electricity generation from renewable sources by 2020. By the end of 2013, total electricity generation from renewable sources was 13.9% which means that significant growth is required to reach 30% by 2020.

- The growth of renewable energy would cushion both CBC and North Herts from the volatility in the global fossil fuel markets.
- A careful site selection process was carried out by the applicant and no suitable sites were identified outside the Green Belt. The application site was identified as presenting the lowest level of harm to the Green Belt.
- The solar farm would support the economic resilience of the agricultural enterprise at Lawrence End Park by diversification through a mixed agricultural and renewable energy generation use. This would support the sustainable growth and operation of the farm business thus fulfilling one of the national objectives stated within the NPPF which aim to promote a strong rural economy.
- With the habitat monitoring and management regime proposed, it is considered that the proposals would contribute a long term benefit to the biodiversity value of the site.
- The fields are well enclosed and hence there would be no adverse impact on visual amenity.
- The proposed development is temporary and it would be dismantled and removed from the site in its entirety at the end of the operational period without any harm to the landscape. Upon decommissioning, the site would return to sole agricultural use and would retain its greenfield status. There would therefore be no permanent harm on the Green Belt.
- A recent appeal decision regarding a solar farm in the Green Belt, reference (APP/CS105/A/13/2207532) concluded that it is clear that 'renewable energy projects are not prohibited outright in the Green Belt. It is, as ever, a matter of balancing any benefits they would bring forward against any harm they would cause.'

Assessment of the very special circumstances case

In assessing the applicant's very special circumstances case, great weight is placed on the national advice within the NPPF. This national advice is quite clear that whilst many renewable energy projects will comprise inappropriate development in the Green Belt, very special circumstances in such cases may include the wider environmental benefits associated with increased production of energy from renewable sources,(paragraph 91). There is also strong support for renewable energy and the UK is committed to reducing CO2 emissions. In this respect, the proposal has the 'in principle' support of the NPPF and Planning Practice Guidance (PPG). The UK Solar PV Roadmap of October 2013 and other government publications are material considerations which add weight to the case in favour of the proposal. The UK Renewable Energy Strategy (July 2009) sets a renewable energy target of 15% of total energy to be generated from renewable sources by 2020. In addition to this the Climate Change Act 2008 makes binding the need to cut UK greenhouse gas emissions by 80% by 2050.

In this respect, the Local Planning Authority (LPA) gives significant weight to the NPPF's presumption in favour of developments for renewable energy. This national advice states further that, in order 'to help increase the use and supply of renewable energy and low carbon energy, Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources',(paragraph 97) and at Paragraph 98 it states that 'when determining planning applications, Local

Planning Authorities should, '...approve the application if its impacts are (or can be made) acceptable.'(paragraph 98, Bullet point 2). This approach is followed in Policy 46 of the emerging Development Strategy for Central Bedfordshire (DSCB). Further guidance is provided in Planning Practice Guidance (PPG) of March 2014 which has replaced Planning Practice Guidance for Renewable and Low Carbon Energy (2013).The underlying theme is that renewable energy is to be welcomed if its impacts are acceptable, or can be made so. This is a consistent message of government guidance. To provide greater detail and further clarification CLG produced further guidance in the summer of 2013. With regards to solar farms this states that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Other benefits that would be had from the development include the following:

- Improvement of the character and appearance of the open countryside through hedgerow planting although there might be short term harm while the hedgerow establishes.
- Biodiversity enhanced through creation of new grassland habitats, within the rows of solar panels.
- The development would promote agricultural diversification and hence support the rural economy and would assist the long term regeneration of agricultural land.
- There are likely to be work opportunities generated for local contractors during the construction phase and during the life of the solar farm.

Significant weight is given to the applicant's very special circumstances case in so far as the development would be consistent with the national target to reduce greenhouse gas emissions. Whilst the other benefits to be had from the development are acknowledged, they could easily be replicated in similar proposals elsewhere and as such are not given significant weight in their own right in the consideration of very special circumstances.

Given that there is strong support for renewable energy and the UK is committed to reducing CO2 emissions, it is considered that in this case, the proposal has the 'in principle' support of the NPPF and PPG. The UK Solar PV Roadmap of October 2013 and other government publications are material considerations which add weight to the case in favour of the proposal. So too is the fact that the development is estimated to produce sufficient power for about 1,424 households and would reduce CO2 emissions by an estimated 2,430 tonnes of CO² emissions per year. On balance, the Local Planning Authority considers that very special circumstances exist to outweigh harm by reason of inappropriateness and as such, the proposed development is supported subject to satisfactory mitigation of the harm by reason of loss of openness to the Green Belt, visual harm to the open countryside and encroachment onto the open countryside and any other harm as will be discussed in the following sections.

2. Agricultural land quality and use

National advice within the NPPF states that Local Planning Authorities (LPAs), should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is

demonstrated to be necessary, LPAs should seek to use areas of poorer quality land in preference to that of higher quality. (Paragraph 112). The Planning Practice Guidance follows this advice and states that the Agricultural Land Classification (ALC) system provides a method for assessing the quality of farmland and to enable informed choices about its future use and Natural England (NE) has a statutory duty to advise LPAs about land quality issues. In this case, NE has not commented directly on the proposal given that the site falls below the threshold of 20 hectares which they would normally be obliged to offer an opinion on. The British Research Establishment (BRE) National Solar Centre has published planning guidance for the development of large scale ground-mounted solar PV systems and repeats the national advice that these developments should ideally use previously developed land, brownfield land, contaminated land, industrial land or lower quality agricultural land. This advice is echoed in the Council's document titled, 'Guidance Note 2: Solar Farm Developments' (Para. 4.1) which requires that developers of solar farms should in the first instance look to utilise previously developed land, brownfield or contaminated land, industrial land or land of agricultural classification 3b, 4 or 5.

However, the fact that land is of high quality need not be an overriding consideration. The BRE advises that where land classified as Subgrade 3a is proposed to be used, the proposal should provide, adequate justification, an assessment of the impact of the proposed development on the local area's supply of farming land within the same classification and if the proposed development site forms part of an existing farm, provide information on the viability of this farm to continue to function as an agricultural unit with the development in situ. The cumulative impact of the proposed development and other permitted large scale solar PV developments on the supply of agricultural land within the same classification across the local area should also be assessed.

In this case, the application is supported by an Agricultural Land Classification Assessment which identifies the site within Central Bedfordshire as falling within Subgrade 3b. The Planning Practice Guidance (PPG) stresses that where greenfield land is to be used, the LPA should be satisfied that the proposed use of agricultural land has been shown to be necessary and that the proposal gives preference to poorer quality land instead of higher quality land and the proposal allows for continued agricultural use where applicable and/or biodiversity improvements around the arrays. The site comprises poorer quality land and will continue to be grazed by sheep and thus there would be no loss of agricultural land as a result. The proposal would therefore diversify the sources of income for the farm, provide greater biodiversity on the farm and provide greater protection of the soil resource for a period of 30 years. Furthermore, national advice within the PPG makes it clear that LPAs need to take into account the fact that solar farms comprise temporary structures and as such, planning conditions can be attached to ensure that the installations are removed when no longer in use and the land restored to its previous use.

The proposed development would, in this respect, be in conformity with Policy NE10 of South Bedfordshire Local Plan Policy Review (SBLPR), Policies 46 and 50 of the DSCB, the CBC Solar Guidance Note 2 and national advice within the NPPF and PPG.

3. Impact on the character and appearance of the open countryside,

including biodiversity

Policy BE8 requires all development to, amongst other things, complement and harmonise with surrounding development, to carefully consider setting and to have no adverse impact upon amenity. The setting of any development should be carefully considered, whether in the countryside or built-up area and attention should be paid to its impact on public views into, over and out of the site to ensure that those views should not be harmed, and opportunities should be taken to enhance them or open up new views. This criterion is echoed in Policies 43 & 45 of the emerging Development Strategy for Central Bedfordshire (D.S.C.B).

Whilst the proposed development in Field 1 would be well screened on three sides, the arrays would be visible from Dane Street Farm and the wider field to the north even with proposed hedgerow planting. The Landscape Officer raises no objections but recommends that a more wooded edge be introduced along this northern site boundary or the arrays are reduced away from this northern edge. It is also considered that access improvements could result in the loss of some of the existing vegetation and as such, details of these improvements would need to be made the subject of a planning condition. Given the number of built structures shown close to the southern site boundary standing at a height of 3 metres, it is considered justifiable to attach a planning condition for an additional hedgerow is included to screen any views from the south and from Chiltern Green Road and to manage hedgerows at 3 metres minimum height.

It is therefore considered that whilst the development would be visible from certain directions within the open countryside, additional planting to be secured through planning conditions would offer adequate mitigation to landscape harm.

Biodiversity

The application is supported by a Biodiversity Management Plan (BMP) which concludes that the majority of the site has low ecological value, being cultivated farmland. The proposed development therefore presents an opportunity to enhance the biodiversity values of the site. The BMP details habitat protection and enhancement measures for the proposed solar farm development. The CBC Ecological Officer confirms that the measures contained in this document are satisfactory and the proposal would not result in a detrimental impact to biodiversity. To ensure the development delivers a net gain for biodiversity throughout the lifetime of the project, it would be reasonable to attach a condition to require all works to be undertaken in accordance with this BMP. Furthermore, an ecological appraisal notes that the site does not form part of any statutory or non-statutory designated site.

Whilst acknowledging that the development would impact negatively on the character and appearance of the open countryside, it is considered that the proposed mitigation measures which can be secured by planning conditions would ameliorate the visual intrusion to the open countryside.

4. Impact on residential amenity

Outside the construction period, there would be three potential noise sources, viz, from the inverters, from the inverter/transformer stations and the substation. The CBC's Public Protection Officer however considers that a noise condition would provide adequate mitigation to operational noise from the development. A glint and glare report submitted with the application raises the possibility of

impact on residents, road users, train drivers and air traffic. However the study is clear that the impact would be mitigated by shielding from trees and hedges.

It is therefore considered that the proposed development would not be harmful to residential amenity.

5. Impact on highway safety

The proposed access from Chiltern Green Road would not achieve adequate vehicle to vehicle intervisibility and as such would be prejudicial to highway safety. The Highways Officer recommends that a condition be attached which requires that details be submitted showing an acceptable access on Chiltern Green Road. Alternatively, the scheme could be revised to show no access from Chiltern Green Road and all traffic to be channelled through Dane Street in North Herts. Given that CBC cannot control what happens in North Herts, it is considered reasonable to attach a Grampian type of condition which requires the submission of access details off Chiltern Green Road. Such a condition is considered appropriate given that access improvements could result in the loss of existing trees and hedgerow which could be detrimental to the visual appearance of the countryside.

6. Other Matters

Referral to the Secretary of State

Given the limited scale of the development and the limited impact on the Green Belt within CBC and taken together with the acceptable mitigation measures, it is not considered appropriate to refer the application to the Secretary of State. In adopting this approach, the Council is mindful of the Government advice that it is not necessary to refer applications merely because they depart from policies in the development plan given that the Departures Direction was cancelled in 2009. However, great weight should be given to the location of the site within the Green Belt and the impact on its openness as stated in paragraphs 3(a) & 4(b) of Circular 02/2009 : THE TOWN AND COUNTRY PLANNING (CONSULTATION) (ENGLAND) DIRECTION 2009. Furthermore, the larger site which falls within North Herts is unlikely to be referred to the SOS and as such, for consistency, this consideration adds weight to the reasons for not referring the application lodged with CBC. The North Herts application is due to be decided on the 25th June and hence, if the Committee resolves to refer the application to the SOS, it would be logical to refer the CBC application as well given that the development would be seen as a whole.

Community benefit

Policy 46 of the DSCB supported by the Renewable Energy Guidance states, among other things that all developers of renewable schemes are required to engage with all affected stakeholders, including local communities, at the earliest stage in order to proactively mitigate impacts and provide adequate compensation and benefits. In this respect, the applicant has submitted a Statement of Community Involvement detailing how the local community has been engaged prior to submitting the application. A community benefit fund of £1,000 per MW of installed capacity per year for 20 years would be offered to be split between Hyde and Kings Walden parish councils. Furthermore, since April 2013, local authorities have been able to keep business rates from renewable energy schemes rather than it being collected nationally.

Representations

It is considered that the suite of documents submitted with the application sufficiently address the reasons stated in the letters of objection and in particular, the Planning, Design and Access Statement presents a detailed analysis of the key issues including the very special circumstances case. The appraisal detailed above acknowledges the harm to the Green Belt and weighs this against the benefits to be had from approving the development. With regards consultations, a press advertisement was published in the local press on the 19th April followed by site notices placed in strategic locations on the 30th April. The supporting documents were scanned onto the CBC website on the 2nd April.

It is also worth noting that one letter of support was received from a local resident.

Human Rights issues

The application raises no human rights concerns.

Equality Act 2010

No equality issues are raised by this proposed development.

Recommendation

That Planning Permission be **GRANTED** subject to the following:

RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The permission hereby granted shall endure for a period of 30 years from the date when electricity is first generated by the Solar Farm (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than 1 calendar month after the event. Within 6 months, following the completion of the 30 year period, or the cessation of their use for electricity generating purposes, whichever is the sooner, the solar panels together with any supporting apparatus, mountings, cabling, foundations, inverter stations, fencing, CCTV cameras and other associated equipment shall be removed from the site and the land restored to agricultural use or to a condition to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is decommissioned and the land returned to its original use prior to the development in the interest of preserving versatile agricultural land and to preserve the openness of the Green Belt, countryside and setting of the heritage assets. (Policies BE8 & N10, SBLPR and 36, 43, 45 & 50, DSCB).

- 3 Notwithstanding the details submitted, no development shall take place until

full details of soft landscape have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. Soft landscape works shall include: plans for establishing hedgerows, understorey vegetation and trees around the perimeter of the site and along the footpath; written specifications (including cultivation and other operations associated with tree and plant establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme.

Reason: To ensure a satisfactory level of planting in the interest of visual amenity.

(Policies BE8, SBLPR and 43 & 58, DSCB).

- 4 If within a period of 5 years from the date of the planting of any tree or hedgerow, that tree or hedgerow, or any tree or hedgerow planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or hedgerow of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

Reason: To ensure a satisfactory level of landscaping in the interest of preserving the character and visual appearance of the open countryside.

(Policies BE8, SBLPR and 43, 50 & 58, DSCB).

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

Reason: To protect the character of the open countryside

(Policies BE8, SBLPR and 43 & 50 DSCB).

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

Reason: To protect residential amenity.

(Policies BE8, SBLPR and 43, DSCB).

- 7 The development hereby approved shall be completed in accordance with the recommendations in the Biodiversity Management Plan by Wardell Armstrong dated March 2015. The measures shall be implemented in full throughout the life of the development, and no variations shall be permitted other than with specific written consent from the Local Planning Authority.

Reason: To ensure the development hereby approved supports biodiversity.

(Policies 43 and 57, DSCB).

- 8 The poles to accommodate the CCTV cameras shall not exceed 2.4m above ground level. No development shall take place until details of the siting, direction and orientation, camera specifications and fields of vision have been submitted to and approved in writing by the Local Planning Authority. The CCTV cameras shall be installed in accordance with the approved details, and

retained in accordance with those details thereafter.

Reason: To preserve the character and visual appearance of the open countryside and to protect the privacy of users of the adjoining footpaths.
(Policies BE8, SBLPR and 43 & 50, DSCB).

- 9 **Notwithstanding the details submitted with the application, no part of the development hereby approved shall be commenced (within the meaning of Section 56 of the Town and Country Planning Act 1990) until the construction details of the junction of the proposed vehicular access with the highway have been approved by the Local Planning Authority and no vehicle associated with the construction of the solar farm shall cross the highway verge until the access has been constructed in accordance with the approved details.**

Reason: To ensure safe ingress and egress of the site and to minimise obstruction and inconvenience to users of the adjoining highway and ensure that visibility can be achieved without the loss of existing trees or hedgerow which could be harmful to the visual appearance of the countryside.
(Policies BE8, SBLPR and 24 & 43,50 & 58 DSCB).

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

Reason: To ensure the safe operation of the surrounding road network in the interests of road safety.
(Policies BE8, SBLPR and 43, DSCB).

- 11 **Notwithstanding the details submitted, no development shall take place until an updated Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include proposals for construction traffic routes, the scheduling and timing of movements, any traffic control, signage within the highway inclusive of temporary warning signs, the management of junctions to, and crossing of, the public highway and other public rights of way. The CTMP shall be implemented in accordance with the approved details for the duration of the construction period.**

Reason: To ensure safe ingress and egress of the site and to minimise obstruction and inconvenience to users of the adjoining highway.
(Policies BE8, SBLPR and 24 & 43, DSCB).

- 12 **The proposed vehicular access shall be constructed and surfaced in accordance with details to be approved in writing by the Local Planning Authority for a distance of 17m into the site, measured from the highway boundary, before the premises are occupied. Arrangements shall be made for surface water drainage from the site to be intercepted and disposed of**

separately so that it does not discharge into the highway.

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

(Policies BE8, SBLPR and 43, DSCB).

- 13 Any gates provided shall open away from the highway and be set back a distance of at least 17 metres from the limit of the public highway.

Reason: To enable vehicles to draw off the highway before the gates are opened.

(Policy 43, DSCB).

- 14 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers LEP_01_Rev4, PE10486/ Figure 18, TYP_E_3L,ID_01, DEER FENCE,CSR_01, SB_01, CB_01, CCTV_01, DNO-01 and TC_01.

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

Notes to Applicant

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the emerging Development Strategy for Central Bedfordshire (DSCB).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.
3. The applicant is advised that it will be necessary for the developer of the site to enter into a 'small works' agreement with Central Bedfordshire Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated closure of any redundant access. Further details can be obtained from the Development Control Group, Development Management Division, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford SG17 5TQ.
4. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from The Street Works Co-ordinator, Bedfordshire Highways, by contacting the Highways Helpdesk 0300 300 8049.
5. The applicant is advised that photographs of the existing highway that is to be used for access and delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the

Local Highway Authority and at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.

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

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

DECISION

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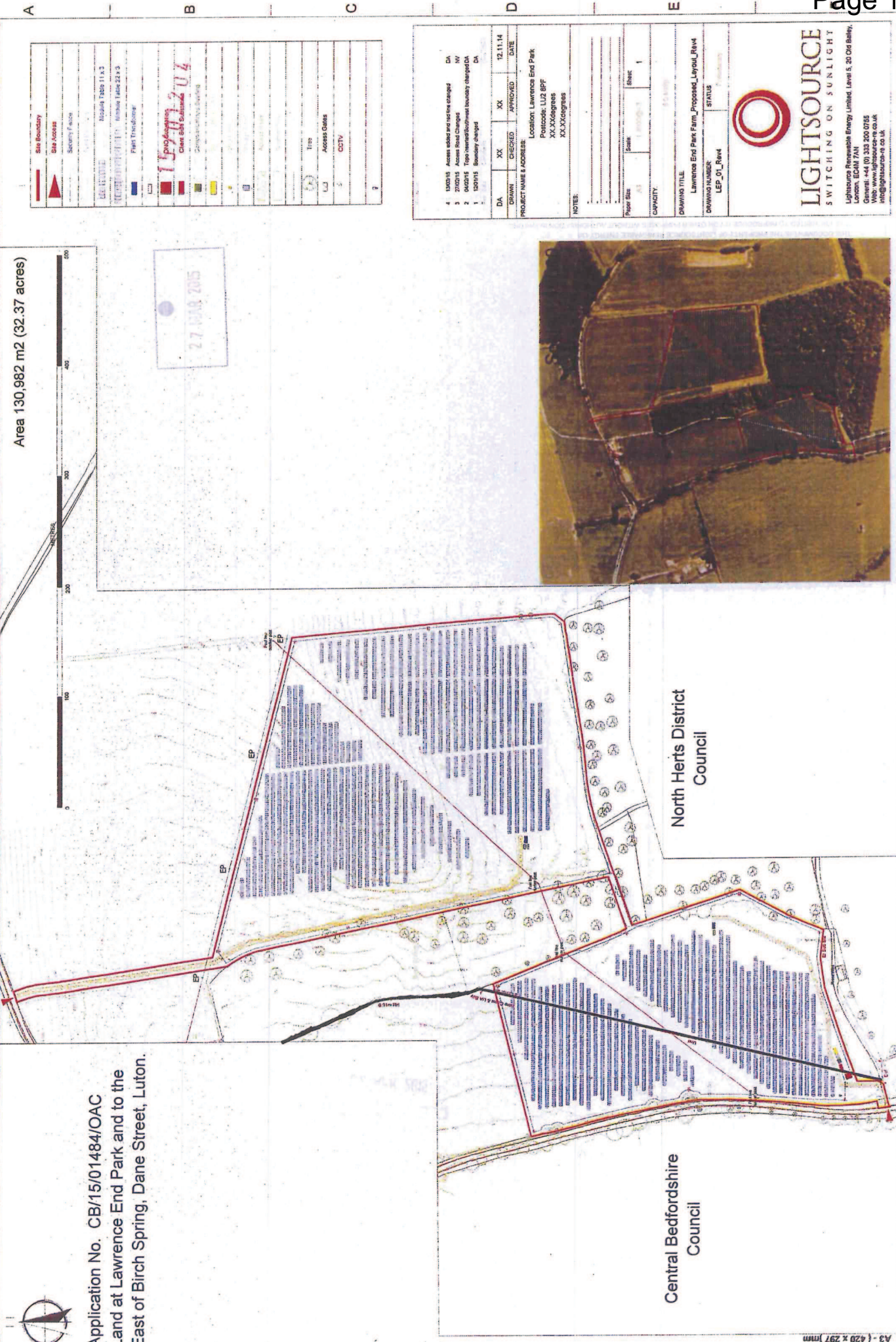
Lawrence End Park Farm_Proposed_Layout_Rev4

1 2 3 4 5 6 7 8



Application No. CB/15/01484/OAC
Land at Lawrence End Park and to the
East of Birch Spring, Dane Street, Luton.

Area 130,982 m² (32.37 acres)



| | |
|---------------------------|----|
| Site Boundary | DA |
| Site Access | DA |
| Secretary's Office | NY |
| Highgate Twp 11.4.3 | DA |
| Michael Twp 23.2.3 | DA |
| Plant Transfomer | DA |
| 15 Proposed | DA |
| Class 2 Boundary | DA |
| Class 3 Boundary | DA |
| Compass/Utility Surveying | DA |
| Access Gates | DA |
| CCTV | DA |

| DA | XX | XX | DATE |
|----|----------|--------------------------------------|------|
| 4 | 13/02/15 | Access added and tie lines corrected | DA |
| 3 | 27/02/15 | Access Road Changed | NY |
| 2 | 04/02/15 | Topo interchange/boundary changed | DA |
| 1 | 10/01/15 | Boundary changed | DA |

PROJECT NAME & ADDRESS:
Location: Lawrence End Park
Postcode: LU2 8PF
XX:XX:degrees
XX:XX:degrees



North Herts District Council

Central Bedfordshire Council

LIGHTSOURCE
SWITCHING ON SUNLIGHT

Lightsource Renewable Energy Limited, Level 8, 20 Old Bailey,
London, EC4M 7AH
General: +44 (0) 333 300 0785
Web: www.lightsource-re.co.uk
info@lightsource-re.co.uk

DRAWING TITLE: Lawrence End Park Farm_Proposed_Layout_Rev4
DRAWING NUMBER: LEP_01_Rev4
STATUS: Final
SHEET: 1

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|--------------------|
| Item No. 10 |
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| | |
|--|--|
| APPLICATION NUMBER | CB/15/01484/OAC |
| LOCATION | Land at Lawrence End Park and to the East of Birch Spring Dane Street Luton |
| PROPOSAL | OAC: Installation and operation of solar farm, associated infrastructure including photovoltaic panels, mounting frames, inverters, transformers, sub stations, communications building, access tracks, pole mounted CCTV cameras and fence |
| PARISH | Hyde |
| WARD | Caddington |
| WARD COUNCILLORS | Cllrs Collins & Stay |
| CASE OFFICER | Abel Bunu |
| DATE REGISTERED | 20 April 2015 |
| EXPIRY DATE | 07 May 2015 |
| APPLICANT | |
| AGENT | North Hertfordshire District Council |
| REASON FOR COMMITTEE TO DETERMINE | Major application which is a departure from the Development Plan |
| RECOMMENDED DECISION | Other Authority Consultation - No Objection |

Site Location:

The application site which falls within the Hyde Parish area, is part of a larger site that straddles two Local Planning Authority boundaries, viz CBC and North Hertfordshire (North Herts). It comprises two fields (identified in this report as Fields 1 & 2 for ease of reference), with a total area of 13.1 hectares. Field 1 extends over an area of 6 hectares of which only about 5 hectares of the site falls within Central Bedfordshire and is classed as lower grade agricultural land (Grade 3b). Field 2 falls wholly within North Herts and measures approximately 7 hectares. The part of the application which falls within CBC is bounded by Chiltern Green and on its western boundary, and the remainder of Field 1 which extends towards the east and is itself separated from Field 2 by a dense woodland which stretches towards the south east. Field 1 opens out into the countryside in the north and south. The site is washed over by the Green Belt and is classed as an Area of Great Landscape Value (AGLV).

The Application:

CBC has been consulted by North Herts District Council as an adjoining local planning authority in respect of an application for the construction of a Solar Farm, reference, **15/00845/1**. Most of the infrastructure required to support the development would be located within North Herts.

An officers' holding response confirming no objection to the application has been sent to North Herts pending a Members' decision. Details of the application are summarised below:

Installation of Photovoltaic panels

The panels and associated infrastructure would occupy about 22.5% of the total site (Fields 1 & 2) in order to leave sufficient gaps between the rows of panels to avoid one row shading another and to make sure that there is adequate separation distances with the boundary vegetation to avoid further shading. The panels would be fixed onto mounting frames in fixed rows running in an east-westerly direction at an angle of 25 degrees so that they would face a southerly direction. The mounting frames would be pile driven into the ground to a depth of 1.5 metres and no concrete or foundations would be required. The mounted solar panels would be spaced at 3.5 metre distance apart, have a maximum height of 2.1 metres above ground level and 0.8 metres at the lower end to allow for sheep to graze underneath. The total estimated output from both fields is **5MW** which would provide approximately 1,424 households with their total electricity needs and avoid approximately 2,430 tonnes of CO² emissions per year. Of this generating capacity, approximately 1.9MW would be generated within the Central Bedfordshire District area, enough energy to power approximately 544 typical homes and save approximately 927 tonnes in CO₂ emissions per annum.

Installation of Inverter Stations

3no. inverter cabins mounted on concrete bases would be installed measuring about 3 metres high, 4.5 metres long and 1.6 metres wide. The electricity generated by the panels which would be Direct Current (DC), would be transmitted via cables to the inverters where it would be converted to Alternating Current (AC) before being connected to the national grid.

Transformers

3no. transformers measuring approximately 2.2 metres high by 2.3 metres long and 1.8 metres wide.

Substation

This would measure approximately 6.1 metres long, 2.4 metres wide and 2.6 metres high and would be situated close to the Chiltern Green access.

Erection of boundary fencing

A 2 metre high agricultural timber and wire fence would be erected around the perimeter of the site. A 5 metre wide clear zone would be provided between the hedgerow and the fence and the same clearance would be maintained between the fence and the solar panels.

CCTV cameras

CCTV cameras would be mounted on steel poles not exceeding 2.4 metres in height.

Communications Building

The structure would measure approximately 3 metres long, 3.7metres wide and 2.6 metres high. An aerial or satellite dish would be affixed to the cabinet if reception issues render it necessary to do so. This equipment is required to enable 24 hour remote monitoring of performance and security of the site.

Storage Shed

The shed would measure approximately 2.5 metres long, 3 metres wide and 2.6 metres at its highest point.

Composting Toilet

This would measure approximately 2.5 metres long, 1.1 metres wide and 3 metres high for use by operations and maintenance staff and members of the public touring the site.

Access

Field 1 would be accessed from an existing access on Chiltern Green Road within CBC and Field 2 would be accessed from Dane Street within North Herts via an existing agricultural access. Both accesses would be upgraded.

Landscaping

This is detailed in the Planting Plan and would include new hedgerows grown to a height of 3 metres.

The application is supported by the following documents:

- Planning, Design and Access Statement - 23 March 2015
- Statement of Community Involvement - 25 March 2015
- Agricultural Land Classification Assessment - March 2015
- Biodiversity Management Plan - March 2015
- Archaeology and Cultural Heritage Assessment - February 2015
- Landscape and Visual Impact Assessment - February 2015
- Planting and Maintenance Specification - February 2015
- Flood Risk Assessment - March 2015
- Construction, Decommissioning and Traffic Management Method Statement - 25 March 2015
- Transport Assessment - March 2015
- Glint Assessment - February 2015
- Preliminary Ecological Appraisal - April 2015
- Plans

The application was the subject of pre-application discussions with North Herts and the officer's advice which was positive, is included as part of the application documents. A screening opinion was also sought and the officer confirmed that the proposal would not constitute EIA development. No similar consultations were carried out with CBC.

RELEVANT POLICIES:

As summarised in the CBC full planning application report, reference, **CB/15/01204**.

Planning History

| | |
|-------------|--|
| CB/15/01204 | Pending. Installation and operation of solar farm, associated infrastructure including photovoltaic panels, mounting frames, inverters, transformers, sub stations, communications building, access tracks, pole mounted CCTV cameras and fence. |
|-------------|--|

Representations:

(Parish & Neighbours)

As summarised in the full planning application report, reference, **CB/15/01204**.

Consultations/Publicity responses

As summarised in the full planning application report, reference, **CB/15/01204**.

Determining Issues

The main considerations of the application are:

1. Principle of the development - Green Belt considerations
2. Agricultural Land Quality and Use
3. Impact on the character and appearance of the open countryside including biodiversity
4. Impact on residential amenity
5. Impact on highway safety

Considerations

Subject to North Herts finding the very special circumstances case acceptable, CBC considers that the principle of the development is acceptable. This view has been taken having regard to the following:

- There is general support for renewable energy in the National Planning Policy Framework (NPPF) and wider environmental benefits are capable of being very special circumstances. The information submitted with the application details these environmental benefits.
- The application is accompanied by an Agricultural Land Classification Assessment which details the justification required for solar farm development on agricultural land including the fact that this would result in farm diversification.
- Whilst there would be harm to the character and visual appearance of the open countryside, the applicant has sufficiently demonstrated how this harm could be mitigated through additional planting which can be secured by planning conditions. In addition, Field 2 is separated from Field 1 by a woodland such that no cumulative harm would be experienced from the proposed development which would straddle the local authority boundary. Measures outlined in the Biodiversity Management Plan would ensure that the development promotes biodiversity.
- Given the separation distances from residential properties and the existing and proposed planting, it is considered that the development would not cause detrimental harm to residential amenity.
- With regards highway safety, the Construction, Decommissioning and Traffic Management Method Statement submitted with the application details measures which would ensure that the development does not result in highway safety hazard.

Recommendation

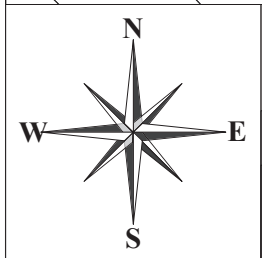
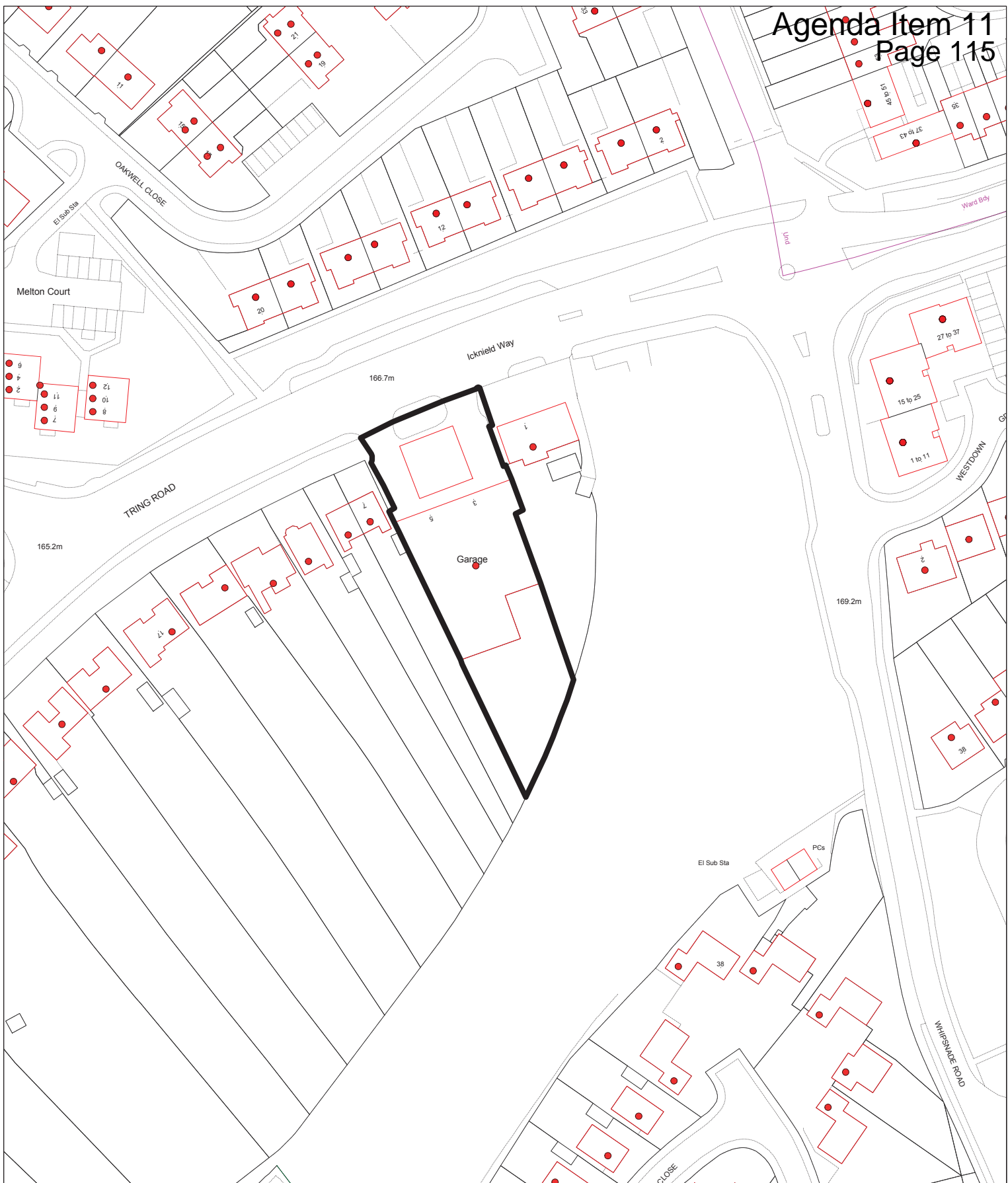
That a response be sent to North Herts District Council confirming that this Local Planning Authority has no objections to the proposed development.

DECISION

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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 08:June:2015
Grid Ref: 500685; 221332

Application No.
CB/15/00741/FULL

Scale: 1:1250

Downs Service Station, 3 Tring Road, Dunstable, LU6 2PX

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|--------------------|
| Item No. 11 |
|--------------------|

| | |
|--|---|
| APPLICATION NUMBER | CB/15/00741/FULL |
| LOCATION | Downs Service Station, 3 Tring Road, Dunstable, LU6 2PX |
| PROPOSAL | Change of use from redundant workshop to A1 retail including demolition of the front section of the building to provide additional car parking |
| PARISH | Dunstable |
| WARD | Dunstable Watling |
| WARD COUNCILLORS | Cllrs Hollick & Young |
| CASE OFFICER | Debbie Willcox |
| DATE REGISTERED | 24 February 2015 |
| EXPIRY DATE | 21 April 2015 |
| APPLICANT | Platinum Retail Ltd |
| AGENT | Jennings Design Ltd |
| REASON FOR COMMITTEE TO DETERMINE | Called in by Councillor Young due to concerns in regards to the amenity of neighbouring occupiers. |
| RECOMMENDED DECISION | Full Application - Recommended for Approval |

Summary of Recommendation

The principle of the change of use of the redundant building on the site of an existing petrol station to a retail unit of this scale is considered to be acceptable in principle. The proposal would have an acceptable impact on the character and appearance of the site and its surroundings and, subject to the imposition of conditions, would not give rise to an unacceptable loss of amenity to surrounding residents, or have a detrimental impact on the surrounding highway network. The proposal is therefore considered to be in accordance with the National Planning Policy Framework, policies BE8 and T10 of the South Bedfordshire Local Plan Review, policies 11, 12, 25, 27, 43 and 44 of the emerging Development Strategy, and the Central Bedfordshire Design Guide.

Site Location:

The application site comprises the curtilage of a petrol station and a disused workshop located on the south side of Tring Road on the outskirts of Dunstable. To the immediate east of the application site is a restaurant and to the west is a row of residential properties. Immediately to the rear of the site is the beginning of the Dunstable Downs and the site inclines steeply upwards as it runs from front to back.

The existing petrol station comprises 8 petrol pumps on the forecourt and a building with an internal gross floor area of approximately 750 square metres. Of this some 85 square metres is used as a sales area, handling petrol sales and a small level of grocery sales. The remainder of the building is a disused workshop. The height of the building is some 6m at the front, however, it is built into the incline and therefore the height reduces towards the rear of the site. The building runs the full width of the site and there is no external access to the rear of the site.

There are two vehicular accesses to and from the petrol station from Tring Road,

which has four lanes in the vicinity of the petrol station. The speed limit on Tring Road in this location is 30 miles per hour. There are currently no formal parking spaces on the site, except those at the petrol pumps.

The Application:

The application seeks planning permission for the change of use of the workshop to A1 retail, with the intention of selling convenience and complementary items. The applicant has proposed opening 24 hours, including Sundays and Bank Holidays.

The proposal also includes operational development comprising the demolition of the front 7.6m depth of the whole width of the building to provide 8 echelon car parking spaces in front of the building. The existing retaining wall on the boundary with No. 7 Tring Road would be retained at its full height. The proposal would result in a net sales area of 278 square metres. The existing access arrangements would be retained.

RELEVANT POLICIES:

National Planning Policy Framework (2012)

South Bedfordshire Local Plan Review Policies

BE8 Design Considerations

T10 Parking - New Development

(Having regard to the National Planning Policy Framework, the age of the plan and the general consistency with the NPPF, policy BE8 is still given significant weight. Policy T10 is afforded less weight).

Development Strategy for Central Bedfordshire (June 2014)

(The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspector's findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the Secretary of State.)

Policy 11: Town Centre Uses

Policy 12: Retail for Neighbourhood Centres and the Rural Area

Policy 25: Functioning of the Network

Policy 27: Car Parking

Policy 43: High Quality Development

Policy 44: Protection from Environmental Pollution

Supplementary Planning Guidance

Central Bedfordshire Design Guide: A Guide for Development (2014)

Relevant Planning History

SB/05/00743 - Refusal of planning permission for redevelopment of existing petrol filling station including new buildings and canopy.

SB/96/00516 - Planning permission granted for redevelopment of petrol filling station, including shop, forecourt and jet wash - not implemented, permission expired.

SB/94/00423 - Refusal of planning permission for redevelopment of petrol filling station, including shop, forecourt and jet wash.
SB/73-00263 - Planning permission granted in 1951 for erection of extension to garage to form workshop, store and office.

**Representations:
(Parish & Neighbours)**

Dunstable Town Council No objections

Neighbours (7, 9, 11 & 13 Tring Road)

Object to the application for the following reasons:

- The removal of the boundary wall by the moving back of the building would result in a loss of privacy for neighbouring occupiers, would allow the LED signage to light up the rooms of neighbouring occupiers and would increase noise pollution;
- The extra traffic visiting the new shop will increase the risk of accidents on Tring Road;
- No allocated parking for staff;
- The lowering of the height of the building would mean that the building height would be at the same level as the garden of No. 7;
- The new business use should not have 24 hours a day opening hours. This would disturb privacy with the noise it would create. This is a residential area and consideration should be given to residential occupiers. Currently the petrol station is open until 9.30pm;
- Deliveries and opening hours should be restricted to 8am to 9.30pm;
- Has the premises applied for a licence to sell alcohol?
- Off-street parking would have to be added to the rear of the site, which would have a negative impact on the Downs;
- The extent of the building work planned, particularly at the rear, would harm the character and appearance of the area and the open nature of the Downs;
- There are already two general stores locally and another shop would take trade from these shops.

Consultations/Publicity responses

Site Notice (05.03.2015) No responses.

Environment Agency

This site is located above a Principal Aquifer and we consider the previous and current use to be potentially contaminative. Therefore, the site is considered to be of high sensitivity and could present potential pollutant / contaminant linkages to controlled waters.

Environment Agency Position

We consider that planning permission could be granted to the proposed development as submitted if the supplied

planning conditions are included. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would wish to object to the application.

Public Protection Officer Further to the submission of the noise assessment (report reference: GA-2015-0016-R1) I can respond as follows.

I think that there should be a restriction on the hours of opening of the premises. The noise report indicates that the opening hours would be from 06.00 hours to 00.00 hours daily. I would suggest that the hours are restricted to 23.00 hours in the evenings as this represents day time acoustically. Whilst it is acknowledged that there are currently no restrictions on the use of the premises, the current proposals represent a potential intensification of the use.

In addition to the retention of the existing 6m high wall on the residential boundary, I would also recommend the supplied conditions be placed on any permission.

Public Protection
(Contaminated Land)
Officer

No comments.

Highways Officer

The applicant wishes to change the use of the existing workshop/car showroom facility at the Downs Service Station to an A1 retail shop.

The existing workshop and sales area are to be reduced in size by cutting back the existing building line by approximately 7.6m, which equates to approximately 205m².

There appears to be no existing parking bays marked out, except for the eight spaces needed at the fuel pumps. The applicant is proposing to construct an additional eight parking spaces to the front of the new shop front in an echelon fashion. The new customer parking area complies with the current parking standards for A1 use.

I am a bit concerned regarding the affect the proposed staffing levels may have on the off street parking provision. The staffing levels are anticipated to double from six to twelve full time equivalent posts. The applicant has stated that staff will access the site as they do at present, which is a mixture of public, private transport and on foot. However, there is a concern that staff could use some of the customer parking spaces reducing the availability of off-street parking for users of the shop. I can only suggest that you consider imposing a condition

to restrict parking to customers only. I can offer the wording of a condition for your consideration.

There is no provision made for cycle parking, therefore I shall impose a condition for a scheme for the parking of cycles on the site to be submitted and approved.

There are no additional structures proposed within the forecourt which will restrict the tanker movements, therefore this will remain as it is now.

There are no reported traffic accidents in the vicinity of the site between 2005 and 2013.

I would not wish to raise any highway objection to the application subject to the supplied conditions.

Determining Issues

The main considerations of the application are;

1. **Principle of the Development**
2. **Design Considerations**
3. **Impact on Residential Amenity**
4. **Highway Implications**
5. **Other Issues**

Considerations

1. Principle of the Development

The application seeks permission to change the use of an existing, redundant workshop to provide retail space to complement the existing petrol station. The proposal would increase the number of people employed at the site from 6 full time equivalent to 12 full time equivalent. The National Planning Policy Framework supports proposals which would bring redundant buildings back into use, increase employment opportunities and provide local shopping facilities, and this is also supported by Policy 12 of the emerging Development Strategy for Central Bedfordshire, which encourages the provision of local shopping facilities within residential areas, providing the proposal is of a suitable scale.

The proposed retail area would be around 278 square metres, which is well below the 500 square metre threshold at which an impact assessment would be required. It is therefore considered that the proposal is of a suitable scale to function as a local shopping facility. It is noted that there are two existing shops within the vicinity, however, competition is not a planning matter.

It is therefore considered that the principle of the proposed change of use would be acceptable.

2. Design Considerations

The proposal would not involve any alterations to the rear of the existing building and therefore there would be no impact on the character and openness of the Downs. No access would be provided to the rear and thus there would be no

parking at the rear of the site. The retained section of the building would not be altered in height and the existing retaining wall between No. 7 and the application site would be retained in its existing position and at full height, therefore there would be no alteration in views of the site from No. 7.

It is considered that the proposed alterations would not have a detrimental impact on the character and appearance of the application site or its wider surroundings and therefore the proposal is considered to conform with policy BE8 of the South Bedfordshire Local Plan Review, policy 43 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

3. Impact on Residential Amenity

Following the submission of the application and the receipt of the comments of the neighbouring occupiers, the proposal has been revised to retain the existing 6m high wall on the boundary between the application site and the nearest neighbouring residential occupier at No. 7 Tring Road. It is considered that this would prevent any loss of privacy or increase in light pollution as a result of the proposal.

It is however, considered that the proposal would intensify the use of the site and it is noted that the application suggested 24 hour, seven days a week opening hours. It is considered that this would have a detrimental impact on the occupiers of neighbouring residential properties as it would give rise to greater levels of noise and disturbance.

A noise report has been submitted and analysed by the Council's Public Protection Officer. The noise report suggested that the opening hours should be restricted to 6am to midnight, Mondays to Sundays. Based on the noise information, the Public Protection Officer is not objecting to the scheme, subject to a further restriction of the opening hours and the imposition of conditions restricting mechanical noise and requiring the submission and implementation of a noise management plan. In regards to the opening hours, it should be noted that there is currently no restriction on the existing petrol station, which could open 24 hours a day, seven days a week, nevertheless, it is considered that the intensification of the site provides sufficient justification to restrict the opening hours of the proposed retail use and a condition is therefore suggested limiting the opening hours from 6am to 11pm daily in accordance with the recommendations of the Public Protection Officer.

Subject to the imposition of this condition and the other conditions recommended by the Public Protection Officer, it is considered that the proposal would not give rise to an unacceptable increase in noise and disturbance to the occupiers of neighbouring dwellings and the proposal is thus considered to be in accordance with policy BE8 of the South Bedfordshire Local Plan Review, policies 43 and 44 of the emerging Development Strategy for Central Bedfordshire and the Central Bedfordshire Design Guide.

4. Highway Implications

The comments of the Highways Officer are noted and it is considered that, subject to the imposition of the recommended conditions, the proposal would not have a detrimental impact on highway safety.

5. Other Issues

It is unknown whether the applicants have applied for an alcohol licence, however, this is not a material planning consideration in the determination of this application.

Human Rights issues

The proposal raises no Human Rights issues.

Equality Act 2010

The Design and Access Statement states that level access will be afforded to the proposal, which would be DDA compliant. Nevertheless, it is considered appropriate to include an informative, advising the applicants of their responsibilities under the Equality Act 2010.

Recommendation

That Planning Permission be GRANTED subject to the following:

RECOMMENDED CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The retail premises shall only be open to customers between the hours of 6am to 11pm Mondays to Sundays.

Reason: To safeguard the residential amenity which the occupiers of neighbouring properties might reasonably expect to enjoy.
(Policy BE8, SBLPR and Policies 43 and 44, DSCB)

- 3 No deliveries shall be taken at the site outside the hours of 6am to 11pm on Mondays to Sundays.

Reason: To safeguard the residential amenity of neighbouring properties.
(Policy BE8, SBLPR and Policies 43 and 44, DSCB)

- 4 **No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:**

1. **A Preliminary Risk Assessment (PRA) including a Conceptual Site Model (CSM) of the site indicating potential sources, pathways and receptors, including those off site.**
2. **The results of a site investigation based on (1) and a detailed risk assessment, including a revised CSM.**
3. **Based on the risk assessment in (2) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall**

include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary.

4. **No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in (3). The long term monitoring and maintenance plan in (3) shall be updated and be implemented as approved.**

Reason: The condition must be pre-commencement to protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

(Policy BE8, SBLPR and Policies 43 and 44, DSCB)

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

(Policy BE8, SBLPR and Policies 43 & 44, DSCB)

- 6 **No development shall take place until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.**

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and Environment Agency Groundwater Protection: Principles and Practice (GP3).

(Policies 43 and 44, DSCB)

- 7 All external plant, machinery and equipment installed or operated in connection with this permission shall be so enclosed, operated and/or attenuated that noise arising from such plant shall not exceed a level of 5dBA below the existing background level (or 10dBA below if there is a tonal or distinctive quality) when measured or calculated according to BS4142:2014, at the boundary of any neighbouring residential dwelling.

Reason: To ensure that the residential amenity of neighbouring occupiers is not prejudiced by excessive noise.

(Policy BE8, SBLPR and Policies 43 & 44, DSCB)

- 8 **Development shall not begin until a noise management plan has been submitted to and approved in writing by the Local Planning Authority. Any noise mitigation measures shall include those contained in the recommendations from the noise assessment submitted with this application report reference: GA-2015-0016-R1. Any works which form part of the approved plan shall be completed before the new premises becomes operational unless an alternative period for completion is agreed with the Local Planning Authority.**

Reason: The noise scheme must be agreed prior to construction works beginning to minimise noise disturbance to the occupiers of neighbouring residential properties.

(Policy BE8, SBLPR and Policies 43 & 44, DSCB)

- 9 The retail use hereby approved shall not commence until the parking scheme shown on Drawing No. PLG3B has been completed. The scheme shall thereafter be retained for this purpose.

Reason: To ensure provision for car parking clear of the highway.

(Policy T10, SBLPR and Policy 27, DSCB)

- 10 The use hereby permitted shall not commence until a scheme for the parking of cycles on the site has been submitted to and approved in writing by the Local Planning Authority and the scheme has been fully implemented. The scheme shall be retained for this purpose thereafter.

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

(Policy 24, DSCB)

- 11 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 140654-PLG1, 140654-PLG2, 140654-PLG3B, 140654-PLG4B.

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

Notes to Applicant

1. In accordance with Article 35 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the emerging Development Strategy for Central Bedfordshire (DSCB).
2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

3. The applicant's attention is drawn to their responsibility under The Equality Act 2010 and with particular regard to access arrangements for the disabled.

The Equality Act 2010 requires that service providers must think ahead and make reasonable adjustments to address barriers that impede disabled people.

These requirements are as follows:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage to take reasonable steps to avoid that disadvantage;
- Where a physical feature puts disabled people at a substantial disadvantage to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function;
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage to provide that auxiliary aid.

In doing this, it is a good idea to consider the range of disabilities that your actual or potential service users might have. You should not wait until a disabled person experiences difficulties using a service, as this may make it too late to make the necessary adjustment.

For further information on disability access contact:

The Centre for Accessible Environments (www.cae.org.uk)
Central Bedfordshire Access Group (www.centralbedsaccessgroup.co.uk)

4. The applicant is advised that the requirements of the New Roads and Street Works Act 1991 will apply to any works undertaken within the limits of the existing public highway. Further details can be obtained from The Street Works Co-ordinator, Bedfordshire Highways, by contacting the Highways Helpdesk 0300 300 8049.
5. The applicant is advised that photographs of the existing highway that is to be used for access and delivery of materials will be required by the Local Highway Authority. Any subsequent damage to the public highway resulting from the works as shown by the photographs, including damage caused by delivery vehicles to the works, will be made good to the satisfaction of the Local Highway Authority and at the expense of the applicant. Attention is drawn to Section 59 of the Highways Act 1980 in this respect.
6. The applicant is advised that all cycle parking to be provided within the site shall be designed in accordance with the Central Bedfordshire Council's "Cycle Parking Annexes – July 2010".

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

It is recommended that planning permission be granted for this proposal. The Council

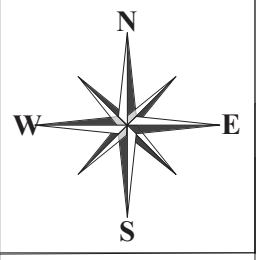
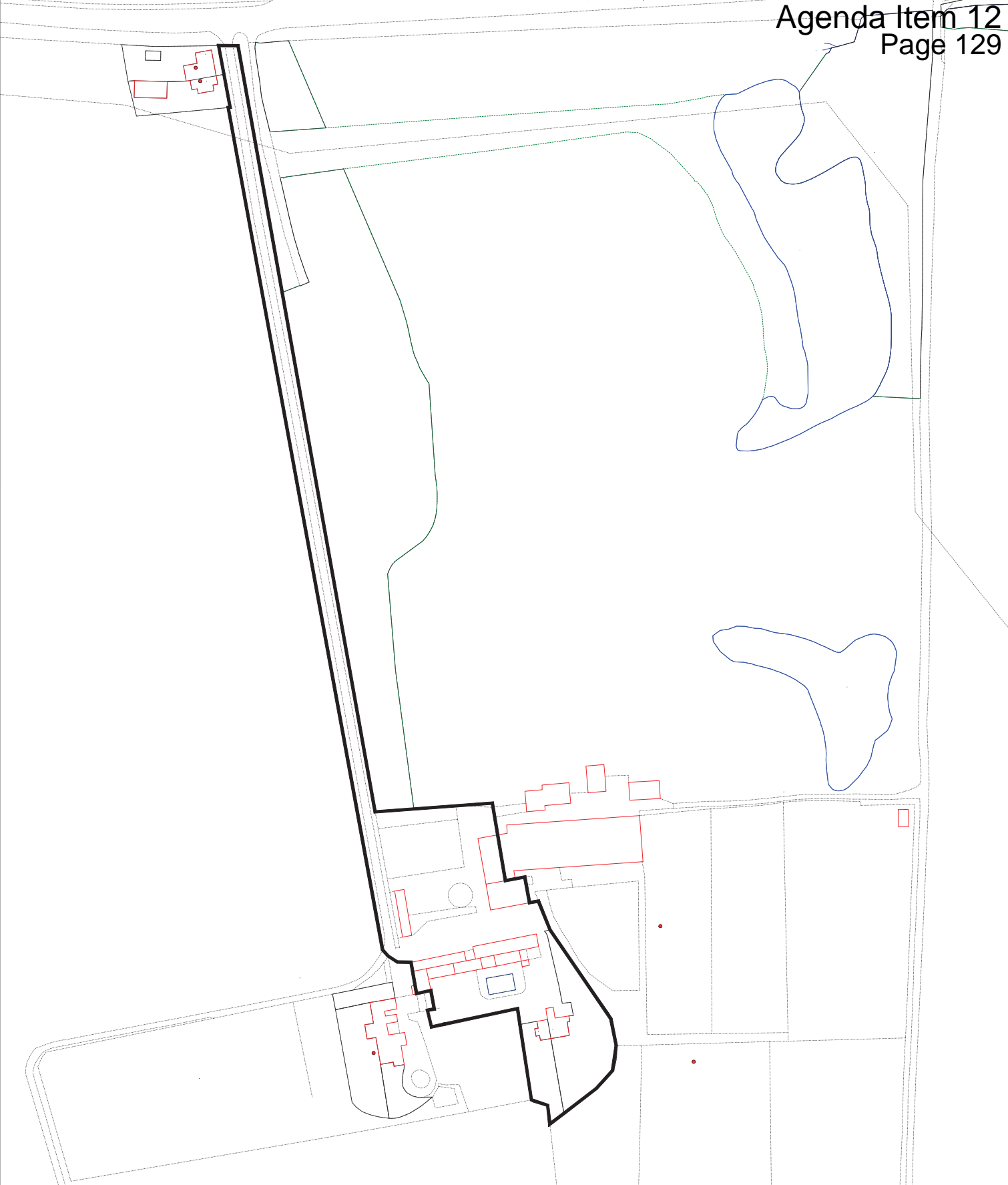
acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187)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

DECISION

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Central Bedfordshire Council
Licence No. 100049029 (2009)
Date: 09:June:2015
Map Sheet No

Application No.
CB/15/01233/FULL

Scale: 1:2500

Meadow Cottage, Cityfield Farm, Arlesey Road, Henlow, SG16 6DD

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Item No. 12

| | |
|---|--|
| APPLICATION NUMBER | CB/15/01233/FULL |
| LOCATION | Meadow Cottage, Cityfield Farm, Arlesey Road, Henlow, SG16 6DD |
| PROPOSAL | Revision to approved extension on previous Planning application No. CB/14/02551/Full |
| PARISH | Henlow |
| WARD | Arlesey |
| WARD COUNCILLORS | Cllrs Dalgarno, Shelvey & Wenham |
| CASE OFFICER | Mark Spragg |
| DATE REGISTERED | 31 March 2015 |
| EXPIRY DATE | 26 May 2015 |
| APPLICANT | Mr Dixon |
| AGENT | Wastell & Porter Architects Ltd |
| REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION | The applicant is a Central Bedfordshire Councillor Full Application - Recommended for Approval |

Summary of Recommendation

The proposal is recommended for approval as it is considered acceptable in terms of its siting and design, the impact on the character and appearance of the site and its surroundings. There would be no undue impact on the amenity of the neighbouring occupiers and there would be adverse impact on highway safety. As such the proposal would be in accordance with policy DM3 of the Core Strategy and Development Management Policies (2009), Policy 43 of the emerging Development Strategy and the National Planning Policy Framework (2012).

Site Location:

Meadow Cottage is a 2 storey property in an isolated position to the west of the settlement of Arlesey. It is accessed from a long track off Arlesey Road and includes a small group of stables and converted farm buildings. The main house has previously been extended with a two storey and single storey additions. To the west of the application site is Cityfield Farm House which shares the access to Arlesey Road.

The Application:

Planning permission has been granted (CB/14/02551) for a single storey pitched roof extension (4.0 x 4.5 x 3.7m high) to the north west part of the property to provide a boot room.

This application proposes making the extension 1.8m deeper at the rear than the approved consent.

The proposed materials would be the same as previously approved, being a mix

of render and weatherboarding, with a slate roof.

RELEVANT POLICIES:

National Planning Policy Framework 2012

Core Strategy and Development Management Policies - North 2009

DM3 High Quality Development

Development Strategy for Central Bedfordshire

Policy 43 High quality development

(The draft Development Strategy was submitted to the Secretary of State on the 24th October 2014, after initial hearing sessions in 2015 the Inspector concluded that the Council had not complied with the Duty to Cooperate. The Council has launched a judicial review against the Inspectors findings and has not withdrawn the Development Strategy. Its status therefore currently remains as a submitted plan that has not been withdrawn and its policies carry weight in accordance with the NPPF. This also reflects the fact that its preparation is based on a considerable amount of evidence gathered over a number of years and is therefore regarded by the Council as a sustainable strategy which was fit for submission to the SoS).

Supplementary Planning Documents (SPD)

Design in Central Bedfordshire: A Guide for Development -
DS4- Residential Alterations and Extensions

Relevant Planning History

| | |
|-------------|---|
| CB/14/02551 | Single storey side extension. Approved. |
| MB/08/01769 | Single storey side extension. Approved. |
| MB/92/00629 | Alterations and two storey extension. Approved. |
| MB/87/00391 | Ground and first floor extension. Approved. |
| MB/84/00333 | Ground floor extension. Approved. |

Representations: (Parish & Neighbours)

| | |
|-----------------------|-----------------------|
| Henlow Parish Council | No objections |
| Neighbours | No comments received. |

Consultations/Publicity responses

| | |
|--------------------|---------------|
| Minerals and Waste | No objection. |
|--------------------|---------------|

Determining Issues

The main considerations of the application are;

1. Effect upon the character and appearance of the area
2. Effect on neighbouring amenity
3. Parking

Considerations

1. Effect upon the character and appearance of the area

The proposed single storey extension would be constructed of materials and be of a design which would appear subordinate to and compliment the existing house. The extension would not be visible from any public viewpoints and therefore it is not considered that there would be any undue impact upon the appearance of the property or on the character of the surrounding area.

2. Effect on neighbouring amenity

The only property close to the proposed extension is Cityfield Farm, which has an extensive garden extending up to the boundary with Meadow Cottage. No windows are proposed in the west facing side wall of the extension and only small high level rooflights on that elevation. Furthermore, there is dense vegetation along the boundary with Cityfield Farm.

As the extension would be over 60m from the rear elevation of the neighbouring property it is not considered that any loss of privacy or amenity to the occupiers of Cityfield Farm would result.

The only other properties adjoining the red edged site area (the access road) No's 6 and 8 are a significant distance from the proposed extension and would not be affected.

3. Parking

The proposal would not generate any additional traffic or parking requirement.

Recommendation

That Planning Permission be granted subject to the following:

RECOMMENDED CONDITIONS / REASONS

- 1 The development hereby permitted 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 All external works hereby permitted shall be carried out using the materials/finish as detailed in the submitted application.

Reason: To safeguard the appearance of the completed development by

ensuring that the development hereby permitted is finished externally with materials to match the existing building in the interests of 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 PL01C, PL02A, PL03A.

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

Notes to Applicant

- 1. 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.

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

This application is recommended for approval. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

DECISION

.....
.....
.....
.....

Meeting: Development Management Committee
Date: 24 June 2015
Subject: Determination of an application to add a claimed
bridleway through the Crown Hotel and yard,
Biggleswade
Report of: Jim Tombe - Interim Head of Service for Transport Strategy and
Countryside Access
Summary: The report proposes that a Definitive Map modification order be made to
add a public bridleway to the Definitive Map and Statement through the
Crown Hotel and its rear yard between High Street and Church Street,
Biggleswade. It is also proposed that enforcement action be taken to
remove security fencing that obstructs the bridleway to enable free use
of the bridleway ahead of a legal order being made.

Advising Officer: Paul Cook - Assistant Director for Highways and Transport
Contact Officer: Adam Maciejewski – Senior Definitive Map Officer – 0300 300 6530
x76530 - adam.maciejewski@centralbedfordshire.gov.uk
Public/Exempt: Public
Wards Affected: Biggleswade South and Biggleswade North
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

1. The proposal reflects the following Council priorities:
 - Improved educational attainment.
 - Promote health and wellbeing and protecting the vulnerable.
 - Better infrastructure – improved roads, broadband reach and transport.
 - Great universal services – bins, leisure and libraries.

The proposal will facilitate increased pedestrian and sustainable transport access to the centre of Biggleswade. Walking and cycling for local trips and for leisure reduces pollution and increases general health and wellbeing. The proposal will, however, be detrimental to the proposed re-development of a public house and thus be contrary to one of the other Council priorities.

Financial:

2. The costs of advertising the making and confirmation of the order is estimated at £550. However, the order is likely to be opposed by JDWetherspoon which

means that the order must be forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation which would cost the Council approximately £1000 in additional administration and venue hire. Should external legal advice or advocacy be required, this could cost potentially between £1000 and £3000. All costs would be met out of existing Countryside Access Team's General Rights of Way budget (452600).

3. The current security fencing would be moved at the expense of the land owner, JDWetherspoon as would any legal expenses incurred in securing the compliance of the owner.

Legal:

4. Section 53 of the Wildlife and Countryside Act 1981 permits a member of the public to apply to the Council, as Surveying Authority for the Definitive Map and Statement, if they consider that the map or statement is in error. The Council has a duty to keep the map and statement correct and up to date and to make any requisite orders to modify the map and statement. Definitive Map modification orders are based on evidence – normally a combination of historic documents and contemporary user evidence. To make an order the Council must be satisfied that the evidence shows that it is reasonable to allege that a public right of way subsists. If the order is objected to the Secretary of State will use a stricter test of “balance of probability”. The evidence in the report appears to meet the stricter test.
5. If the Council is satisfied that a public right of way does subsist – and ought to be recorded – it has a further duty under Section 130 of the Highways Act 1980 to assert and protect the rights of the public to use the route. The Council has the power to remove any obstruction under Sections 143 and 137 of the 1980 Act.
6. On 19 February 2015 the owner, JDWetherspoon, received planning consent to develop the Crown Hotel. However it cannot act on this consent until any public right of way - whether officially recorded or not – has been legally extinguished or diverted. JDWetherspoon has the option of applying under either the Town and Country Planning Act 1990 or the Highways Act 1980 to either stop-up or divert the claimed right of way in order to enable the proposed development to take place.

Risk Management:

7. The Council, in carrying out its statutory duty to keep the Definitive Map and Statement up to date, will be preventing the proposed re-development of a local historic landmark by a national pub chain. The actions of the Council are, however, supported by local residents and the local town council. It is likely that any ensuing definitive map modification order will be opposed by the owners. This could result in a public hearing or local inquiry being convened to hear the objections to the order. It is also possible that the Council may receive negative press coverage over this issue due to the differing perspectives of the parties involved, and incur legal and administrative costs of up to £4,000.

Staffing (including Trades Unions):

8. Not Applicable.

Equalities/Human Rights:

9. The Wildlife and Countryside Act 1981 is concerned only with whether public rights already do, or do not exist. Consequently the primary legislation of this Act takes precedence over the Council's statutory duty placed upon it by the Human Rights Act 1998 to have regard to a person's right to privacy and security. The proposed modification order would recognise the existence of a public right of way. In doing so it would prejudice the re-development of a business. However the business does have a right to object and be heard by an independent Inspector. It also has the opportunity to apply for the diversion or extinguishment of any public right of way that is ultimately added to the Definitive Map and Statement.
10. The proposal would not discriminate against any particular group of local residents. If the proposal succeeds in the recording of a public right of way, the Council does have a duty under the Equalities Act to ensure that it is usable as far as reasonably practicable by all members of the public. The route is currently fairly level and surfaced. Consequently if the obstructions were removed it would be suitable for use by disabled people and mobility scooters.

Public Health

11. Not applicable

Community Safety:

12. The Council has a statutory duty under the Crime and Disorder Act 1998 to consider the community safety implications that may result from making the decision set out in the report. The proposed bridleway does mean that the current car park to the Crown Hotel would be shared by pedestrian and cyclists accessing the passageway through to High Street. The passageway has a width of approximately 3 metres and so there is the opportunity for pedestrian-cyclist-vehicle conflict. However, it must be recognised that this proposal merely formalises the informal access situation that existed prior to November 2013. As a recognised public right of way the Council will be able to monitor and take any necessary steps to mitigate any hazards that become evident.

Sustainability:

13. The proposal will facilitate sustainable transport (walking and cycling) to the Market Square from north-western Biggleswade (Cowfair Lands) using relatively traffic-free routes.

Procurement:

14. Not applicable.

RECOMMENDATION(S):

The Committee is asked to approve:-

- 1. The making of a definitive map modification order under Section 53(2) of the Wildlife and Countryside Act 1981 consequent upon the discovery of evidence that shows that it is reasonable to allege under Section 53(3)(c)(i) to the 1981 Act that a public right of way on foot, horse and bicycle, i.e. a bridleway, subsists through the curtilage of the Crown Hotel, Biggleswade between points A-B on the map at Appendix A**
- 2. The taking of unilateral action by the Council under Sections 143 and 137 of the Highways Act 1980, if necessary, to open up the route through the curtilage of the Crown Hotel in accordance with the Council's published Enforcement Policy for public rights of way with reasonable costs being recovered from the owners, JDWetherspoon.**

Introduction

15. Mr. Darren Woodward submitted an application on 22nd October 2014 under Section 53 of the Wildlife and Countryside Act 1981 (*"the 1981 Act"*) to have a public bridleway added to the Definitive Map and Statement from Church Street through the Crown Hotel's yard to the High Street. A bridleway gives members of the public the right to pass and repass on foot, on horseback or leading a horse or on or pushing a bicycle.
16. JDWetherspoon purchased the Crown Hotel, High Street, Biggleswade from Greene King plc. in mid-November 2013. The pub was subsequently closed and (at about this time) the claimed route was obstructed by security fencing pending the successful application for planning consent by JDWetherspoon to develop the site. This application (CB/14/03126/LB) received planning consent on 19 February 2015. The proposed redevelopment seeks to fill in the passageway through the front of the building which gives access to the yard and Church Street to the rear. If this happens it would completely obstruct the claimed public bridleway – hence Mr. Woodward's application.

Legal and Policy Considerations

17. The legal and policy considerations relating to an application to record a public right of way on the Definitive Map and Statement are detailed in Appendix B; the following sections provide a summary of the main points.
18. Section 53(5) of the Wildlife and Countryside Act 1981 permits any person to apply to Central Bedfordshire Council, as the Surveying Authority for the Definitive Map and Statement, for an order to modify the Definitive Map and Statement if they consider these are in error and need correcting. The Council has a duty to keep the Definitive Map and Statement up to date and make any changes that are required. In doing so, the Council has to consider whether the evidence shows, on a reasonable allegation, that the Definitive Map needs modification to add the claimed route.

19. Mr. Darren Woodward has applied to add a public bridleway to the Definitive Map and Statement on the ground that it subsists or is reasonably alleged to subsist, having been a way used both on foot and with pedal cycles. Mr. Woodward's application is being dealt with out of turn due to the irreversible threat to the route by the proposed development and also because the area is already being investigated as part of a project to map unrecorded public rights of way in the urban centre of Biggleswade.
20. Section 31 of the Highways Act 1980 (*"the 1980 Act"*) requires the Council to deem that a way has been dedicated as public right of way if it has been used *"as of right"* and without interruption by the public for a full 20 years prior to the public's right to use the way being called into question. In this case the action that has called into question the public's right to use the claimed bridleway has been the erection of security fencing in late November 2013. The relevant 20 year period is therefore November 1993 – November 2013. The term *"as of right"* means without force, without stealth and without permission.



High Street - fencing across passageway



Church Street – fencing across car park entrance

21. The Council also has to consider whether there is any evidence of a contemporaneous non-intention to dedicate by the owners of the land; this can be evidenced by erected signs or challenges of the users. The route must also be capable of dedication at common law. During the relevant period the land (the Crown Hotel's yard) was owned by Greene King plc. It appears from the evidence given by user surveys and statements that during this time many of the inhabitants of Biggleswade used the claimed route as a cut-through. The route is capable of being dedicated at common law and none of the users have reported any challenges or interruptions during the relevant period.
22. The legislative tests for the Council being able to deem under section 31 of the 1980 Act that a public right of way subsists are summarised above and described in detail in Appendix B. When considering whether a public right of way does or does not exist, the Council cannot consider ancillary matters such as privacy, security, need or convenience; this has been established by the case of *Mayhew v Secretary of State for the Environment [1992]*. Moreover, the proximity of alternative routes – such as Abbot's Walk should also be disregarded.
23. The Committee should have regard to the fact that if it is satisfied that a public right of way exists it will also need to consider whether action should be taken to

make that route open and available for public use. The Council has the power to remove any obstruction on a public right of way under Sections 143 and 137 of the Highways Act 1980. The Council also has the power to extinguish or divert any public right of way affected by development under the Town and Country Planning Act 1990 and or Highways Act 1980.

Historical Evidence

24. A large number of historical documents at the Bedfordshire and Luton Archives have been investigated to try and establish whether a public right of way exists over the claimed route. The findings are detailed in Appendix C and summarised below.
25. In 1833 the Northampton Mercury Newspaper reported on a case held at the Bedford Crown Court. Part of the evidence was given by a youth who was playing with friends in the Crown Hotel's yard and who saw a group of people walk through it from High Street to Brewery Lane as it was then called. The witness' statement indicates that the Crown Hotel's yard was used by the public as a through-route and that the owners of the yard (at this time the Samuel Wells brewery which also owned the Hotel) seemed at least to tolerate youths playing in the area.
26. Early maps, namely Bryant's 1826 county map and the 1838 tithe map, show the centre of Biggleswade and the Market Square, Church Street and Chapel Fields. A route is visible on the tithe map through the Crown Hotel's yard which is depicted in a similar manner to Long Twitchell which is also considered to have long-established public access rights. Bryant's smaller-scale map shows the alleged historic route of the cattle trail from Biggleswade Common to the Market Square.
27. Cattle and horse trails, known as droveways or driftways, although an integral part of the countryside before the advent of steam power and the railways were rarely recorded in legislation outside of Parliamentary Inclosure Awards – which did not happen for Biggleswade. Research by the Biggleswade History Society suggests that there was a driftway from Biggleswade Common to the north of the town which ran via Chapel Fields and through the Crown Hotel's yard into the Market Square. Whilst the route still exists there is no legal recognition of this use – beyond possibly the fact that Chapel Fields is (for most of its length) recorded as a public carriageway.
28. The large scale 1:500 and 25":1 mile Ordnance Survey maps (1st, 2nd, 3rd and 4th editions) all show the claimed route through the Crown Hotel. This is formed by a passageway through the main building of the Crown Hotel from the High Street and through the yard and then through a covered way into Church Street (earlier called Brewery Lane).
29. The Crown Hotel is recorded as part of the 1910 Finance Act valuation process. However no deduction in taxable valuation is made for public rights of way; this suggests that neither the brewery nor surveyor considered the route public at this time.
30. The 1892-8 deeds to the Crown Hotel and an 1898 sale catalogue for the Crown Hotel were studied, neither made any reference to public rights of way; this though is not unusual as deeds and sales plans tend to reference private rights rather than

public rights.

31. Biggleswade Town Council surveyed the urban area in early 1953 as part of the National Parks and Access to the Countryside Act 1949 process of surveying public rights of way, after it was designated a “fully developed area” and thus excluded from the Definitive Map. The survey map held by Central Bedfordshire Council does not show any route through the Crown Hotel yard.
32. None of the historic documents investigated specifically record any public right of way through the Crown Hotel. However, this was not the purpose of most of these documents. The documents do show that a route has been physically available for many years – over 180 years and was (in 1833) used in a manner that we would consider public today.

User Evidence

33. The applicant and the Biggleswade History Society have both submitted evidence of more recent public use of the route through the Crown Hotel’s yard. Other Biggleswade residents (and ex-residents) have independently submitted letters and e-mails describing their use of the claimed route. This evidence is described in detail in Appendix D and summarised below.
34. Mrs. Jane Croot, the editor for the Biggleswade History Society canvassed a significant number of elderly residents close to the Crown Hotel as well as people collecting children from St. Andrew’s Lower School as the claimed route is the most convenient route for these people. Thirty three of those surveyed have stated that they have used the Crown yard route between 1992 and 2013 - which is the relevant period for deemed dedication under Section 31 of the Highways Act 1980. As these results were from a quick survey there is no specific information relating to signs, challenges or any permissive use. However, none of the people canvassed mentioned any of these things in the “remarks” section of the survey form. The results, whilst lacking in detail do give a picture of public use of the Crown Hotel’s yard as a public thoroughfare from at least as early as the 1920s.
35. The applicant has supplied ten user evidence forms which detail the use of the claimed route through the Crown Hotel. These document public use between 1968 and late 2013 and bolsters the public use within the relevant 20 year period evidenced by the Biggleswade History Society survey. More importantly it provides the necessary detail relating to user “*as of right*”; none of the ten users who submitted statements reported either being challenged or seeing prohibitive signs on the route. None were interrupted in their use prior to the security fencing being erected. Unfortunately none of the users have given a precise date for the erection of this fencing – believed to be in late November or early December 2013. Eight people were interviewed and described their use of the claimed route in detail.
36. Four of the people who submitted user evidence forms claimed they had cycled the claimed route – as did two others who contacted the Council independently. The use of the claimed route by six cyclists, three for the full 20 years and three for periods of between eight and ten years, during the relevant 20 year period prior to the end of 2013 is evidentially significant. Any cycle use outside the relevant period, whilst not qualifying, does give an indication of the public’s general view of the route’s status. This level of qualifying public use is above that previously addressed by the courts in the case of *Whitworth 2010* (see Appendix B for further

details of this case). In that case it was held that regular use by a single person was sufficient to give rise to a presumption of dedication if that use was for the full 20 years of the relevant period.

37. The appeal to the *Whitworth 2010* case established that a public right of way based on cycling should have the lowest status possible that permitted cycle use. This currently is a bridleway – even though it is highly unlikely that equestrians would wish to use the route through the Crown Hotel (see Appendix B for further details).

Consultation

38. A consultation was carried out with Biggleswade Town Council, Biggleswade Historical Society, local ward members, P3 volunteers, the local Ramblers Representative, and a number of local residents.
39. Biggleswade Town Council has been consulted. The Town Clerk has responded stating the “...*Council have asked that I write to you to insist that an application is made to register the Crown walkway as a footpath on the definitive map....*”. A further request from the Deputy Town Clerk was “...*the Council has asked that the route be re-opened with the possibility of the [security] fencing being moved to the boundaries of the route if required, i.e. between the route and the building, rather than sealing off the route....*”.
40. Witcomb Project Management Ltd. acts as architects for JDWetherspoon. They have expressed disappointment of the Council’s interest in investigating the claimed public right of way. McLellans Solicitors act for JDWetherspoon and, in its view, considers the bridleway claim unlikely to be successful and that it would be totally disproportionate to claim a public right of way when Abbot’s Walk lies so nearby.
41. In response – the legal advice by McLellans is seriously flawed and takes no account of the provisions of either the 1980 or 1981 Acts or any case law relating to modification orders. The fact that the claimed bridleway would prevent re-development of the pub unless either moved or stopped-up is irrelevant to the issue of whether bridleway rights subsist.
42. JDWetherspoon was given an early draft of this committee report and appendices in late 2014. McLellans Solicitors, acting for JDWetherspoon commented on the report stating that the various historic maps cannot evidence the status of the route. Other historic evidence is anecdotal and unsupported and does not support continuous use by the public to the time the public’s right to pass and re-pass was called into question. McLellans states that the tithe map does not show a road through the Crown Hotel and the 1833 Assizes report merely indicates that the witnesses were at the location – not necessarily exercising any public right.
43. In response, the report acknowledges at Paragraph 32 above that none of the historic documents investigated specifically record any public right of way through the Crown Hotel but these do show that a route has been physically available for use for over 180 years.
44. McLellans also comments on the poor quality of the user evidence, stating that public use of the route prior to the relevant period (1993 – 2013) cannot count

towards evidence for deemed dedication and that the Biggleswade History Society's survey did not differentiate between sporadic and continuous use or the frequency, time of day or purpose for their use. McLellans also points out that only two users have used the claimed route for the full 20 year period. The evidence of Messrs Ball and Page was initially discounted as occurring prior to the relevant period. McLellans also cite the *Whitworth [2010]* appeal case to counter the use by a single cyclist as warranting the making of an order to record a public bridleway; it argues that if any order be made it should be to record only a public footpath.

45. In response, it should be noted that following the comments by McLellans a number of late submissions by the applicant increased the number of user evidence forms to ten. A statutory declaration by Mr. Page has also subsequently been received as well as statements from a number of other individuals. It is accepted that the results of the Biggleswade History Society's user survey are without detail. However, this does show that 33 people used the route during the relevant period – 23 for the full 20 years. Why and when they used the route is irrelevant if the use was "*as of right*". Similarly, with this number of users, a high frequency of use or individual use for the full 20 year period is not required. Following the submissions made by McLellans, eight witnesses were subsequently interviewed and their evidence incorporated into Appendix D. The use by Messrs. Ball and Page and Cllrs. D. and J. Lawrence is both within the relevant period as well as preceding it by several decades and is thus qualifying use. User interviews and late submissions have clarified and bolstered the cycling evidence. Six people have stated that they have cycled the claimed route with frequencies of between weekly and less than monthly. This level of use is considered valid and sufficient use for the proposed order.
46. Mr. Desmond Ball has written and telephoned the Council concerning the blocked entrance to the Crown Hotel. Mr. Ken Page has submitted a statutory declaration concerning the history of the claimed route to the local Town Council. Mrs. Jane Croot, editor for the Biggleswade History Society, has submitted a user survey and other historic documentation as part of its objection to the planning application for the Crown Hotel. These are discussed in more detail at Appendix D and summarised below.
47. Mr. Ball has asserted that as a former employee of the Biggleswade Urban District Council ("*BUDC*") he assisted with a rights of way survey in the 1950s and that the Crown Hotel yard was considered a public through-route. Indeed he alleges that the BUDC carried out publicly funded repairs to the route sometime in the late 1940s or 1950s. There is no corroborating documentary evidence of this or that the brewery disputed the public status of the claimed bridleway. However, Mr. Page was employed by the brewery to look after its property records during the same period and recalls that it welcomed the works by the BUDC to maintain the claimed route. Mrs. Temple, another witness and a former employee of the Crown Hotel owned by the brewery has stated that the landlord told her the claimed route was a public right of way.
48. Mr. Ball has also stated that the Crown Hotel's yard was used as access to the school which used to exist on Church Street (previously Brewery Lane) as well as to a number of smaller shops which people again accessed from the High Street via the Crown Hotel's yard. There was even a barber and dentist actually within the yard of the Crown Hotel. Mr. Ball also recalls that many people used to walk down Chapel Fields from Cowfair Lands and access the Market Square and High Street

via the Crown Hotel's yard as the current cut-through (Abbot's Walk) didn't come into being until c.1978. This newer route is not recorded as a public right of way.

49. Mr. Ken Page is local historian and ex-employee of the brewery and has submitted a statutory declaration describing his extensive knowledge of the Crown Hotel. He and his friends regularly used the Crown Hotel's yard route in the 1930s as a pedestrian route to get to and from the junior school in Church Street. The claimed route was also used by brewery workers going to and from the brewery in Church Street. Mr. Page states that he has no knowledge of the route ever being closed or public use challenged in his lifetime until the erection of the security fencing in early 2014. Mr. Page also stated that long ago drovers herded cattle south from Biggleswade Common along Sun Street and then into Chapel Fields and through the Crown Hotel's yard into the Market Square to access to the cattle markets.
50. Mrs. Jane Croot, the editor for the Biggleswade History Society, submitted a lengthy objection against the proposed re-development of the Crown Hotel. Much of the Society's grounds for objection were based on the historic nature of the public thoroughfare through the Crown Hotel. As part of the objection she submitted a user survey consisting of 51 people which describes public use of the route since the 1930s (see Appendix D). She has also asserted that the route was historically used as part of the cattle trail from Biggleswade Common – something supported by a leaflet in the Bedfordshire and Luton Archives on the origins of the Market House Café.
51. Biggleswade P3 Group and the Ramblers have not responded to the consultation.
52. Following consultations with the local ward members for Biggleswade North and Biggleswade South, Cllrs. Jane and David Lawrence have responded to say that they have both lived in Shortmead Street since 1978 and until Asda was built (c.2005/6) used to use the claimed route “...*through the Crown to go to the Market Square from Brunts Lane and Chapel Fields. More recently because of ASDA we tend to use Abbots Walk...*”.
53. A number of unsolicited e-mails have also been received by the Council concerning the claimed route through the Crown Hotel. Out of the six e-mails received, four people stated that they had used the route; two supported the path's retention; four indicated it should either not be retained or could be moved; and four supported the proposed development by JDWetherspoon (see Appendix D)

Conclusions

54. There is no direct documentary evidence to indicate that the claimed route through the Crown Hotel yard has been statutorily created as a public right of way. Mapping and other evidence does suggest that the route has been physically available for use for over 180 years; this though only can lead to an inference of a historic dedication of public rights. Likewise the alleged use of the Crown Hotel's yard as part of a driftway also only contributes towards such an inference.
55. Evidence of public pedestrian use potentially dates back to 1833. More recent user surveys and statements suggest that the Crown Hotel's yard has been used regularly and to a significant extent by the public at large as a pedestrian thoroughfare since the 1930s. This level of use – which appears to have been

unchallenged and “*as of right*” – supports a stronger inference of dedication.

56. User evidence forms and user interviews have provided evidence of significant public pedestrian use of the claimed route during the relevant 20 year period - counting back from the erection of security fencing in late c. November 2013. In the absence of any evidence demonstrating an overt and contemporaneous non-intention by the brewery to dedicate a highway, the Council has a duty under the 1980 Act to deem that a public right of way at least on foot exists across the curtilage of the Crown Hotel.
57. Evidence of use of the claimed route by bicycles during the relevant 20 year period also exists. The use by six people suggests that higher status public rights can be reasonably alleged to subsist and is in accordance with the case of *Whitworth 2010*. This bicycle use gives rise to a public bridleway as this is the minimum status of highway which lawfully permits such use.
58. If the Committee considers that either a public footpath or public bridleway is deemed to have been dedicated then the current security fencing is an unlawful and unauthorised obstruction – albeit an unintentional one erected on behalf of JDWetherspoon. Representations from the Town Council and frustrated users indicate that there is a wish to see this route re-opened as soon as possible. This can be done under the powers contained within the Highways Act 1980.

Appendices:

- Appendix A – Location plan showing Crown Hotel
- Appendix B – Legal and Policy Considerations
- Appendix C – Historic Evidence
- Appendix D – User Evidence

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APPENDIX A

**ASDA
(car park)**

The Malting

CHAPEL PATH

The Old School

CHURCH STREET

B

St Andrews Court

Crown Hotel yard

Crown Hotel

Abbots Walk

HIGH STREET 30.0m +

A

A 6001

HIGH STREET

+ TCB

Market Square

Market Square

30.1m

TCBs

PH

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Scale 1:781 @A4



WILDLIFE AND COUNTRYSIDE ACT 1981

Proposed addition of a public bridleway through the Crown Hotel, High Street, Biggleswade

Claimed bridleway to be added

A **B**

Central Bedfordshire Council
Priory House
Monks Walk
Chicksands
Bedfordshire
SG17 5TQ
0300 300 6530

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APPENDIX B

Legal and Policy Considerations

- B.1. Section 53(5) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) permits any person to apply to Central Bedfordshire Council, as the Surveying Authority for the Definitive Map and Statement, for an order to modify the Definitive Map and Statement under subsection 53(2) of the 1981 Act if they consider these are in error and need correcting.
- B.2. Mr. Darren Woodward has applied under Section 53(5) to add a public bridleway to the Definitive Map and Statement through the Crown Hotel, Biggleswade, on the ground that it subsists or is reasonably alleged to subsist, having been a way used both on foot and with pedal cycles.
- B.3. Section 53(2) of the 1981 Act places a duty on the Council, as the Surveying Authority, to modify the Definitive Map and Statement upon the occurrence of certain events detailed in Section 53(3) of the Act. Section 53(3)(c) gives details of some of the events which require the Council to modify the Definitive Map and Statement:

53(3)(c) The discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-

- i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.*

- B.4. Section 31 of the Highways Act 1980 (“the 1980 Act”) describes how a highway may be deemed to have been dedicated by the landowner - as indicated by long use of the way by the public. It states:

- 1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*

1A (Omitted)

- 2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question...*

- 3) Where the owner of the land...*

(a) has erected... ..a notice inconsistent with the dedication of the way

as a highway...

(b) has maintained the notice...

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

- 4) In the case of land in possession of a tenant... [the owner] shall, notwithstanding the existence of the tenancy, have a right to place and maintain such a notice...*
- 5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as a highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway.*
- 6) An owner of land may at any time deposit with the appropriate council... a map... and... statement indicating what ways (if any) over the land he admits to having been dedicated as highways... to the effect that no additional way... has been dedicated as a highway since the date of the deposit... [and is] sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway...*
- 7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.*
- 7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.*
- 8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over land as a highway if the existence of a highway would be incompatible with those purposes...*
- 9) Nothing in this section operates to prevent the dedication of a way as a highway being presumed on proof of user for any less than 20 years..."*

B.5. Public use must have been “as of right” – that is without force, without stealth and without permission - in order to qualify as evidence from which the Council can deem that a public right of way has been dedicated. Additionally, this use must not have been interrupted or challenged by either actions of the owners or by signs being erected which would constitute evidence of an overt and contemporaneous non-intention to dedicate the way as a highway.

B.6. For the purposes of Section 31, the act that called into question the public’s right to use the claimed bridleway was the erection of security fencing in c.November 2013. The relevant twenty-year period is therefore November 1993 – November 2013. During the relevant period the land

(the Crown Hotel and yard) was owned by Greene King plc. It appears from the evidence given by user surveys and statements that during this time many of the inhabitants of Biggleswade used the claimed route as a cut-through. This route is capable of being dedicated at common law and none of the users have reported any challenges or interruptions during the relevant period.

- B.7. The Asda superstore immediately to the north of the Crown Hotel was built on the old Greene King brewery site which closed in October 1997. The brewery had previously been owned by Wells and Winch (as was the Crown Hotel) and had been on the site since the 17th Century. It is very likely that some of the brewery workers walked to work through the Crown Hotel yard. Whilst it is conceivable that the brewery may have given permission for the workers to walk this route, given the more general use by the public it is probably more likely that the brewery assumed that its workers used the route in the same manner as the other inhabitants of the town. This assumption accords with the judgment of McMahon J. in *Walsh & Cassidy v Sligo County Council [2010] IEHC 437, [2009 No 262P]* who found that whilst the users of a way may be known to the owner of the land – and even employed by them or have limited permission to use a route, the use of the route outside this limited consent would constitute “non-precarious” user and thus be “as of right”.
- B.8. The legislative tests for the Council being able to deem under Section 31 of the 1980 Act that a public right of way subsists are described above. The case of *Mayhew v Secretary of State for the Environment [1992] QBD* set out that issues of suitability or desirability – and by analogy: disruptive effects, proximity to alternative routes and need for the route cannot be considered in establishing what rights, if any, exist when determining whether to make a definitive map modification order.
- B.9. Witness evidence indicates that the claimed route has been used by six cyclists: three for the full 20 years, and three for periods of 8 - 10 years during the relevant period (see Appendix D). The case of *Whitworth v Secretary of State for Environment, Food and Rural Affairs 2010] EWHC QBD 738 (Admin)* concerned limited levels of public user. In that case Langstaff J. said

(49) “...What gave me greater pause for thought was the question and questions raised by whether the user went beyond that which would support a conclusion that there was a bridleway. That involved an evaluation by the Inspector of two forms of transport. The first was the use of a pony and trap by a Mr. Clay. Mr. Clay says he used the pony and trap on a regular basis, it appears probably fortnightly, throughout the period from 1976 onwards... ..I reject the suggestion that if one person uses a pathway so regularly, it cannot give rise to there being a carriageway, when use to a lesser extent in aggregate, but by several different users over the same period, might. What matters is the nature and quality of the use taken as a whole, and whether it is secretly, with permission, with force; those requirements which are well understood

as necessary for the establishment of a right of way...”.

- B.10. According to the *Whitworth* case, the limited use by the six users does provide a qualifying degree of public user by bicycle. Bridleways and restricted byways both permit the public to lawfully cycle along them. In the subsequent appeal case of *Whitworth and Others v Secretary of State for Environment, Food and Rural Affairs [2010] EWCA Civ 1468*, Carnwath L.J. stated:.

(42) “...Since section 30 [s.30(1) of the Countryside Act 1968 permitting cycle use on bridleways] involves a statutory interference with private property rights, it is appropriate in my view, other things being equal, to infer the form of dedication by the owner which is least burdensome to him...”.

Consequently, any deemed dedication permitting the public to cycle over the claimed route should be of the lowest class of highway that permits the public to lawfully cycle – i.e. a bridleway.

- B.11. The Countryside Access Team’s Applications Policy requires that modification applications be dealt with in strict order of receipt. However, an exception to the policy has been made in this case as the local area is already under investigation as part of an ongoing project to map unrecorded routes within the Biggleswade Excluded Area. Additionally, the claimed route is the subject of planning consent which would permanently obstruct the claimed route. It is therefore appropriate to process and determine Mr. Woodward’s application out of turn.
- B.12. Central Bedfordshire Council’s Constitution (Section C of Part E2 at Annex A) identifies the Development Management Committee as the appropriate body to authorise the making of a Definitive Map modification order under the 1981 Act. The Constitution (H3 at Section 4.4.148.) prevents the determination of this application under delegated powers due to the objections to the proposal by the owners of the land, JDWetherspoon.
- B.13. JDWetherspoon has received legal advice from McLellans Solicitors as part of its planning application and submission. Some of this advice concerns the merits of the Council asserting that prescriptive rights exist through the Crown Hotel yard. This legal advice is seriously flawed in several ways - namely:
- It does not consider deemed dedication under S.31 of the Highways Act 1980 or inferred dedication at common law.
 - It does not consider that use of the claimed route was for other purposes that accessing either the brewery or the c.2005/6 Asda supermarket.
 - The fact that the proximity of Abbot’s Walk or that the yard of the Crown Hotel’s exit does not have a pedestrian crossing are irrelevant

to the issue of whether public rights subsist over the claimed route.

- The assertion that it would be disproportionate to claim a route through the Crown yard due to the disruption this would cause to the new owners of the land is irrelevant at law (*Mayhew 1992*) to the issue of establishing whether a public right of way already exists through the property.

Historic cattle trails

- B.14. Cattle and horse trails, known as droveways or driftways were an integral part of the countryside before the advent of steam power and the railways. Outside of Parliamentary Inclosure Awards they were, however, rarely recorded in the later statutes. Section 36 of the Highways Act 1862 gave the inhabitants of a parish the power to adopt and repair private roads of various types in return for the use of them in that:

“...any parish desirous of undertaking the Repair and Maintenance of any Driftway, or any private Carriage or Occupation Road, within the Parish, in return for the use thereof...[may be declared]...the same to be a Public Carriage road to be repaired at the expense of the parish...”

Whilst Chapel Fields is classified as a publicly maintainable “unclassified local road” the continuation of the driftway through the Crown Hotel is not and has no recorded status. Droveways or driftways are not a class of highway specifically recognised by modern Acts; particularly the Highways Act 1980 and Road Traffic Act 1988. However, Section 192 of the 1988 Act defines a bridleway as:

“...a way over which the public have the following, but no other, rights of way: a right of way on foot and a right of way on horseback and leading a horse, with or without a right to drive animals of any description along the way...”

and so a bridleway can encompass such rights. The absence of a right to cycle over a bridleway within the 1988 definition was addressed by the earlier Countryside Act 1968, which stipulated that the right to cycle on a bridleway was only exercisable on the condition that cyclists give way to walkers and horse riders.

- B.15. The Council has a duty under Section 130(1) of the Highways Act 1980 to *“...assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority...”*. If the Committee determines that an order should be made to add a public right of way to the Definitive Map and Statement on the grounds that a right subsists, it will need to also consider what action could be taken to make that route open and available for public use. The Council has the power to remove any obstruction under Sections 143 and 137 of the Highways Act 1980.

137 Penalty for wilful obstruction

- (1) *If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.*

143 Power to remove structures from highways.

- (1) *Where a structure has been erected or set up on a highway otherwise than under a provision of this Act or some other enactment, a competent authority may by notice require the person having control or possession of the structure to remove it within such time as may be specified in the notice.*

For the purposes of this section the following are competent authorities—

- (a) *in the case of a highway which is for the time being maintained by a non-metropolitan district council by virtue of section 42 or 50 above, that council and also the highway authority, and*
- (b) *in the case of any other highway, the highway authority.*
- (2) *If a structure in respect of which a notice is served under this section is not removed within the time specified in the notice, the competent authority serving the notice may, subject to subsection (3) below, remove the structure and recover the expenses reasonably incurred by them in so doing from the person having control or possession of the structure.*
- (3) *The authority shall not exercise their power under subsection (2) above until the expiration of one month from the date of service of the notice.*
- (4) *In this section “structure” includes any machine, pump, post or other object of such a nature as to be capable of causing obstruction, and a structure may be treated for the purposes of this section as having been erected or set up notwithstanding that it is on wheels.*

Planning Consent

- B.16. The role of the Members of the Committee is to determine whether a public right of way does or does not exist along the route claimed by Mr. Woodward through the Crown Hotel. It is not for the Committee to second guess how any added right of way would be managed or impact on any proposed development of the Crown Hotel. However, the following sections seek to answer Members questions on just these issues.
- B.17. On 19 February 2015 the owner, JDWetherspoon, received planning consent to develop the Crown Hotel. However it cannot act on this consent

until any public right of way - whether officially recorded or not – has been legally extinguished or diverted. To do so would be illegal as any development would constitute either an unlawful interference with the surface of the highway or a wilful obstruction of the highway.

Consequently JDWetherspoon, or their agents, will need to apply for a legal order under either the Town and Country Planning Act 1990 or under the Highways Act 1980 to either extinguish or divert the claimed right of way. Development could not begin until any order was confirmed and had come into operation.

- B.18. When considering an application to extinguish the claimed right of way, the nearby Abbot's Walk cannot be considered as a suitable alternative as this is not a public right of way. The alternative routes therefore are either via Rose Lane to the east or via Shortmead Street to the west. Legislatively these are unlikely to be seen as reasonable alternatives owing to their increased length and circuitousness.
- B.19. The alternative is for JDWetherspoon to apply to create an alternative public right of way nearby. The nearby Abbot's Walk is currently extensively used by the public and would provide a suitable alternative route. However, the owner of Abbot's Walk, Hunting Gate/AC Estates Ltd., has indicated that it would not wish the route to become a public right of way. Under the Town and Country Planning Act 1990 the provision of an alternative route over a third party's land requires that party to consent to the diversion. As this is not the case, the claimed right of way would need to be diverted under the Highways Act 1980. The owner of Abbot's Walk has a right to claim compensation where their value of an interest in land has been depreciated or where they have suffered damage by being disturbed in their enjoyment of the land (Abbot's Walk) in consequence of the coming into operation of a public path order. This (as of yet unquantified) compensation would need to be paid by JDWetherspoon as the applicant and "donor" of the path. The relative narrowness and congested nature of Abbot's Walk would make it only suitable for pedestrian use and consequently equestrian/cyclists' rights would need to be extinguished and thus lost.

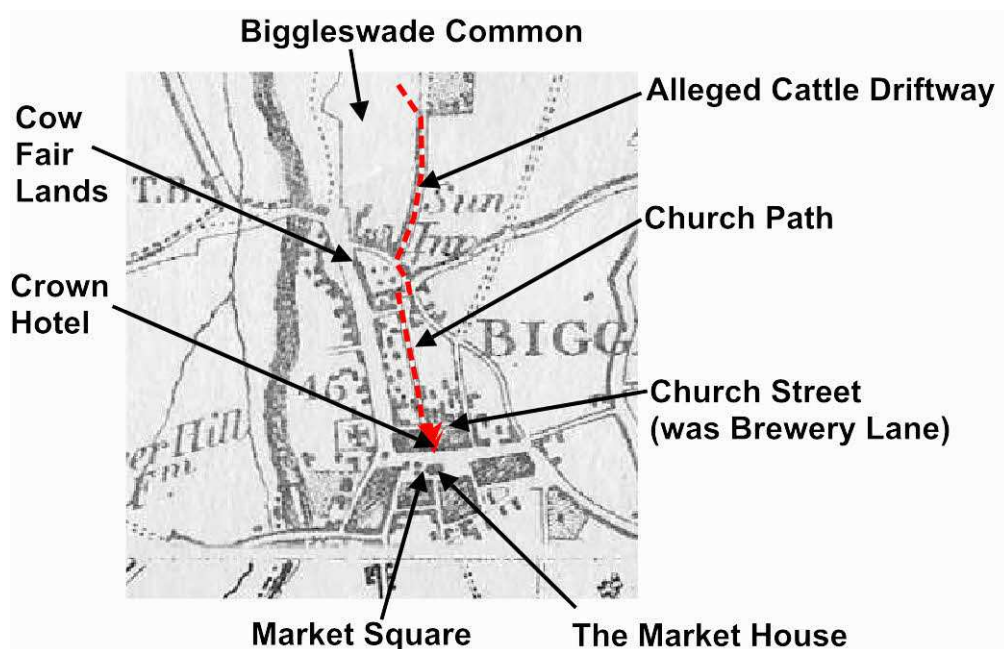
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APPENDIX C

Historical Evidence

1826 Bryant's Map of the County of Bedford

- C.1. In 1865 Bryant published his "Map of the County of Bedford". The map is useful as it is an accurate medium scale map of the county surveyed after most of the parishes had undergone Parliamentary Inclosure. Whilst not showing the detail within Biggleswade's town centre, it does show the roads and trails that are considered public. The annotations on the map show where the pub and roads in question are as well as the alleged cattle trail from Biggleswade Common.



1833 Northampton Mercury newspaper article

- C.2. The 9th March 1833 newspaper article reports the 6th March 1833 Bedford Crown Court case of assault on a gamekeeper by four poachers. One of the witnesses, a 15 year old boy, reported on oath that he had seen the four accused pass through the Crown Hotel yard in the direction of Chapel Fields whilst he and two other youngsters were "at play" there. The witness' statement indicates that the Crown Hotel's yard was used by the public as a through-route and that the owners of the yard (the Samuel Wells brewery which owned the Hotel) seemed at least to tolerate youths playing in the area. This though does not prove that the yard was a public thoroughfare – merely that it had it appeared to have a reputation as such.

1838 Biggleswade Tithe Apportionment Map [MAT 5/1]

C.3. The tithe map shows the centre of Biggleswade and the Market Square, Church Street and Chapel Fields. A route is visible through the Crown Hotel's yard. Although this is not depicted as a road it is depicted in a similar manner to Long Twitchell which is also considered to have long-established public access rights.



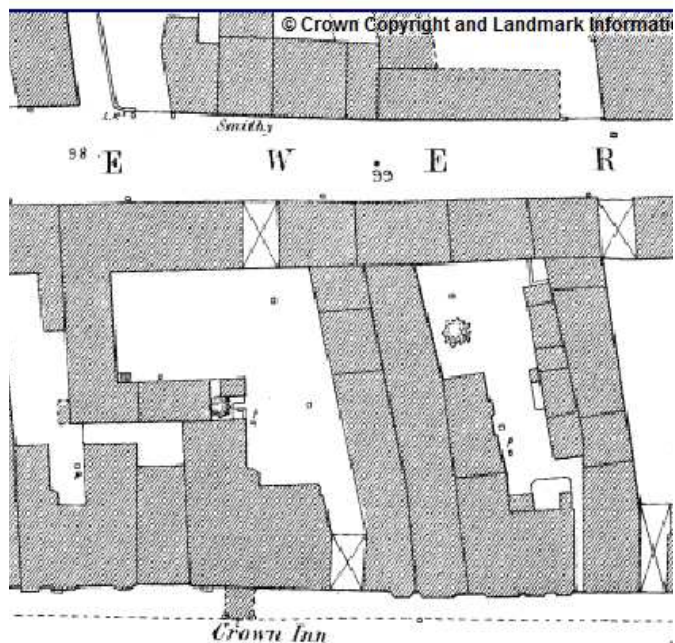
Crown Hotel

No Parliamentary Inclosure Award

C.4. The Parish of Biggleswade did not undergo Inclosure and so no statutory basis for creating public rights exists from this established process. This though does not affect the inference or deeming of dedication as evidenced by long public user.

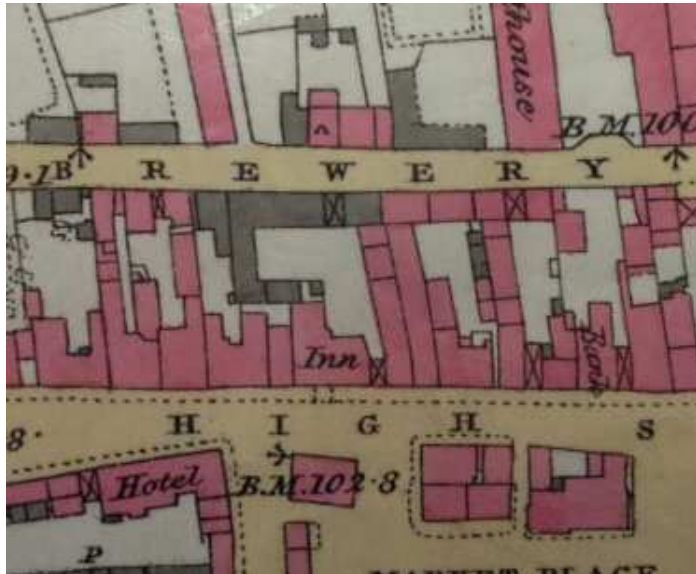
Ordnance Survey Maps:

C.5. The larger-scale (1:500 (shown right), 25":1 mile and 1:2,500) and mid-scale maps (6":1 mile and 1:10,560) show the Crown Hotel yard as enclosed by buildings with access to the Market Square and Brewery Lane (later called Church Street) provided by passageways – as indicated by the "X" annotation on the maps..



The southern passageway is within the main stonework of the public house – and is now the subject of received planning consent which precipitated the current modification application. The northern passageway passed through wooden buildings (as evidenced by the different colouration on the

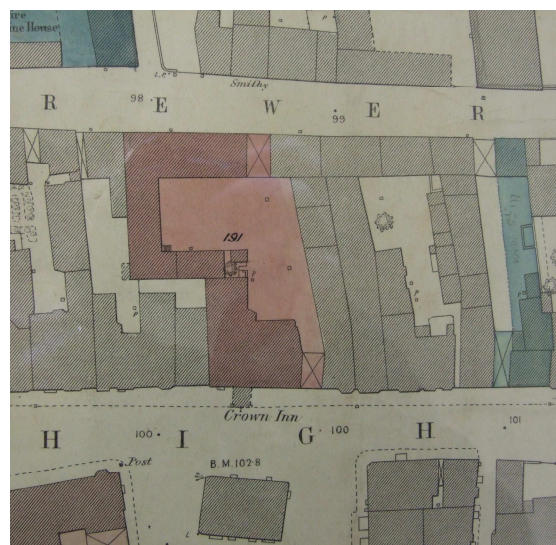
1st Edition 25" map (shown right) and was situated towards the eastern side of the yard (opposite the Smithy). The route is consistently shown along the same line on all the 25" maps between 1881 (1st Ed.) and 1974 (4th Ed.)



1863-93 Biggleswade Highways Board Minutes [Hi.B.BW.1-3] and,

1910 Finance Act Valuation Maps [DBV3/175 (1-10, /174, /190) and Valuation Books [DBV1/17-18]

C.6. The Crown Hotel is coloured pink on the 1:500 scale valuation map and given the Assessment number 191. The Valuation Book gives the owners as the brewery Wells & Winch Ltd. in the occupation of Mr. Cecil Gilbert. No deduction for public rights of way is recorded and no part of the property is excluded from the valuation.



1892-8 Deeds to Crown Hotel [G.K./13-16, 26]

C.7. The deeds do not make any reference to any public or private right of passage through the property.

1898 Sale catalogue for Crown Hotel and New Inn [G.K./1/36/c]

C.8. The sale catalogue briefly describes the property (Crown Hotel) but does not make any reference to any public or private right of passage through the property.

1949-57 Biggleswade Urban District Council Minutes [UDBwM 1/13-15 Minute Book]

- C.9. No record has been found of any works to or presence of any public right of way through the Crown Hotel yard.

1952-3 Survey of public rights of way by Biggleswade Town Council

- C.10. As part of the National Parks and Access to the Countryside Act 1949 process of surveying public rights of way, Biggleswade Town Council surveyed the urban area in early 1953 after it was designated a “fully developed area” – or “excluded area”. The survey map held by Central Bedfordshire Council does not show any route through the Crown Hotel’s yard.



Biggleswade History Society photographs [Pamph 130 Bx1] and photo of Crown Inn [X 758/1/2 19-23]

- C.11. This booklet shows historic pictures of Biggleswade. Whilst the entrance is visible obliquely in some photographs, these do not give any indication as to any public status

History of the Market House Café [CRT/130/Big/37]

- C.12. This leaflet gives a summary of the history of the Market House Café located centrally within the Market Square. It states that the building in which the café is situated was probably built to house the cattle driven into the town on the ground floor with upper floors used as drovers’ lodgings. Huge droves of cattle were driven into the market each day. The assertion of Mrs. Jane Croot of the Biggleswade History Society is that these had come down Church Path from Cow Fair lands and the Common and then through the Crown yard or had been driven up from the railway station.

BCC Excluded Area survey

- C.13. In 1996-7 the former County Council invited local groups to survey and record those routes it considered public in the Biggleswade excluded area. The volunteers recorded 38 potential footpaths and 3 possible BOATs. The route through the Crown Hotel yard was identified as one of the footpaths to be claimed as a public right of way.

APPENDIX D

User Evidence

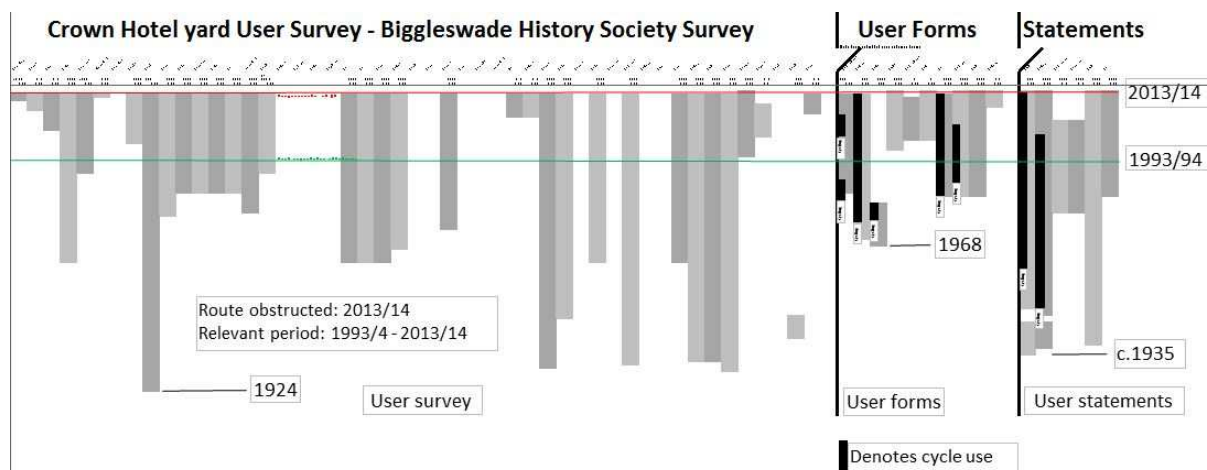
- D.1. In late October 2014 Mrs. Jane Croot, the editor for the Biggleswade History Society, canvassed 51 generally elderly residents living close to the Crown Hotel as well as people collecting their children from St. Andrew’s Lower School. Thirty three of those surveyed indicated that they had used the Crown Hotel yard route between 1992 and 2013. This is the “*relevant period*” for deemed dedication under Section 31 of the Highways Act 1980 (see Appendix B). Furthermore, the results, whilst lacking in detail (and in some cases legibility) give a picture of public use of the Crown Hotel yard as a public thoroughfare from at least as early as the 1930s.
- D.2. The applicant has supplied ten user evidence forms which detail public use of the route through the Crown Hotel’s yard. Additionally the Council has received a number of statements from local residents. These are all summarised in the table and chart below.

| Name | Start | End | Duration | Remarks | Inter-viewed |
|---|-------|------|----------|--|--------------|
| User Evidence forms and interviews | | | | | |
| Mr. D. Woodward | 1980 | 2013 | 35 years | Used on foot (1980 – 1987 monthly then occasional to 1995 then monthly between 2001-2007 and more recently as part of a dog-walking route and Used by bicycle monthly (for period: 1982-87 and occasionally between 2001-2007) | Yes |
| Mr. K. Emmerson | 1970 | 2013 | 38 years | Used weekly-fortnightly on foot (1970-2013) Used by bicycle monthly (during period 1975-2013) | Yes |
| Mr. M. Brawn | 1968 | 1980 | 22 years | Used weekly on foot until 1975 and then monthly thereafter until c.1980 Cycled occasionally between 1975-80 | Yes |
| Mr. M. Griffiths | 1997 | 2014 | 17 years | Used daily on foot | No |
| Mrs. C. Woodward | 2000 | 2012 | 12 years | Used monthly on foot | No |
| Mrs. C. Amos | 2000 | 2014 | 14 years | Used daily on foot | No |
| Mr. J. Norris | 1983 | 2013 | 20 years | Used weekly both on foot and by bicycle | No |
| Mr. A. Mapletoft | 1983 | 2013 | 20 years | Used weekly on foot and used weekly by bicycle during period 1987-2004 | No |
| Mr. C. Day | 1987 | 2014 | 28 years | Used intermittently/weekly from c.1987 on foot | Yes |
| Mrs D. Temple | 2010 | 2014 | >4 years | Used daily on foot Used weekly on bicycle | No |

Statements from users and interviews and e-mails

| | | | | | |
|----------------------|------|------|----------|---|-----|
| Mr. D. Ball | 1930 | 2014 | 84 | Regular use on foot and weekly by bicycle (1994-2014) | Yes |
| Mr. K. Page | 1933 | 2014 | 81 | Regular use on foot and Regular use by bicycle (up until 2001) | Yes |
| Mrs. J. Day | 1983 | 2014 | 31 years | Used daily on foot with children until c.1987 then weekly on foot | Yes |
| Cllr. D & J Lawrence | 1978 | 2005 | 17 years | On foot | No |
| Mr. P. Rutt | ? | ? | ? | Walked through from childhood | No |
| Mr. T. Smith | 1944 | 2014 | | Use not stated | No |
| Mr. R. Chadwick | ? | ? | ? | Walked through many times | No |
| Mr. S. Clemo | ? | ? | ? | Used to walk through to shops | No |

D.3. The chart below summarises the breadth of public use - as evidenced by the user survey, user evidence forms and additional statements of use. The relevant period for deemed dedication of the claimed bridleway is between 1993 and 2013. As can be seen, there is a significant amount of public use during this period.



D.4. The use of the claimed route on foot by all ten people who submitted user evidence forms bolsters the public use within the relevant 20 year period as evidenced by the Biggleswade History Society’s survey and by those who have submitted statements. More importantly it provides the necessary detail relating to user “as of right”. None of the ten users who submitted statements nor those additionally interviewed reported either being challenged or seeing prohibitive signs on the route. None were interrupted in their use prior to the security fencing being erected. Unfortunately none of the users have given a precise date for the erection of this fencing – believed to be in late November or early December 2013.

D.5. A significant level of cycle use of the claimed route has emerged. Six cyclists have used the route during the 20 year period prior to the route being obstructed at the end of 2013. Three for the full 20 years and three for periods of between eight and ten years. The case of *Whitworth v*

Secretary of State for Environment, Food and Rural Affairs 2010] EWHC QBD 738 (Admin) concerned limited levels of public user. The stated use provides a qualifying degree of public user by bicycle.

- D.6. Letters received from Mr. D. Ball state that the Biggleswade Urban District Council ("*the BUDC*") carried out publicly funded repairs to the route sometime in the late 1940s or 1950s and that the route was considered a public route by that council at that time. Mr. Ball recalls that the owners at the time, the Wells and Winch Ltd. brewery, disputed this status though, claiming it to be private. The BUDC records show that Mr. Ball was employed by the BUDC during this period but no independent corroborating documentary evidence has yet been found in the BUDC minutes for the work that Mr. Ball describes being carried out or of the alleged dispute as to the route's status. However a former employee of the brewery, Mr. Page, recalls that the brewery was happy for the BUDC to repair the route. Another later employee of the Crown Hotel, Mrs. Temple has stated that she was informed by the landlord that the route through was a public right of way.
- D.7. During a telephone interview with Mr. Ball, he recalled that there was a school on Church Street (previously Brewery Lane) next to the old Fire Station. The school is shown on the 1926 3rd Edition of the Ordnance Survey 25":1 mile map. People used to access the school by cutting through the Crown Hotel yard from the High Street. Additionally there were quite a few small shops on Church Street (cobblers etc.) which people accessed from the High Street via the Crown Hotel yard.
- D.8. Before the second World War Cowfair Lands was one of the centres of population in Biggleswade. Mr. Ball stated that many people walked from there southwards along Chapel Fields to the town centre and accessed the High Street and Market Square via the Crown Hotel's yard. At this time the current Abbot's Walk was the gated yard of Franklin's Corn Merchants and was never a through-route until much later. Mr. Ball recalls that the Crown Hotel was also used by many coaches and horses before the war (as was the New Inn's yard opposite).
- D.9. In a follow-up interview Mr. Ball stated that he used to walk to school via the Crown yard. The route was also used by the firemen when they were based at the old fire station in Church Street. From 1960 Mr. Ball used to walk and cycle regularly through the Crown yard to the Fairfield sports grounds. Mr. Ball recalls that as an employee of the BUDC he was involved in the repairing of the route through Crown yard when poor drainage caused it to flood. The route was repaired at the public's expense as the Council considered it a public right of way. There were also a number of small shops within the yard (barber and dentist) which the local townsfolk would walk to through the yard. Mr. Ball stated that he still used the Crown yard as a shortcut between 1994 and 2014 – mainly by bicycle but also occasionally on foot.

- D.10. Mr. Ken Page, life president of the Biggleswade History Society, submitted a statutory declaration to Biggleswade Town Council in January 2015 in which he described his extensive knowledge of the Crown Hotel and recollections of his use of the route. In it he recalls that he and his friends regularly used the Crown Hotel's yard route in the 1930s as a pedestrian route to get to and from the junior school in Church Street. The claimed route was also used by brewery workers going to and from the brewery in Church Street (previously called Brewery Lane). Mr. Page states that he has no knowledge of the route ever being closed or public use challenged in his lifetime until the erection of the security fencing in early 2014.
- D.11. Mr. Page states that some of his ancestors were dairymen and he was told that long ago drovers herded cattle south from Biggleswade Common along Sun Street and then into Chapel Fields and through the Crown yard into the Market Square. Another cattle trail came northwards from Topley's Hill (Langford), via Holme Green and Palace Street to the Market Square. These probably existed until the railway came to the town in 1850. Mr. Page states that the Crown Hotel's yard provided access to the cattle markets.
- D.12. In a follow-up interview Mr. Page stated that he used to walk the route through the Crown yard from 1933 until it was closed off with the exception of two years when he was in Germany. He worked for the Brewery—initially Wells & Winch and then renamed Greene King in 1963, between 1942 and 1991 and dealt with their property records. His offices were based in what is now Abbott's Walk. He recalls that the brewery were happy for the BUDC to repair the Crown yard in the 1950s. Mr. Page owned a bicycle up until mid-2001 and used to cycle through the Crown yard which he considers to be a public bridleway.
- D.13. Mr. Philip Rutt e-mailed the Council in February 2015 to state that *"...I am an 81 year old Biggleswade resident and have lived in Biggleswade all my life. Throughout my life I have known the right to go through the Crown yard. I distinctly remember walking through it regularly as a child. In my strongly held view it should not be closed. It should have legal protection as a public right of way..."*.
- D.14. Mr. Terry Smith e-mailed the Council in February 2015 to state that he had lived in Biggleswade for 70 years prior to moving away in 2014. He stated that *"...the route through the Crown yard between the High Street and Church Street has now been gated and closed to the general public for somewhere in the region of two years without any obvious inconvenience. The route via Abbot's Walk - although as I understand it this isn't a protected right of way - is now the favoured route between the two thoroughfares, linking as it does the Asda supermarket and the town centre, via two appropriately sited crossings. It seems to me that even to consider reopening the route through the Crown yard would be a wasted exercise as it is clearly no longer needed..."*.

- D.15. Mr. Roy Chadwick e-mailed the Council in October 2014 to state that “.../ *have not seen horses walking through the alleyway, nor is there likely to be any. Clearly once it was, years ago, used for coaches & horses but things move on... ...I did walk through there many times, but there is still a way through just a few yards along so there is no loss ...*”.
- D.16. Mr. Stuart Clemo e-mailed the Council in January 2015 to state that “.../ *remember being able to walk through to the shops on Church Street, but this would not be possible any more if they block the right of way forever...*”.

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